

**OCTOBER 16, 2003**  
**TESTIMONY OF WENDY R. WEISER**  
**STAFF ATTORNEY, NOW LEGAL DEFENSE AND EDUCATION FUND**  
**BEFORE THE NEW YORK CITY COUNCIL**  
**COMMITTEE ON GENERAL WELFARE**  
**IN SUPPORT OF INTRO 107**

NOW Legal Defense and Education Fund strongly supports Intro 107 and urges the New York City Council to enact it. This proposed law would put New York City at the forefront of national efforts to reduce the impact of domestic violence, sexual assault, and stalking on survivors' ability to access and maintain housing and employment. In particular, if enacted, Intro 107 will (1) prohibit housing discrimination against victims, (2) require employers to provide reasonable accommodations to victims, (3) require landlords to release victims from their leases when victims must flee their housing to find safety, and (4) extend employment and housing discrimination protections to survivors of sexual assault and stalking. In doing so, it will greatly enhance victims' safety and economic security.

NOW Legal Defense is a national civil rights organization that has been working for more than thirty years to define and defend women's legal rights. Among other things, NOW Legal Defense was a key drafter of the Violence Against Women Act and has worked with victims, advocates, government officials, and employers to promote the employment and housing rights of victims of domestic violence, sexual assault, and stalking. Our major goals include ending violence against women and eliminating barriers to women's economic opportunities. Intro 107 serves both of those goals.

**I. The Pervasiveness of Domestic Violence, Sexual Assault and Stalking in New York City**

Domestic violence, sexual assault, and stalking are pervasive and serious problems in New York City. According to New York City Police Department statistics, in 2001 the Police Department responded to more than 230,000 domestic violence incidents in the city,<sup>1</sup> and made almost 24,000 domestic violence arrests.<sup>2</sup> The Police Department statistics further indicate that although the overall crime rate has decreased in recent years, incidents of domestic violence have increased. These figures are consistent with a widespread national problem. According to U.S. Department of Justice statistics, over one million domestic violence incidents occurred in the United States each year

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<sup>1</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 NEWSWIRE, May 9, 2002.

<sup>2</sup> Mayor's Office to Combat Domestic Violence, NYC Domestic Violence Statistics, available at <http://www.nyc.gov/html/ocdv/html/stats.html>.

from 1993 to 1998.<sup>3</sup> In addition, nearly 2,000 incidents of rape were reported to the New York City police in 2001,<sup>4</sup> and more than 2,000 individuals requested services from the city's sexual assault programs in 1999.<sup>5</sup> Nationwide, one out of every six women and one out of thirty-three men has been raped or been a victim of attempted rape.<sup>6</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>7</sup>

The crimes of domestic violence, sexual assault and stalking have a devastating impact on victims' physical and emotional health and financial security. In addition, victims of domestic violence, sexual assault and stalking all too often face adverse consequences in their homes and in their workplaces as a result of domestic violence.

## **II. The Importance of Housing Protections for Survivors of Domestic Violence, Sexual Assault, and Stalking**

Domestic violence, sexual assault and stalking have a profound impact on survivors' ability to maintain safe and reliable housing. Abusers or stalkers frequently follow victims to their homes, assault and harass victims in their homes, and engage in a range of other behaviors designed to undermine victims' security in their homes. To make matters worse, all too often victims who have been attacked in their apartments have been served with eviction notices for "allowing" criminal activity to occur on the premises. Take, for example, Tiffanie Alvera's case.<sup>8</sup>

One morning in 1999, Tiffanie's husband assaulted her in their apartment. The police came, arrested her husband, charged him with assault, and jailed him. Meanwhile, Tiffanie was rushed to the hospital to treat her injuries. She then went to court and obtained a restraining order prohibiting her husband from coming near her or into their apartment complex. Two days later, she was served with a 24-hour eviction notice saying that she was being evicted because of the domestic violence incident, pursuant to the landlord's "one strike against violence" policy.

