

Cuomo, leaders announce domestic violence deal

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Gov. Andrew Cuomo and legislative leaders have reached agreement on a single piece of legislation to protect victims of domestic violence. Among its components, the bill:

- Creates new felony and misdemeanor designations for abusers who commit serial low-level crimes: “Aggravated Family Offense,” a class E felony, and a class A misdemeanor of “Aggravated Harassment in the Second Degree,” committed when a defendant “with intent to harass, annoy, threaten or alarm, causes physical injury to an individual or their family or household member”;
- Allows judge to consider risk factors — such as previous violations and access to firearms — when setting bail or recognizance rules for an accused abuser;
- Prevents a documented abuser from having control over the remains of their victim (a concept pushed [earlier this year](#) by Sen. Mike Ranzenhofer and Assemblyman Robin Schimminger);
- Tightens confidentiality rules for a victim who leaves their abuser, including making it easier for the victim to safely regain important documents without fear of disclosure;
- Establishes a statewide domestic violence fatality review team, a sort of after-action analysis for the worst of these crimes.

The Senate’s Democratic minority recently held a forum on domestic violence issues. Following today’s announcement, conference leader John Sampson issued a statement praising the governor but failing to mention the other two people credited for the agreement, including GOP Senate Leader Dean Skelos.

Here’s the full press release:

Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos, and Assembly Speaker Sheldon Silver today announced an agreement on comprehensive legislation to strengthen New York’s domestic violence laws.

The agreement includes a series of measures to protect victims of domestic violence and crack down on repeat offenders. Provisions in the bill include increasing the penalty for a repeat offense to a felony; allowing judges to consider risk factors such as firearm possession and violations of restraining orders in determining bail; and establishing a statewide Fatality Review Team to find new ways to prevent intimate partner homicides.

“With domestic violence remaining a major problem here in New York and across the nation, our state must continue to lead in strengthening laws to better protect victims and crack down on offenders who cause harm to their families,” Governor Cuomo said. “By

creating a new felony crime for repeat offenders, the state will come down harder than ever before on those who attack over and over again and ensure that these criminals can no longer hurt their victims. We will never tolerate domestic violence in any form, and I commend Majority Leader Skelos, Speaker Silver, and the bill sponsors for their work in reaching an agreement on this important legislation.”

Senate Majority Leader Dean G. Skelos said, “This agreement builds on our commitment to combat domestic violence and protect innocent victims, which has always been a focus of our Senate Republican conference. Rather than politicize this issue as others have done, we’ve worked cooperatively with the Governor and Assembly to once again show that government can function and deliver on a critically-important issue. I applaud the Governor for his leadership and commend Senator Saland and Senator Golden for helping us achieve a strong bill that will save lives.”

Assembly Speaker Sheldon Silver said, “For many years the Assembly has taken steps to eradicate domestic violence by strengthening laws to protect the health and safety of abuse victims while ensuring more perpetrators of domestic violence face the increased penalties they deserve. This includes the recent passage of a bill establishing felony-level charges for repeat offenders, an issue also addressed by this legislation. I applaud Governor Cuomo and my colleagues in the Senate for their steadfast commitment to what is and has always been an Assembly priority, strengthening the wall of legal protection that surrounds victims of domestic violence in the Empire State.”

Domestic violence is a problem of enormous prevalence and impact in both New York State and across the nation. It has been identified by the U.S. Surgeon General as the number one health problem affecting American women, and it floods the justice system of New York State as well as the courts of every other state in the nation. The agreed-upon legislation will provide a number of important provisions to help New York State better prevent domestic violence and protect victims.

Senator Steve Saland said, “Not since 1994, when I fought for the mandatory arrest policy for situations involving domestic violence, have we made such significant progress for those who are abused by an intimate partner or family member. This was a collaborative effort and I genuinely believe with the enactment of this legislation, we are making our State a safer place for many who live in fear. Today, their voices have been heard.”

Senator Marty Golden said, “This life saving agreement creates better protections for victims of domestic violence from abuse and harassment in their homes and personal lives. Our society should not tolerate hateful acts of domestic violence and this new law will continue our state’s long standing tradition of protecting women’s rights. No one in the Empire State should have to live under the threat of violence and fear.”

Assembly Judiciary Committee Chair Helene Weinstein said, “With an estimated 400,000 domestic violence incidents reported every year in New York, this is a crisis that demands our attention and our best efforts. I applaud my colleagues in the Assembly and Senate

and the Governor for supporting a legislative package that addresses these issues, protects victims, and further penalizes abusers.”

Chair of the Assembly Codes Committee Joseph R. Lentol said, “I applaud Governor Cuomo and my colleagues in the Assembly and Senate for working together on this important agreement. The enactment of this legislation ensures that crimes of domestic violence can be effectively prosecuted and abusers brought to justice. These measures are critical to strengthening our ability to protect victims of abuse.”

