

New York's tough anti-stalking law

It's a crime

In simplest terms, stalking is the unwanted pursuit of another person. It includes repeated harassment or threatening behavior. In domestic violence situations, stalking is a very effective control tactic used by abusers. As technologies develop, abusers have additional ways of stalking – through email, texting, social media sites and online. Stalking can escalate, may turn violent and sometimes results in injury or even death. For victims of stalking, common everyday noises, like the ring of a phone or a knock on the door, can cause fear.

Stalking is a crime that affects people from all walks of life. It can be perpetrated by someone you know or a stranger. Victims of stalking by family or household members may go to family court as well as criminal court to get an order of protection. The law authorizes the courts to order an abuser to surrender his or her firearms when issuing an order of protection. Moreover, upon conviction of certain offenses an abuser's firearms license will be revoked. New York law also has strict penalties for violating orders of protection and requires courts to consider domestic violence in child custody and visitation cases.

Penalties

New York's Anti-Stalking Law established the specific offense of stalking and allowed the prosecution of persons who engage in an intentional course of stalking conduct. Courts can impose severe penalties against individuals found guilty of this crime.

A victim should report stalking or harassment to the police each time it occurs.

- ◆ A person who repeatedly threatens the health, safety or property of a person or repeatedly contacts or follows a person after being clearly told not to do so, upon conviction, faces up to 3 months in jail.
- ◆ A person who engages in a course of conduct that intentionally places another person in fear of physical injury, death or the commission of a sex offense, upon conviction, faces up to a year in jail.
- ◆ A person aged 21 or older who repeatedly contacts or follows a child under the age of 14, or displays a weapon while intentionally engaging in a course of conduct that places another person of any age in fear of physical injury, upon conviction, faces up to 4 years in prison.
- ◆ A person who, in the course of stalking, causes physical injury or commits a specified sex offense, upon conviction, faces up to 7 years in prison.

Help and Resources:

For immediate assistance, call 911. When the police arrive, give a complete statement of what happened. Get the reporting officer's name and badge number as well as a copy of the Domestic Incident Report. A victim's rights notice is available from the police, the courts and local hospitals explaining what police and courts can do to help. You can go to either family court or criminal court to obtain an order of protection.

The deaf and hearing disabled can contact the Abused Deaf Women's Advocacy Services at deafhelp@thehotline.org or visit www.adwas.org for more information.

Contact the New York State Domestic and Sexual Violence Hotline or your local domestic violence program for support and information about services, emergency shelters and legal options.

Use available online resources to learn how to protect yourself and how to get help. However, be careful because computers and electronic devices store information that can give clues about your activities. You don't want to use a device that an abuser can have remote access to. It may be safest to use a computer at a trusted friend's house or the public library.

For local help and information on protecting yourself:

- ◆ New York State Coalition Against Domestic Violence www.nyscadv.org/find-help/program-directory.html
- ◆ The New York State Domestic and Sexual Violence Hotline 800-942-6906 opdv.ny.gov/help/dvhotlines.html
- ◆ The New York State Office for the Prevention of Domestic Violence www.opdv.ny.gov/help/victims/index.html

Important phone numbers

New York State Domestic and Sexual Violence Hotline: 800-942-6906

NYC Safe Horizon Domestic Violence Hotline: 800-621-4673 or dial 311

TTY/TDD: 866-604-5350

Police, Ambulance or Emergency: 911

National Domestic Violence Hotline: 800-799-7233 (available 24 hours)

National Deaf Hotline Video Phone: 855-812-1001 (available 24/7)



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Domestic Violence and Stalking

Know the laws

Where to go for help

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New York's laws:

- ◆ Require police to arrest abusers who violate orders of protection or commit a felony or a misdemeanor against another family or household member.
- ◆ Enable victims to get an order of protection at either family court or criminal court.
- ◆ Provide that orders of protection issued in criminal court for family offenses are in effect for a period up to 2 years for violations, up to 5 years for misdemeanors and up to 8 years for felonies.
- ◆ Provide that violators may face felony charges when violating an order of protection.
- ◆ Provide that – in cases of repeated violations of an order of protection – violators could face up to 4 years in prison and 7 years if a victim suffers physical injury.
- ◆ Allow for courts issuing orders of protection to order the surrender of the abuser's firearms.
- ◆ Maintain a statewide Orders of Protection Registry to aid police and courts.
- ◆ Promote rigorous interstate enforcement of orders of protection.
- ◆ Include in the definition of family/household members victims who are, or who have been, in an intimate relationship regardless of whether they have lived with the abuser or whether the relationship is sexual.
- ◆ Permit courts to award victim restitution in an amount up to \$15,000 for felonies and up to \$10,000 for all non-felonies.
- ◆ Require courts to consider domestic violence in child custody and visitation determinations.