This is not an anomaly. After NOW Legal Defense and co-counsel represented Tiffanie in a fair housing case against her landlord in Oregon, we received numerous calls from victims – including many in New York City – whose landlords were discriminating against them simply because they were victims of domestic violence,

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<sup>3</sup> Callie Marie Rennison, Ph.D. and Sarah Welchans, *Intimate Partner Violence: Bureau of Justice Statistics Special Report*, U.S. Dep't of Justice, May 2000.

<sup>4</sup> City of New York Police Dep't Crime Statistics, available at [www.home.nyc.gov/portal/index.jsp?pageID=nyc\\_publicsafety1&catID=1260&cc=1260&rc=702&ndi=-1](http://www.home.nyc.gov/portal/index.jsp?pageID=nyc_publicsafety1&catID=1260&cc=1260&rc=702&ndi=-1)

<sup>5</sup> See New York City Against Rape – statistics, available at [www.Nycagainstrape.org](http://www.Nycagainstrape.org).

<sup>6</sup> See Nat'l Inst. 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>7</sup> *Id.* at 11.

<sup>8</sup> See generally *United States & Alvera v. CBM Group, Inc.*, No. 01-857-PA (D. Ore., filed July 10, 2001); <http://www.nowldef.org/html/issues/vio/Oregon.shtml>.

sexual assault or stalking. One victim in New York was threatened with eviction because her ex-husband, who no longer lived with her and was subject to a restraining order, had previously abused her. Another received an eviction notice after her former boyfriend entered her apartment building without permission and scribbled insulting graffiti on the wall. We have received numerous reports of landlords serving victims with eviction notices for causing disturbances because they were assaulted by abusers or because the police came to arrest their abusers.<sup>9</sup> We have also received reports of landlords refusing to rent to women coming from domestic violence shelters. In an illustrative study in Iowa, 67% of domestic violence service providers identified “discriminatory practices by landlords” as a barrier battered women face in their effort to secure permanent housing.<sup>10</sup>

It is already extraordinarily challenging for a victim of domestic violence, sexual assault or stalking to break away from a dangerous relationship or to find safety. It is even more difficult if she fears that taking measures to make herself safe could cause her landlord to evict her and her children from their home. Because there is currently no assurance that landlords will not discriminate against victims, many victims are forced to make the terrible choice between suffering in silence and losing their housing.

The result is that many victims are effectively discouraged from reporting their abuse or taking steps to protect themselves for fear of losing their housing. Many others lose their homes because landlords and others who control access to housing discriminate against them based on their status as victims. Losing a home because one has been a victim of domestic violence, sexual assault or stalking only exacerbates the problem and makes it less likely that a victim can regain her safety, dignity, self-sufficiency and independence. When victims lose their homes, they often return to abusive relationships to house and support themselves and their children.<sup>11</sup> Many others face homelessness. In a recent survey by the U.S. Conference of Mayors, 56% of cities identified domestic violence as a primary cause of homelessness.<sup>12</sup>

Existing laws in New York do not adequately protect these victims. Intro 107 is therefore crucial to ensure the safety and housing security of victims. By explicitly prohibiting housing discrimination against victims of domestic violence, sexual assault, and stalking, Intro 107 would further clarify the legal obligations of entities and persons who control access to housing. While several authorities have appropriately recognized that discrimination against domestic violence victims may be prohibited under existing sex discrimination laws,<sup>13</sup> the protection of a statute is necessary because the opinions of

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<sup>9</sup> While legal advocates have succeeded in convincing New York City’s public housing authorities not to follow through on many of those eviction notices, victims without legal representation and those in privately-owned housing have not been as fortunate.

<sup>10</sup> Amy Correia, *Housing and Battered Women: A Case Study of Domestic Violence Programs in Iowa* (1999), at <http://www.vaw.umn.edu/FinalDocuments/housing.asp>.

<sup>11</sup> See, e.g., Amy Correia and Jen Rubin, *Housing and Battered Women*, Violence Against Women Online Resources: [www.vaw.umn.edu/FinalDocuments/vawnet/arhousing.asp](http://www.vaw.umn.edu/FinalDocuments/vawnet/arhousing.asp)

<sup>12</sup> The United States Conference of Mayors, *A Status Report on Hunger and Homelessness in America’s Cities: A 25-City Survey*, at 66 (Dec. 2000).