Creates New Felony and Misdemeanor Crimes to Prevent Harassment and Crack Down on Repeat Domestic Violence Offenders

The legislative agreement enhances penalties for domestic violence offenders who repeatedly commit misdemeanor level offenses. The legislation would establish the crime of “Aggravated Family Offense” as a class E felony to ensure that defendants with a history of domestic violence who repeatedly commit misdemeanor offenses are prosecuted as felons. The legislation would also establish a new class A misdemeanor of “Aggravated Harassment in the Second Degree”, committed when a defendant, with intent to harass, annoy, threaten or alarm, causes physical injury to an individual or their family or household member.

Although New York State already has a number of strong domestic violence protections, many domestic violence abusers repeatedly commit low-level offenses, subjecting victims to continuing fear and potential harm. For example, a defendant with 132 prior convictions, many of which stemmed from assaults against his partner, served nine months in jail for an assault against his daughter. Since his release on that case, the defendant has been arrested again for domestic assault. By creating a new class of felony and misdemeanor offenses, the legislation will help ensure that repeat offenders are subject to harsher penalties. The maximum penalty for a class A misdemeanor is 1 year in local jail, but for a class E felony, the maximum sentence is 1? to 4 years in state prison.

The aggravated harassment misdemeanor takes effect in 60 days, and the aggravated family offense felony takes effect in 90 days, after the bill becomes law.

Allows Judges to Consider Additional Risk Factors in Determining Bail to Better Protect Victims from Further Harm

Under the legislative agreement, courts would be required for the first time to consider certain risk factors when determining recognizance or bail for a defendant who is charged with an offense against a family or household member.

Currently, courts are not required to consider any special factors when determining recognizance or bail in a domestic violence case, allowing offenders in some cases to go free on low bail and thereby allowed to stalk, harm and sometimes kill their specifically targeted victims. Under the agreement announced today, judges will be required to

consider well established risk factors, such as an offender's prior violation of an order of protection and the accused's access to guns. These considerations will help ensure that domestic violence victims are spared additional harm and, in some tragic incidences, their lives. This part of the legislation would take effect 60 days after the bill becomes law.

Establishes Statewide Fatality Review Team to Find New Ways to Reduce Intimate Partner Homicides

Under the legislative agreement, the Office for the Prevention of Domestic Violence will establish a statewide domestic violence fatality review team. The review team will bring together domestic violence-related professionals to review domestic violence homicides, in an effort to understand more fully the factors involved and determine how the system can be improved in order to help prevent future deaths. The review team would report periodically to the Governor and the Legislature to assist the State and local communities in improving domestic violence prevention measures.

The review team would be established 180 days after the bill becomes law.

Ensures That Domestic Violence Offenders Can Not Control Disposition of a Victim's Remains

Under the legislative agreement, individuals who have been charged with causing the death, or who were the subject of a restraining order protecting the deceased person, will not be eligible to exercise control of the disposition of the deceased remains.

Current state law details which individuals have the right to control the disposition of remains, without any consideration as to whether the person entitled to exercise such right may have killed the deceased. The agreement today ensures that individuals who exhibit extreme hostility towards a decedent – as evidenced by an order of protection or being the subject of criminal charges arising out of the treatment of such decedent – are barred from planning final funeral and burial arrangements.

Recently, a woman in Western New York was brutally murdered, and her husband was charged with her murder. The husband refused, for an extended period of time, to make appropriate funeral arrangements, allowing the victim's body to remain in the county morgue. Because of the provisions of current law, the county was not authorized to allow other family members to lay this woman to rest. When the husband finally acted, he disposed of her body in a way that her family believed was intentionally disrespectful and violated the woman's beliefs.

This provision would take effect 30 days after the bill becomes law.

Improves Safeguards to Protect the Location of Victims of Domestic Violence to Prevent Further Abuse

Under the legislative agreement, victims of domestic violence will be better able to keep their whereabouts confidential from offenders. The agreement enhances the ability of victims to shield their location by using a substitute mailing address maintained by the Department of State (DOS). Under this program, state and local governments must accept the substitute address, with extremely narrow exceptions, and DOS will forward mail on to participants' actual addresses. This part of the bill would take effect immediately.

In addition, the legislative agreement allows victims of domestic violence that seek medical and mental health services to have their insurance claims, forms, or billing correspondence sent to a confidential address. Too often, the address of the insurance policyholder is the same address as the alleged abuser. The legislation would allow victims to designate alternative contact information so they may receive health insurance correspondence in a safe location of their own choosing, such as the home of a friend or family member, a post office box, or a shelter.

This part of the bill would take effect on January 1, 2013.