Legislation Details (With Text)

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Title:	Resolution calling on the New York State Legislature to pass and the Governor to sign S.2832B/A.4558B, the Promote Pre-Trial (PromPT) Stability Act, to ensure judicial review of orders of protection.			
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Attachments:	1. Res. No. 73, 2. February 28, 2024 - Stated Meeting Agenda, 3. Hearing Transcript - Stated Meeting 2-28-24, 4. Minutes of the Stated Meeting - February 28, 2024			

Date	Ver.	Action By	Action	Result
2/28/2024	*	City Council	Introduced by Council	
2/28/2024	*	City Council	Referred to Comm by Council	
12/31/2025	*	City Council	Filed (End of Session)	

Res. No. 73

Resolution calling on the New York State Legislature to pass and the Governor to sign S.2832B/A.4558B, the Promote Pre-Trial (PromPT) Stability Act, to ensure judicial review of orders of protection.

By Council Members Cabán, Avilés, Gutierrez, Hanif, Louis, Restler, Hudson and Won

Whereas, According to the New York State Office for the Prevention of Domestic Violence, an order of protection is a court order issued in cases involving domestic violence, requiring one person to do, or not do, certain things if a crime is committed; and

Whereas, Orders of protection often require the person charged to stay away from the protected person and children and anywhere they frequent like work or school; and

Whereas, A temporary order of protection (TOPs) is issued the same day that a complainant files for an order of protection and lasts only until the next court date, at which point it may be extended; and

Whereas, A full order of protection means that the subject of the order of protection must stay completely away

from the complainant, their home, job and school, and must not abuse, harass, or threaten them; and.

Whereas, A final order of protection is issued when the case results in a conviction (whether by plea or after a trial) in criminal court or in family court after a judge finds that a family offense was committed; and.

Whereas, According to the Battered Women Justice Program, orders of protection can be critical to survivor safety, however, orders will not be effective if survivors are not presented with an understandable, just and clear process to obtain an order; and

Whereas, According to the New York Civil Liberties Union (NYCLU), during New York Criminal Court arraignment, judges issue full temporary orders of protection as a matter of course on nearly every case if there is a complainant; and

Whereas, Prosecutors ask for TOPs based almost entirely on the representation of law enforcement officers who sometimes act with incomplete information and bias; and

Whereas, As a result, TOPs are also issued against survivors of intimate partner violence, with women of color, especially Black women, frequently criminalized even when defending themselves according to NYCLU; and

Whereas, According to NYCLU, unnecessary TOPS's do not make New Yorkers safe, rather, they disfranchise the most marginalized New Yorkers by making housing, employment and education more difficult to obtain; and

Whereas, These orders exclude people from their homes and jobs, which has immense consequences for the most marginalized New Yorkers, according to NYCLU; and

Whereas, Unlike many other states and the District of Columbia, New York does not have a codified process for accused persons or protected parties to be heard when these ordered are issued; and

Whereas, Recognizing this, the New York Appellate Division recently ruled in the matter of Crawford v. Ally (June 24th, 2021), that when a temporary stay-away order is issued which implicates defendant's due process rights, the Criminal Court should conduct a "prompt evidentiary hearing," thereafter; and

Whereas, The case bears the name of Shamika Crawford, who was removed from her own New York City Housing Authority apartment by a stay-away order, rendered homeless and separated from her children for nearly three months; and

Whereas, A hearing in her case would have offered an opportunity for a judge to examine the facts more closely than they could at arraignment to decide if the order should remain in place, or be limited; and

Whereas, However, the Crawford decision leaves numerous details open to interpretation by the courts, and as a result the ruling has been undermined and applied in an inconsistent manner; and

Whereas, According to The Bronx Defenders, Ms. Crawford's experience is a microcosm of the systemic harms that low-income people of color often face when issued a full order of protection in the absence of procedural due process in a way that violates their human right to housing and further perpetuates the poverty and homelessness crisis; and

Whereas, S.2832B, introduced by Senator Jessica Ramos, and A.4558B, introduced by Assembly Member Dan Quart, would give the charged parties the right to a hearing to determine whether a full TOP is necessary and appropriate during the pendency of a criminal proceeding; and

Whereas, The Promoting Pre-Trial (PromPT) Stability Act codifies Crawford's holding into law while clarifying key details of hearings; and

Whereas, It ensures that due process is complied with and that there is uniform application of the decision across the state; and

Whereas, The PromPT Stability Act allows judges to respond to the unique needs of a particular case

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while also allowing families to work out their differences, and teenagers and young adults to stay in their family's homes; and

Whereas, This legislation will allow judges to make decisions as to the appropriateness of a stay-away order based upon more complete information than they have at arraignment; and

Whereas, According to the Human Rights Watch, pretrial reform has made New York's system fairer by limiting punishment prior to a conviction, allowing people to contest charges against them without the pressure of being in jail and allowing people to keep their jobs and homes, maintain family connections, and access health care while contesting accusations against them; and

Whereas, We must continue the fight to reinforce one of the most basic tenets of justice to ensure that everyone is given the right to a prompt evidentiary hearing so courts will not impose punishments without first reviewing evidence; now, therefore, be it;

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass and the Governor to sign S.2832B/A.4558B, the Promote Pre-Trial (PromPT) Stability Act, and ensure judicial review of orders of protection.

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