<sup>13</sup> See Formal Op. No. 8F-F15, 1985 Op. Atty Gen. N.Y. 45 (Nov. 22, 1985) (Attorney General’s opinion that sex discrimination provisions of New York State Human Rights Law prohibit denial of rentals to

those authorities are not legally binding and because sex discrimination laws protect victims only in limited circumstances. Intro 107 would make the law clearer and easier to follow, would ensure that all victims are covered, and would give victims the assurance they need to address their problems without fear of retaliation from their landlords.

There is a growing national recognition of the need to address housing discrimination against victims of domestic violence, sexual assault and stalking. For example, the American Bar Association recently passed a resolution stating that “the ABA supports federal, state, local and territorial legislation to prohibit discrimination in housing against victims of domestic violence” and “urges all relevant federal, state, local and territorial administrative agencies to adopt and vigorously enforce regulations to combat such discrimination.”<sup>14</sup> Similarly, Congress recently directed the Department of Housing and Urban Development (HUD) to develop plans to protect domestic violence victims from discrimination in public housing.<sup>15</sup> HUD responded by including a chapter on domestic violence in its Public Occupancy Handbook, recommending, among other things, that public housing authorities (a) not evict domestic violence victims based on the acts of their abusers, and (b) take a variety of steps to assist victims.

A number of states have passed laws that protect victims of domestic violence or sexual assault from housing discrimination in certain circumstances.<sup>16</sup> Rhode Island has passed a law prohibiting all forms of housing discrimination against domestic violence victims, and other states have similar laws pending.<sup>17</sup> A recently introduced bill in New York State would prohibit housing discrimination against victims of domestic violence and stalking.<sup>18</sup> That bill passed the state Assembly in June of this year. In addition, both Oregon and Washington have passed laws that require landlords to release victims of domestic violence, sexual assault, or stalking from lease obligations when those victims must flee their housing to find safety.<sup>19</sup>

In short, Intro 107 will help survivors of domestic violence, sexual assault, and stalking secure and retain adequate housing by ensuring that they will not be unfairly penalized because of their victim status. Research has shown that safe and reliable

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persons based on their status as domestic violence victims); *Winsor v. Regency Prop. Mgmt, Inc.*, No. 94 CV 2349 (Wisc. Cir. Ct. Oct. 2, 1995) (holding that Wisconsin Fair Housing Law, modeled after federal Fair Housing Act, prohibits housing discrimination against domestic violence victims); *O'Neil v. Karahlais*, 13 M.D.L.R. 2004 (Mass. Comm'n Against Discrim. Oct. 21, 1991) (same with respect to Massachusetts law); Secretary, U.S. Dep't of Hous. & Urban Dev., No. HUDALJ 10-99-0538-8 (HUD Ore. Apr. 16, 2001) (HUD charge of discrimination finding that eviction of woman because she was a victim of domestic violence violated Fair Housing Act).

<sup>14</sup> See <http://www.abanet.org/leadership/recommendations03/106B.pdf>.

<sup>15</sup> H.R. Conf. Rpt. 272, 107 Cong. 1st Sess. 120 (Nov. 6, 2001).

<sup>16</sup> See, e.g., COL. REV. STAT. ANN. § 13-40-107.5(5)(b) (West 2001); MINN. STAT. § 504B.205 (2000); N.M. STAT. ANN. § 407-8-33(J) (2001); WASH. REV. CODE ANN. § 59.18.352 (West 2001); WASH. REV. CODE ANN. § 59.18.130(8)(b)(ii) (West 2001); WIS. STAT. ANN. § 160.50(5m) (West 2001).

<sup>17</sup> See R.I. GEN. LAWS §§ 34-37-1,-2,-2.4,-3,-4 (2002); S.B.2464 & H.B.2121, 21st Leg. (Haw. 2002); H.B. 3290, 72nd Leg. Ass. (Ore. 2003).

<sup>18</sup> S.B. 4812 & A.B. 8135, 2003-2004 Reg. Sess. (N.Y. 2003).