Source: New York State Office for the Prevention of Domestic Violence, www.opdv.ny.gov

- ◆ Authorize courts to issue a temporary child support order at the same time as issuing an order of protection.
- ◆ Require police to determine the primary physical aggressor so that victims of domestic violence are not inappropriately arrested along with their abusers when more than one person alleges violence.
- ◆ Enable a local criminal court to issue a temporary order of protection or modify a temporary order of protection issued by a family court when family court or supreme court is not in session.
- ◆ Establish crimes of criminal obstruction of breathing or blood circulation, strangulation in the 2nd degree and strangulation in the 1st degree. These offenses are included in the list of family offenses.
- ◆ Require colleges and universities to notify appropriate law enforcement within 24 hours of a report of a violent felony or a report that a student who resides in housing owned or operated by the school is missing.
- ◆ Criminalize threatening communications, including emails and texts, that a perpetrator uses to cause their victims to fear physical harm to themselves or their family or damage to their property. This helps domestic violence victims strengthen their cases for securing orders of protection.
- ◆ Include "following" to also mean tracking the movements or location of a person by GPS or other device. The U.S. Department of Justice reports that 1 in 4 cases of stalking involves the use of some type of technology. Many of these cases involve domestic violence, and it is vitally important that victims of domestic violence are protected from such tracking.
- ◆ Prohibit discrimination against victims of domestic violence in housing, public accommodations, real estate transactions and educational institutions. The law prohibits landlords from inquiring about a victim's status as a survivor of domestic violence and protects against wrongful evictions based on such status.
- ◆ Protect unpaid interns from harassment and other forms of unlawful discrimination in the workplace.
- ◆ Add rifles and shotguns to the list of weapons that must be surrendered when an order of protection includes the surrender of firearms. Add assault 3rd, menacing 2nd and 3rd and criminal obstruction of breathing or blood circulation, among other crimes, to the definition of serious offense.
- ◆ Prohibit an individual who has been convicted of a domestic violence crime from purchasing or possessing a firearm, rifle or shotgun.
- ◆ Establish a clear process for notifying the FBI of domestic violence convictions for the purpose of identifying individuals prohibited from purchasing or possessing firearms, rifles or shotguns when a background check is conducted.
- ◆ Prevent individuals with an outstanding warrant for a felony or serious offense crime, including a domestic violence misdemeanor, from being eligible for a firearms license.
- ◆ Require that the court order the surrender of all firearms, rifles or shotguns following a conviction of a felony or serious offense, including domestic violence misdemeanors.
- ◆ Allow victims of domestic violence the right to request that the local county board of elections keep registration or other records confidential.
- ◆ Require the translation of orders of protection, when needed, in all family courts and supreme courts.

- ◆ Prohibit marriage under the age of 17.
- ◆ Remove the mandate that domestic violence survivors pay a fee or apply for public assistance in order to stay in a shelter for residential services.
- ◆ Establish the Extreme Risk Protection Order, which allows family, household members, school administrators, police or prosecutors to petition their local Supreme Court to have firearms, rifles or shotguns confiscated from a person believed to be a threat or to ban that person from buying or possessing firearms, rifles or shotguns. The law specifies what actions and behaviors would constitute the use of this order and requires a hearing be held within 6 days to determine if the order should be made permanent.
- ◆ Cover the cost of crime scene cleanup for victims and provide compensation for the expenses of a stay in a domestic violence shelter.

New laws:

- ◆ Require hospitals to develop and incorporate into all aspects of care written policies and procedures for the identification, assessment, treatment and referral of confirmed or suspected cases of domestic violence.
- ◆ Upon licensing, and voluntarily upon license renewal, estheticians and hair professionals are required to complete a one-hour training course in domestic violence and sexual assault.
- ◆ Streamline the process for tenants who are victims of domestic violence to terminate residential leases or rental agreements and removes the requirement that such tenants be current on their rent.
- ◆ Provide free transportation home or to safe shelter for any sexual assault victim and their advocate from any medical facility where the victim received care.
- ◆ Ensure Family Courts and all attorneys for the parties, including a children's attorney, are informed promptly of any changes in a child's foster care placement.
- ◆ Add victims of domestic violence to a protected class status under the employment provisions of the Human Rights Law and allows employees a reasonable accommodation in taking time off to receive medical attention, counseling or court appearances.
- ◆ Allow domestic violence victims the right to vote by mailing in a special ballot.
- ◆ Provide for temporary spousal support with orders of protection.
- ◆ Allow for the cancellation of telephone and cable contracts without charge for domestic violence victims with accompanying proof such as a police report, an order of protection, etc.
- ◆ Change the statute of limitations from one year to two for civil suits against an abuser.
- ◆ Permit domestic violence victims to obtain compensation for failure to enforce orders of protection.
- ◆ Allow for the filing of Extreme Risk Protection Orders.
- ◆ Criminalize revenge porn, intentional, non-consensual disclosures of sexually explicit images obtained under reasonable expectations of privacy.
- ◆ Expand the Address Confidentiality Program to victims of sexual offenses, stalking and human trafficking.
- ◆ Eliminate requirements for domestic violence survivors to apply for temporary assistance or be charged fees for services.