

PRESS RELEASE

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Senator Persaud and Assemblymember Simon Issue Joint Statement on Inclusion of Legislation to Help Keep Guns from Domestic Violence Offenders in the FY 2020-2021 NYS Budget

(Albany, NY)- Language that is identical to Senate Bill 7792 / Assembly Bill 9938, sponsored by Senator Roxanne J. Persaud and Assemblywoman JoAnne Simon, was included in the final Public Protection / General Government (Part Q of the Article VII language) budget bill that was approved by the Senate on Monday, March 31st, and the Assembly yesterday, April 1st. The bill is expected to be signed by the Governor later today. The included language will address a glaring loophole that could allow domestic violence offenders to procure firearms in other states.

Criminal Procedure Law 370.15 provides a process for determining if a certain crime has met the conditions to be considered a “misdemeanor crime of domestic violence” (MCDV), in the eyes of federal law. If the crime does meet the federal definition, it then requires the court to report the finding to the New York State Division of Criminal Justice Services (DCJS). From there, the state reports the information to the FBI, who insert the data into the federal NICS gun background check system. This allows for the MCDV conviction to appear in the federal background check if the perpetrator attempts to purchase a weapon in another state, which will prevent the offender from completing the purchase.

However, since the law’s inception nearly 10 years ago, data shows there is a severe lack of reporting. Since 2011, only 3,467 names have been reported to DCJS. In 12 counties across the state, with a combined population of over 500,000 residents, there have been zero names reported since the law has been active. One of the potential reasons this data is not being sent to the proper authorities could be attributed to how the current statute is written. The current language provides discretion to District Attorney's (DA’s), which means they are not mandated to serve the notices to convicted perpetrators, and their status never gets reported for inclusion on the NICS.

The language included in this year's budget simply mandates that District Attorney’s utilize existing procedures to make these determinations. It also provides a deadline for delivery of the findings to DCJS, giving DA’s three business days following the sustaining of their findings.

“When I saw the data, I was shocked”, said Senator Persaud. “It is so vital that we report domestic violence convictions to the proper authorities. Doing everything we can to make sure that DV offenders cannot get access to firearms is one of the most important actions we can take to provide at least a small bit of reassurance to their victims. I am elated that this language was included in the budget, and I commend both Assemblywoman Simon for her leadership in the Assembly on this issue, and Governor Cuomo for seeing the importance of this language.

“As a woman and a citizen who cares about the safety of all people, I was horrified to learn of the extreme underreporting - and in 12 counties, no reporting - of misdemeanor Crimes of domestic violence convictions to DCJS,” said Assemblymember Jo Anne Simon. “The inclusion of this bill in this year’s budget sends a powerful message to victims of domestic violence that we are serious about eradicating domestic violence and preventing gun violence. I am grateful to Governor Cuomo for his commitment to this cause and thank Senator Persaud for her continued leadership and advocacy on these issues.”

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