<sup>19</sup> 2003 Ore. H.B. 2765; WASH. REV. CODE ANN. § 59.18.352.

housing is essential in enabling victims to escape their abusers and in stabilizing their lives and the lives of their children in the aftermath of violence and terrorization.<sup>20</sup> Intro 107 is an important and necessary step toward that goal.

### **III. The Importance of Reasonable Accommodations in Employment for Victims of Domestic Violence, Sexual Assault, and Stalking**

Domestic violence, sexual assault, and stalking have devastating effects on survivors' ability to find and retain work and impose high costs on employers. Intro 107's requirement that employers grant reasonable accommodations to domestic violence, sexual assault and stalking victims will mitigate the adverse effects on victims and is likely to benefit employers as well.

#### **A. The Benefits of Reasonable Accommodations for Victims**

All too frequently, domestic violence, sexual assault and stalking follow their victims to the workplace.<sup>21</sup> The prevalence of domestic violence, sexual assault, and stalking at work is dramatic. Between 35 and 56 percent of battered women in three separate studies reported that they were harassed at work by their batterers.<sup>22</sup> Approximately 11 percent of all rapes occur in the workplace.<sup>23</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>24</sup> Half of all female victims of violent workplace crimes know their attackers,<sup>25</sup> and nearly 1 out of every 10 violent workplace incidents are committed by partners or spouses.<sup>26</sup>

Abusers often seek to control their victims by actively interfering with their ability to work, including preventing them from going to work, harassing them at work, limiting their access to cash or transportation, and sabotaging their child care arrangements.<sup>27</sup>

Domestic violence, sexual assault and stalking, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Victims may be required to miss work to treat their injuries, to go to court to obtain protective orders against their abusers or stalkers, or to take other measures to ensure their safety and that of their children, such

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<sup>20</sup> See, e.g., Eleanor Lyon, Ph.D., *Poverty, Welfare and Battered Women: What Does the Research Tell Us?* (last revised Jan. 22, 1998), at <http://www.vaw.umn.edu/Vawnet/welfare.htm>.

<sup>21</sup> See, e.g., Jennifer Atterbury, *Employment Protection and Domestic Violence: Addressing Abuse in the Labor Grievance Process*, 1998 *Journal of Dispute Resolution* 165, 169-74 (1998).

<sup>22</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>23</sup> GREG WARCHOL, U.S. DEP'T OF JUSTICE, *WORKPLACE VIOLENCE*, 1992-96 2 (July 1998).

<sup>24</sup> *Id.* at 2.

<sup>25</sup> *Id.* at 4.

<sup>26</sup> SOCIETY FOR HUMAN RESOURCE MANAGEMENT, *WORKPLACE VIOLENCE SURVEY* 6-7 (2000).

<sup>27</sup> JODY RAPHAEL & RICHARD M. TOLMAN, *TRAPPED IN POVERTY, TRAPPED BY ABUSE: NEW EVIDENCE DOCUMENTING THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND WELFARE* (1997).

as finding alternative housing. 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>28</sup> And more than a quarter of stalking victims in a national study reported losing time from work due to the stalking, and 7 percent never returned to work.<sup>29</sup>

Unfortunately, employers, while prohibited by existing New York City law from discriminating against victims of domestic violence, too often fire victims of domestic violence, sexual assault or stalking, or fail to provide them with the reasonable accommodations necessary to address their pressing needs and remain productive and employed. As a result, many victims lose their jobs. According to a 1998 report of the U.S. General Accounting Office, between 1/4 and 1/2 of domestic violence victims surveyed in 3 studies reported that they lost a job due, at least in part, to domestic violence.<sup>30</sup> Similarly, almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.<sup>31</sup>

The loss of employment can be particularly devastating for victims of domestic violence, sexual assault and stalking. Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.<sup>32</sup> The cumulative impact of domestic violence on women's job security is enormous: More than half of women receiving welfare have been victims of domestic violence as adults and between 1/4 and 1/3 reported being abused in the prior year.<sup>33</sup> On the other hand, victims who are employed are less likely to return to their abusers and are more likely to achieve safety, economic security, health, dignity, self-sufficiency and independence.

