

## NEW YORK STATE LAW: 2008

### EXPANDS ACCESS TO FAMILY & INTEGRATED DOMESTIC VIOLENCE COURTS TO ALL VICTIMS OF DOMESTIC VIOLENCE

.....

**CHAPTER 326**  
LAWS OF NEW YORK,  
2008

**EFFECTIVE DATE**  
7/21/2008

**PASSED AS**  
S.8665 Winner /  
A.11707 Weinstein

#### *Amends the Family Court Act, Criminal Procedure Law, and the Judiciary Law*

This law provides protections to victims of domestic violence who were formerly not covered by the 1994 NYS Family Protection and Domestic Violence Act, effectively expanding access to civil orders of protection to persons in same-sex relationships, teens, unmarried co-habitants without children legally in common, and others in intimate or dating relationships.

#### **BACKGROUND:**

Nearly half of all victims of domestic violence were denied equal access to protections under New York State law. Without access to civil orders of protection, survivors had to choose between involving the criminal justice system (and therefore the police) or seeking protections outside of the courts.

#### **THE NEW LAW:**

- Amends the definition of “members of the same family or household” to include unrelated persons who are or have been in an intimate or dating relationship, regardless of whether it was sexual in nature or whether those persons have ever lived together.
  - Courts must decide whether or not the relationship is considered intimate. Factors the court may consider in determining this include but are not limited to:
    - Nature or type of relationship, regardless of whether the relationship is/was sexual in nature
    - Frequency of interaction between the persons, and
    - Duration of the relationship.
  - Casual acquaintances and ordinary fraternizations in business or social contexts are not considered intimate relationships.
- Applies to orders of protection pending or entered on or after the effective date.
- Authorizes Judicial Hearing Officers (JHO) and Referees to hear order of protection proceedings in Family Court during the hours the court is in session and after 5pm.

(Continued)

NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE

EXPANDS ACCESS TO FAMILY & INTEGRATED DOMESTIC VIOLENCE COURTS TO ALL VICTIMS OF DOMESTIC VIOLENCE (continued)

.....

**CHAPTER 326**  
LAWS OF NEW YORK,  
2008

**EFFECTIVE DATE**  
7/21/2008

**PASSED AS**  
S.8665 Winner /  
A.11707 Weinstein

- Requires the NYS Office for the Prevention of Domestic Violence (OPDV) to develop curricula and make trainings available to judges of family and criminal courts, including justices, magistrates, JHOs and referees; prosecuting district attorneys; and veteran municipal police officers regarding implementation of relevant provisions of the new law.
- Requires OPDV in collaboration with the NYS Division of Criminal Justice Services to consider any effect on police practices resulting from the new law and to report to the legislature and the governor within three years of its effective date.

**ADDITIONAL IMPLICATIONS OF NEW LAW:**

Because NYS does not have an explicit domestic violence law, most laws pertaining to domestic violence reference the definition of “family and household member” in the Family Court Act § 812 and the Criminal Procedure Law § 530.11 and § 530.12 . These sections of law have now expanded to include the broader definition described above, therefore the newly broadened definition of family and household member applies to provision in those laws as well. Foremost among these are the:

- Mandatory arrest provisions,
- Requirement to immediately provide a Domestic Incident Report to the victim, and
- Requirement to enter the order into the Statewide Registry for Orders of Protection.