

DOMESTIC VIOLENCE COMMITTEE

**A.6060-A
S.6783**

**M. of A. Weinstein
Senator Winner**

AN ACT to amend the Family Court Act and the Criminal Procedure Law, in relation to orders of protection and the definition of “members of the same family or household.”

THIS BILL IS APPROVED

The New York City Bar supports Assembly Bill 6060 and Senate Bill 6783. These bills would grant equal access to family court protections to former spouses whether or not living together, couples who are living or have lived together and persons who are or have been in a dating or intimate relationship regardless of whether they lived together at any time.

Currently, the Family Court Act and Criminal Procedure Law limit the jurisdiction of the court to issue “family” orders of protection to those people who have a child in common, are married, or are related by consanguinity or affinity. This definition has the effect of denying important protections to large classes of people affected by domestic violence: dating partners who do not have children together, same-sex couples and current or former cohabitating intimate partners.

These bills clarify the Family Court Act generally and CPL 530.11 and 530.12 by ensuring that the court consider formerly married persons members of the same family “regardless of whether they still reside in the same household.” Because we know that violence often escalates after separation, it is critical that this class of people has access to family court’s expedited procedures.

These bills also amend the Family Court Act by stipulating that the court consider “unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household” as “members of the same family or household.” This provision ensures that the growing number of individuals choosing to live together, including same-sex couples and other “non-traditional” families, receive equal access to orders of protection.

Studies have shown that one of five teenage girls is subjected to physical and/or sexual violence by a dating partner. These bills would include teenagers, and victims of

all ages, who are in, or have been involved in a dating or intimate relationship, with their abusers. Vulnerable youth should not have to wait to have children with their abusers to receive protection from the court.

The victims of intimate partner violence who would gain protections through S.6783 and A.6060 often go without protection because, currently, their only other option is to involve police, hope that the abuser will be prosecuted, and then confront a far higher standard of proof in the Criminal Court. This is not an option for many victims, especially given the very real risk of increased violence from their abuser if law enforcement becomes involved.

Today, New York offers the least civil protection for victims of domestic violence in the United States. Well over half the states offer access to a civil order of protection to individuals in dating or intimate relationships, and every other state offers such protection to cohabitants. Despite the fact that New York's Integrated Domestic Violence (IDV) Courts are proliferating across the state, the additional resources of these specialized courts are now unavailable to victims who would be protected by these bills, as litigants must have related Criminal and Family Court cases to be heard by the IDV.

Though this legislation may increase the number of victims seeking assistance in the family courts, the current number of domestic violence cases is between 8 and 9% of the total cases heard in family courts across the state. Orders of protection cases, without other ancillary matters, use fewer resources and are resolved more quickly than those matters involving marriage or children in common. Unmarried litigants without children would not need the additional assistance of the court to determine issues related to a custody, visitation and child support matters, which typically take far more resources to resolve than stand-alone order of protection matters. Additionally, the burden on the Criminal Court will decrease as individuals seek protection in the civil system, where fewer resources are required to complete a case and matters are resolved more quickly. To the extent that additional resources would be needed in the Family Courts, we support the allocation of resources necessary to offer justice to the numbers of domestic violence victims currently unprotected in New York State.

For the foregoing reasons, the Domestic Violence Committee recommends enactment of these bills.