Intro 107 requires employers to afford victims of domestic violence, sexual assault, and stalking with reasonable accommodations that will enable victims to find safety and address the effects of those crimes without losing their jobs. Thus, for example, a victim fleeing her abuser no longer will have to choose between keeping her job and securing her safety and that of her children; she will be entitled to a reasonable amount of time off to obtain a protective order and secure alternative housing. And, as a result of her increased security, she will be a more productive and reliable employee.

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<sup>28</sup> NEW YORK DEP'T 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 & SARAH COOPER, VICTIM SERVICES RESEARCH: THE COST OF DOMESTIC VIOLENCE (Aug. 1987)).

<sup>29</sup> PATRICIA TJADEN & NANCY THOENNES, NAT'L INST. OF JUST. & CTRS. FOR DISEASE CONTROL AND PREVENTION, STALKING IN AMERICA: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY 11 (April 1998).

<sup>30</sup> U.S. GEN. ACCT. OFFICE, DOMESTIC VIOLENCE PREVALENCE AND IMPLICATIONS FOR EMPLOYMENT AMONG WELFARE RECIPIENTS 19 (Nov. 1998).

<sup>31</sup> S. REP. NO. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. ABNORMAL PSYCHOLOGY No. 3, 264 (1981)).

<sup>32</sup> Susan Lloyd and Nina Taluc, *The Effects of Male Violence on Female Employment*, 5 VIOLENCE AGAINST WOMEN 370, 385 (1999).

<sup>33</sup> Richard M. Tolman & Jody Raphael, *A Review of Research on Welfare and Domestic Violence*, 56 J. SOC. ISSUES, 655, 661-62 (2000).

## B. The Benefits and Low Cost to Employers of Reasonable Accommodations

Based on NOW Legal Defense’s experience and research, the cost of Intro 107’s reasonable accommodations provisions is likely to be very low, and it will be offset by the benefits to employers – in addition to the obvious benefits to employees.

As many businesses are realizing, addressing the problems of domestic violence, sexual assault or stalking in the workplace benefits employers. In a relevant survey, 66 percent of senior business executives said that their companies’ financial performance would benefit from addressing the issue of domestic violence among their employees.<sup>34</sup> More and more businesses are voluntarily adopting policies to address the issues of domestic violence, sexual assault and stalking among their employees, recognizing that such policies are both good business and the right thing to do.<sup>35</sup>

Violence suffered outside the workplace affects employee productivity<sup>36</sup> and retention.<sup>37</sup> One study found that 78 percent of human resources professionals and 94 percent of corporate security directors consider partner violence a workplace issue.<sup>38</sup> Losing a loyal and experienced employee obviously generates hiring and training costs for businesses. As the New York State Office for the Prevention of Domestic Violence suggests, employers already have an obligation to provide a safe work environment, and fulfilling this obligation for victims of domestic violence, sexual assault, and stalking will help employers retain employees and minimize disruption and reduced productivity in their workplaces.<sup>39</sup>

Domestic violence, sexual assault, and stalking already impose costs on employers. Reasonable accommodations are designed to *prevent* the recurrence of those crimes. In other words, Intro 107 will also reduce the costs of crime by helping victims protect themselves. In short, the cost of making reasonable accommodations is mitigated by the benefits of improved employee productivity, safety, and retention.

The benefit of laws like Intro 107 to employers is illustrated by Maine’s example. Since 1999, all employers in Maine have been required to grant “reasonable and necessary leave from work” for employees who have been victims of domestic violence,

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<sup>34</sup> Roper Starch, Liz Claiborne, *Addressing Domestic Violence: A Corporate Response* (1994).

<sup>35</sup> NOW Legal Defense and Education Fund, *The Impact of Violence in the Lives of Working Women: Creating Solutions – Creating Change* 4 (2002).

