NYSCADV
NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE

NYSCADV MEMORANDUM OF SUPPORT

A.1322 Lavine/S.4955 Robach

PROTECT THE RIGHTS OF VICTIMS TO CALL FOR POLICE AND EMERGENCY ASSISTANCE

NYSCADV urges the New York State Legislature to prevent local municipalities from enacting "nuisance ordinances" that force victims to choose between safety and housing.

BACKGROUND

Even in the best of times, safe and affordable housing is difficult to obtain and maintain. The expense of housing, the lack of affordable housing, and the demand that the housing crisis has placed on housing inventory over the last several years are just some of the challenges faced by people seeking new housing or trying to maintain the housing in which they currently live. Tie together the intersection of domestic violence and the challenges associated with housing, and we are left with a convergence of issues that force victims of domestic violence to weigh the risks of remaining with their abusers versus the risks that come from unstable housing and homelessness.

How domestic violence impacts housing stability:

- The abuser's acts of violence and stalking against the victim create an atmosphere in which the victim is viewed as a "bad" tenant by current and future landlords.
- The abuser's current and potential future stalking deters the victim from seeking new housing.
- The economic abuse perpetrated against a victim of domestic violence can cause rental payments to be late, hinder victims' abilities to build credit histories, or ruin victims' credit histories, making it difficult to meet some landlords' rental criteria.

The state legislature has passed many laws over the last 30 years to support the safety of victims of domestic violence. But these services cannot work to their fullest extent when local governments enact additional barriers that encourage housing discrimination against victims, penalize them for seeking life-saving emergency assistance, and prevent victims from moving forward. Nevertheless, numerous municipalities throughout New York have passed local laws - so-called "nuisance ordinances" - that have these very results.

LANDLORDS MUST NOT BE FORCED TO DISCRIMINATE AGAINST VICTIMS OF DOMESTIC VIOLENCE

Discrimination against victims of domestic violence by current and potential landlords is already pervasive, but a recent housing trend is exacerbating this issue and must be resolved quickly by the passage of A.1322 / S.4955. Municipalities throughout New York State and the nation are increasingly enacting ordinances that designate a property as a nuisance when it is the site of a certain number of police responses or specified crimes/conduct occur in a given time period. These ordinances then impose penalties including fines, property closure, and revocation of rental permits, which require landlords to evict the tenants at issue. *Generally, these ordinances are applied against a property, even when the residential occupant was a victim of the cited crime or accessed police assistance out of a reasonable, legitimate fear*. To preemptively avoid these penalties, landlords have threatened

or actually instituted eviction proceedings against victims of domestic violence and other crimes even before receiving any citation under an ordinance. ***These discriminatory practices must stop.***

Nuisance ordinances are contradictory to one of the most predominate methods of safety for victims of domestic violence – police intervention. These ordinances endanger victims by sending a clear message – call for help and you will lose your housing. The legislature must act now to prevent local municipalities from thwarting the statewide efforts to ensure that victims have access to services that are designed to increase safety. Nuisance ordinances force victims to choose between safety and housing, and embolden abusers who discover that they can use these ordinances as an additional form of power and control.

Several states have already enacted statutes recognizing an individual's right to call for police and emergency assistance, and that prohibit landlords and municipalities from imposing penalties or limiting the exercise of this right in other ways[1].

PROTECT A PERSON'S RIGHT TO CALL FOR POLICE AND EMERGENCY ASSISTANCE

Victims of domestic violence (or any other person threatened with violence or in jeopardy of harm) ***should not be deterred from seeking police or emergency assistance when needed*** because of a fear that they will be evicted or that their landlord and community will take other actions to remove them from the property. This bill prevents the physical, emotional, and economic harm that nuisance ordinances cause victims of domestic violence and other crimes by amending the civil rights law to:

- clarify that victims of domestic violence (as defined by Social Services Law §459-a) or any person who believes that he or she is in need of police or emergency assistance, have the right to call for such assistance ***without direct or indirect penalty or reprisal for doing so*** and prevents any resident or occupant from impeding on that individual's right to seek police or emergency assistance;
- provide that municipalities cannot impose penalties on a property owner or tenant on the basis of a residential occupant's exercise of his or her right to seek or utilize police or emergency aid, and prohibit landlords from taking negative housing actions against individuals for this protected conduct; and
- ensure that when municipalities seek to enforce local nuisance ordinances, that they must provide notice and give both the landlord and tenant an opportunity to contest.

It is important to note that this bill will not stop municipalities or landlords from addressing other drug, weapon, and property crimes. It instead promotes public safety by ensuring that such efforts do not inadvertently penalize individuals for violence or other crimes perpetrated against them. Municipalities can enforce local laws and landlords can take negative housing actions when such enforcement actions are independent from the protected activity of seeking emergency assistance or the individual's status as a target or victim of violence. This bill also authorizes landlords and courts to allow victims to remain in occupancy while removing the perpetrator of violence through lease bifurcation. This "lease splitting" or bifurcation provision protects victims, landlords, and communities by allowing these ordinances to get to the heart of the issue – holding the offender accountable for their violence and community disruption while at the same time providing protection to the person(s) being victimized.

It is necessary to prevent homelessness, housing instability, and most importantly, future physical, emotional, and economic harm to victims of domestic violence and other crimes.

[1] Minn. Stat. § 504B.205, subdivision 3; Alaska Stat. § 29.35.125(a)(DV-specific); Wis. Stat. Ann, § 66.0627(7) (DV-specific); Minn. Stat. § 504B.205, subdivision 2, (a); D.C. Code § 2-1402.21(f)(C)(DV-specific); Tex. Prop. Code Ann. § 92.015(a)(DV-specific)