



**THE COUNCIL**  
**REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION**  
**MARCEL VAN Ooyen, Deputy Chief of Staff**

**COMMITTEE ON GENERAL WELFARE**  
**BILL DE BLASIO, CHAIR**

December 12, 2003

**PROP. INT. NO. 107-A:**

By: Council Members Yassky, The Speaker (Council Member Miller), Avella, Boyland, Brewer, Clarke, Comrie, DeBlasio, Felder, Fidler, Foster, Gennaro, Gerson, Jackson, Katz, Koppell, Lopez, Nelson, Perkins, Recchia, Quinn, Reed, Reyna, Sanders, Serrano, Weprin and the Public Advocate (Ms. Gotbaum); also Council Members Dilan, Seabrook and Moskowitz.

**TITLE:**

To amend the administrative code of the city of New York, in relation to requiring reasonable accommodation in employment of needs of victims of domestic violence, sex offenses or stalking.

**ADMINISTRATIVE CODE:**

Amends Sections 8-107 and 8-107.1.

The Committee on General Welfare, chaired by Council Member Bill de Blasio, will meet on December 12, 2003 to vote on Prop. Int. 107-A, which would amend the City's Human Rights Law to strengthen its protections for victims of domestic violence, sex offenses and stalking.

## **BACKGROUND:**

According to the U.S. Department of Justice, nearly 700,000 domestic violence incidents occurred in the United States in 2001.<sup>1</sup> Nationwide, one out of every six women and one out of every thirty-three men has been raped or been a victim of attempted rape.<sup>2</sup> Furthermore, approximately one million women and more than 370,000 men annually are victims of stalking crimes in the United States, and approximately 10,200,000 people have been stalked at some point in their lives.<sup>3</sup> The figures for New York City resemble the numbers nationwide. In 2002, the New York City Police Department responded to reports of over 220,000 domestic violence incidents.<sup>4</sup> In 2001, the New York City Police Department made nearly 24,000 family related arrests; over 4,000 of these arrests were for violations of orders of protection.<sup>5</sup> In addition, in 2002 more than 2,000 incidents of rape were reported to the New York City police, and more than 2,000 individuals received services from the city's sexual assault programs.<sup>6</sup> Professionals who work with victims of domestic violence, sex offenses and stalking contend that, given the nature of these crimes, the actual rate of occurrence significantly exceeds reported rates.

Victims of domestic violence, sex offenses, and stalking often are unable to separate their status as victim from their experience at work. In three separate studies,

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<sup>1</sup> See Callie Marie Rennison, Ph.D., U.S. Department of Justice, *Intimate Partner Violence, 1993-2001: Bureau of Justice Statistics Crime Data Brief*, February 2003.

<sup>2</sup> See National Institute of Justice Ctr. for Disease Control and Prevention, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the Nat'l Violence Against Women Survey*, Nov. 1998, at 3.

<sup>3</sup> *Id.* at 11.

<sup>4</sup> See, e.g., Kirsten Danis, *NYPD Plans for Victims of Abuse*, N.Y. POST, May 10, 2002, available at 2002 WL 19330134; *Mayor Announces Domestic Violence Teams*, Assoc. Press Newswires, May 9, 2002.

<sup>5</sup> Mayor's Office to Combat Domestic Violence, NYC Domestic Violence Statistics, available at <http://www.nyc.gov/html/ocdv/html/stats.html>.

between 35 and 56 percent of victims of domestic violence reported that their abusers harassed them at work.<sup>7</sup> About 50,500 individuals, 83 percent of whom are women, were raped or sexually assaulted in the workplace in the United States each year from 1992 through 1996<sup>8</sup> and more than half of domestic violence victims surveyed in New York City in 1995 reported that abuse caused them to be late or miss days at work.<sup>9</sup> According to a 1998 report of the U.S. General Accounting Office, between 25 and 50 percent of domestic violence victims reported that they lost a job due, at least in part, to domestic violence.<sup>10</sup> More than 25 percent of stalking victims report losing time from work due to stalking; 7 percent never return to work.<sup>11</sup>