<sup>36</sup> The Bureau of National Affairs estimates that domestic violence costs employers \$3 to \$5 billion a year in lost workdays and reduced productivity. *See supra* note 1 at 5; Callie Marie Rennison & Sarah Welchens, U.S. Dep’t of Justice, *Intimate Partner Violence* 2, 8 (May 2000); *see also* Patricia Tjaden & Nancy Thoennes, U.S. Dep’t of Justice, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women* 26, 30-31 (Nov. 2000).

<sup>37</sup> *See The Impact of Violence in the Lives of Working Women: Creating Solutions – Creating Change*, at 5.

<sup>38</sup> Corporate Alliance to End Partner Violence statistics, *available at* [www.caepv.org/pvstats.htm](http://www.caepv.org/pvstats.htm) (citing *Personnel Journal* 64 (April 1995)).

<sup>39</sup> New York State Office for the Prevention of Domestic Violence, *Domestic Violence – It is Your Business: Employer Handbook & Resource Guide* at 2.

sexual assault, or stalking.<sup>40</sup> In 2002, the law was expanded to cover employees with children who are such victims.<sup>41</sup> The Maine State Chamber of Commerce, which had opposed the initial law, wrote to the State legislature to express support for the expansion of the leave law.<sup>42</sup> According to the State Chamber:

Despite our original reservations the bill became law and has been in place for the last two years. During this time this organization has heard no complaints or concerns with its implementation. *It appears that the bill supporters were correct regarding its application and its impact on the workplace.*

It is for this reason we believe it is appropriate to exten[d] the same leave opportunities for parents of children who are unfortunate enough to be victims of violence.

We believe this bill, like the current law, is appropriate given the difficult times we now live in. While we hope that someday we will be in the position that individuals and families do not need to access leave for these very troublesome situations, we recognize that should they need to do so, *such leave is appropriate and relatively unburdensome to the workplace.*<sup>43</sup>

Maine's experience shows that laws requiring accommodations like those in Intro 107 do not significantly burden employers.

Perhaps the primary reason that provisions requiring reasonable accommodations for victims of domestic violence, sexual assault and stalking are not burdensome to employers is that, in our experience working with such victims, most requested accommodations are low or no cost. It is important to note that Intro 107 requires only "reasonable" accommodations, and that the employer always retains the opportunity to show that the requested accommodations would constitute an "undue hardship." Indeed, Intro 107 also provides an employer with an affirmative defense if reasonable accommodations would not enable a victim "to satisfy the essential requisites of the job."

In our experience, the types of accommodations generally sought include: (a) to stop phone harassment, a request that an employer change an employee's phone extension or route calls through a receptionist; (b) where a batterer or a stalker has threatened to come to the workplace, a request that an employer register a copy of an employee's protective order with appropriate security staff or, where applicable, that an employer transfer an employee to another shift or another job site; or (c) a request that an employer grant an employee a limited leave to go to court to obtain a protective order, to prepare for or attend court proceedings, to deal with her physical or psychological

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<sup>40</sup> 26 ME. REV. STAT. 850 (2002).

<sup>41</sup> 2002 Me. Laws 685 (enacted Apr. 11, 2002).

<sup>42</sup> Letter from Peter M. Gore, Senior Governmental Affairs Specialist, Maine State Chamber of Commerce to Senator Beth Edmonds, Senate Chair and Representative George Bunker, House Chair, Joint Standing Comm. On Labor, Jan. 10, 2002, at 1.

<sup>43</sup> *Id.* (emphasis added).

injuries, to obtain emergency services, or to find emergency housing. These accommodations are not costly to employers, and they help employers retain loyal and productive employees.

### C. Existing Laws Are Not Adequate

Existing New York City law does not explicitly authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities. Nor does existing New York City law explicitly require employers to provide other reasonable accommodations to employees. While the New York State penal law already prohibits employers from discharging or penalizing crime victims who take time off to appear in court as witnesses, to consult with district attorneys, or to obtain orders of protection,<sup>44</sup> those protections are very limited and are not enforceable by victims. And while survivors of domestic violence, sexual assault, or stalking may be protected by sex discrimination laws under certain factual circumstances, many are left without recourse when they are unfairly treated by their employers.

