



NEW YORK STATE SENATOR

Martin J. Golden

Senator Golden Passes Bill to Protect Domestic Violence Victims

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The New York State Senate today passed legislation that gives judges the ability to consider well-established risk factors in determining bail or recognizance in domestic violence cases so that a victim and their family can be further protected from an assailant.

The bill (S.1414A), sponsored by Senator Stephen Saland (R-I-C, Poughkeepsie), would allow the history of violence or threats of violence, prior orders of protection, and the accused's access to guns to be considered by a judge, potentially affecting their release conditions and sparing many victims and their children additional harm or even death.

“While we have clearly made progress in strengthening our laws pertaining to domestic violence, more needs to be done,” stated Senator Saland. “One of the important measures needed to afford greater protection to victims requires New York to modify its bail system to recognize the unique nature of domestic violence cases. My bill accomplishes that. As the former Chair of the Children and Families Committee, during which I passed the Family Protection and Domestic Violence Intervention Act, and as current Chair of the Senate Codes Committee, domestic violence issues have been and remain a priority.”

“Victims of domestic violence should be able to rely on the courts for protection from their assailant, but our current laws do not go far enough to ensure that they are protected from a dangerous abuser awaiting trial,” Senate Majority Leader Dean G. Skelos said. “This potentially life-saving bill would enable judges to evaluate all the risks posed by the release of an abuser so that an appropriate determination about release conditions can be made.”

New York State has been a leader in addressing domestic violence by passing many progressive laws over the past few decades. However, New York's bail provisions have not been updated to take into account the unique nature of domestic violence offenses. As a result, perpetrators of domestic violence offenses are often set free on low or no bail, providing an opportunity to stalk, harm and sometimes kill their victims.

In December 2002, a perpetrator of domestic violence was released on \$1,500 bail by a city judge in Westchester County after an attempted assault with a gun on his former girlfriend. Within days after his release on bail, the perpetrator shot his former girlfriend in the head and killed himself. As recently as July 2010, a similar tragic incident occurred in Dutchess County when the perpetrator killed his wife before turning the gun on himself. This incident occurred only days after his release on bail, following one month in jail stemming from an incident of domestic violence. These and many other cases demonstrate that it is essential that the judge determining recognizance or bail consider factors that indicate a risk of harm to the victim-witness.

This bill recognizes the high rate of recidivism in domestic violence cases. It requires judges to consider specific factors including prior acts of violence or threats of violence, prior orders of protection, prior arrests or convictions for offenses against family or household members, prior violations of orders of protection, and access to firearms or a history of firearm use.

The bill will be sent to the Assembly.