



Legislation Text

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Res. No. 589

Resolution urging New York State to allow persons who are in dating relationships and experience abuse to petition for orders of protection in Family Court.

By Council Members Fidler, Baez, Barron, Boyland, Brewer, Clarke, Foster, Gennaro, Gentile, Gonzalez, James, Martinez, Nelson, Palma, Quinn, Recchia, Sears, Stewart, Weprin, Seabrook, Felder, Jackson, Liu, Sanders and The Public Advocate (Ms. Gotbaum)

Whereas, The seriousness of the effects that domestic violence has on its victims is underscored by the fact that the Federal Centers for Disease Control reports that such violence results in more injuries requiring medical treatment than rape, auto accidents and muggings combined; and

Whereas, The Commonwealth Fund determined that 31 percent of American woman report that they have been physically abused by a husband or boyfriend at some point in their lives; and

Whereas, A study published in 2001 in the Journal of the American Medical Association (the “JAMA study”) determined that one in five teenage girls are physically or sexually abused by a dating partner; and

Whereas, In New York State, persons who have experienced violence, including dating abuse, may apply for an order of protection in New York State Supreme Court, where the government must prove its case “beyond a reasonable doubt”; and

Whereas, Persons who have suffered abuse have the option of applying for a domestic violence related order of protection in New York State Family Court only if such person is legally married to, separated or divorced from the abuser, is related by blood or marriage, or has a child in common with the abuser; and

Whereas, According to advocates, a significant number of victims of dating relationship violence would prefer to obtain an order of protection in New York State Family Court, which court lacks the stigma of a criminal proceeding and where the standard of proof is a “preponderance of the evidence,” a lower evidentiary standard than is found in the State Supreme Court; and

Whereas, Thirty-four states and the District of Columbia allow persons to petition for orders of protection in family court, or the equivalent venue, in response to abuse sustained in dating relationships; and

Whereas, New York State Senate Bill S.2413-b and its companion, Assembly Bill A.2235, would amend the Family Court Act and Criminal Procedure Law to allow interested parties to seek orders of protection in Family Court in all domestic violence incidents involving dating relationships; and

Whereas, The Coalition Against Domestic Violence states that the passage of this legislation would not place a greater long-term burden on the Family Court caseload; and

Whereas, The Center for Court Innovation and the New York State Unified Court System has implemented the Youthful Offender Domestic Violence Court pilot project in Brooklyn, a venture that has demonstrated the importance and efficacy of utilizing diverse judicial resources to combat the effects of domestic violence; now, therefore, be it

Resolved, That the Council of the City of New York urges New York State to allow persons who are in dating relationships and experience abuse to petition for orders of protection in Family Court.

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