Failure to address problems faced by victims of domestic violence, sex offenses and stalking in the workplace imposes significant costs on businesses. The Bureau of National Affairs has estimated that domestic violence costs United States employers between \$3,000,000,000 and \$5,000,000,000 annually in lost time and productivity.<sup>12</sup> In a recent survey, 66 percent of senior business executives said that their companies' financial performances would benefit from addressing the issue of domestic violence

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<sup>6</sup> See The New York City Alliance Against Sexual Assault, available at [http://www.nycagainstrape.org/research\\_factsheet\\_5.html](http://www.nycagainstrape.org/research_factsheet_5.html).

<sup>7</sup> See United States General Accounting Office, *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998) (summarizing three studies of employed battered women) ["GAO Report"].

<sup>8</sup> Greg Warchol, U.S. Department of Justice, *Workplace Violence, 1992-96* 2 (July 1998).

<sup>9</sup> New York Department of Labor, *Report to the New York State Legislature on Employees Separated from Employment Due to Domestic Violence*, Jan. 15, 1996, at 3 (citing Lucy N. Friedman and Sarah Cooper, *Victim Services Research: The Cost of Domestic Violence*, August 1987).

<sup>10</sup> U.S. General Accounting Office, *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998).

<sup>11</sup> Patricia Tjaden and Nancy Thoennes, National Institute of Justice and Centers for Disease Control and Prevention, *Stalking in America: Findings from the National Violence Against Women Survey* 11 (April 1998).

<sup>12</sup> See Bureau of National Affairs, *Violence and Stress: The Work/Family Connection* Special Report #32 (Aug. 1990).

among their employees.<sup>13</sup> Costs associated with domestic violence, sex offenses and stalking might include loss of experienced employees, which generates hiring and training expenses for employees. A number of businesses have recently voluntarily adopted policies and procedures to address the issues of domestic violence, sexual assault and stalking among their employees.<sup>14</sup> In addition to benefiting victims directly, such policies and procedures can help employers retain employees and minimize disruption and reduced productivity in their workplaces.

**ANALYSIS:**

Prop. Int. 107-A would add victims of sex offenses and stalking as a protected class under the City's Human Rights Law. The bill defines "victim of sex offenses or stalking" as a victim of acts which would constitute violations of article 130 of the penal law or sections 120.45, 120.50, 120.55, or 120.69 of the penal law.

Prop. Int. 107-A would require employers to make reasonable accommodations for victims of domestic violence, sex offenses, and stalking. Employees who are victims of domestic violence, sex offenses or stalking may need to take time during business hours to obtain or enforce orders of protection, seek medical or legal assistance, counseling, or other services; or to look for housing to escape from domestic violence. This provision would require employers to make reasonable accommodations for victims of domestic violence, sex offenses, or stalking. These might include allowing an employee to take leave from work to seek legal assistance, counseling, or assistance in developing a safety plan. Other reasonable accommodations could include re-assigning seating so that a victim need not sit near an entrance, changing a victim's telephone

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<sup>13</sup> Roper Starch and Liz Claiborne, *Addressing Domestic Violence: A Corporate Response* (1994).

number, removing his or her name from the company's phone directory, or adjusting starting and leaving times. In sum, this requirement could enable victims to remain viable and productive members of the workforce and to maintain a source of reliable and independent income.

Where the issue of reasonable accommodation is at issue, the bill would require that the employer's resources be taken into account when determining reasonable accommodation to avoid placing an undue burden on employers. Further, a victim of domestic violence, sex offenses or stalking protected under the bill must otherwise be able to perform all essential functions of his or her job or requisites for enjoying the rights in question. Finally, the bill requires a victim of domestic violence, sex offenses or stalking who requests a reasonable accommodation to provide verification of his or her status as a victim of domestic violence, sex offenses or stalking, upon request by an employer.

**EFFECTIVE DATE:**

This local law would be effective immediately.

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<sup>14</sup> NOW Legal Defense and Education Fund, *The Impact of Violence in the Lives of Working Women: Creating Solutions – Creating Change*, at 4 (2002).