On the other hand, a number of states and localities outside of New York, including California, Colorado, Hawaii, Illinois, Maine, and Miami, have passed more extensive laws requiring employers to grant leave to victims of domestic violence, sexual assault, or stalking.<sup>45</sup> A much larger number of jurisdictions, including New York State,<sup>46</sup> have bills pending that would enable victims to take employment leave.<sup>47</sup>

We strongly urge that the City Council enact Intro 107 in order to make the law clearer for employers, to ensure that all survivors of these crimes are protected, and to give victims the security they need to address their problems without fear of retaliation.

## **IV. The Need to Extend Protections to Survivors of Sexual Assault and Stalking**

Intro 107 represents a step forward because, in addition to the provisions discussed above, it extends legal protections to survivors of sexual assault and stalking.

New York and national statistics make clear that, like domestic violence, sexual assault and stalking are widespread problems.<sup>48</sup> Like domestic violence, sexual assault and stalking occur in both the workplace and the home.<sup>49</sup> And like survivors of domestic violence, survivors of sexual assault or stalking are particularly vulnerable to adverse employment and housing consequences as a result of their victimization.<sup>50</sup> They should not be further penalized by discrimination because of their victim status.

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<sup>44</sup> N.Y. PENAL LAW § 214.15.

<sup>45</sup> See generally NOW Legal Defense fact sheet, Employment Leave for Domestic Violence Victims, available at <http://www.nowldef.org/html/issues/vio/laws-leave.shtml>.

<sup>46</sup> A.B. 31 & S.B. 4646, 225th Ann. Leg. Sess. (N.Y. 2003).

<sup>47</sup> See *supra* note 45.

<sup>48</sup> See *supra* notes 4-7.

<sup>49</sup> See *supra* notes 21-22.

<sup>50</sup> See *supra* notes 28-29.

We know from working with victims' service advocates and from our own clients that victims of sexual assault and stalking experience the same kinds of employment and housing consequences as those experienced by domestic violence victims, and that they deserve the same kinds of protections. This has recently been recognized by both Maine and Colorado, both of which require employers to grant leave not only to victims of domestic violence but also to victims of sexual assault and stalking.<sup>51</sup> In addition, Congress is currently considering a pending bill, the Victims' Economic Security and Safety Act, which would prohibit employment discrimination and provide other protections to victims of domestic violence, sexual assault, and stalking.<sup>52</sup> Legislation pending in other states similarly protects victims of sexual assault and stalking in addition to victims of domestic violence.<sup>53</sup>

In short, extending protections to victims of sexual assault and stalking victims makes sense. There is no reason why a victim of abuse at the hands of stranger or acquaintance should not receive the same protections from discrimination as a victim of abuse at the hands of a family member or intimate partner.

Moreover, to the extent that Intro 107 protects only victims of particular types of crimes, that is justified by the fact that survivors of domestic violence, sexual assault, and stalking are treated differently from other crime victims. They are discriminated against and subjected to adverse treatment due in part to stereotypes about domestic violence, sexual assault, and stalking. Intro 107 therefore is appropriately tailored to respond to a particular and documented need.

## **V. Conclusion**

NOW Legal Defense strongly encourages the City Council to pass Intro 107 to protect survivors of domestic violence, sexual assault, or stalking from further victimization.

We applaud the Council's leadership in enacting Local Law 1 of 2001 and making New York City the first jurisdiction in the country to prohibit all employment discrimination against domestic violence victims. While that was an important step toward addressing some of the consequences of violence against women, more needs to be done to ensure that victims can achieve security and independence. Intro 107 will put New York City at the forefront of national efforts to address the impact of domestic violence, sexual assault and stalking on victims' employment and housing security.

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<sup>51</sup> See, 26 ME. REV. STAT. § 850 (2000) (as amended by 2002 Me. Laws 685, enacted April 11, 2002); 202 Colo. Sess. Laws 114 (enacted April 19, 2002).

<sup>52</sup> S. 1249, H.R. 2670, 107th Cong. (2d Sess. 2002).

<sup>53</sup> See e.g., A.B. 2195, 2001-02 Reg. Sess. (Cal. 2002); S.B. 2438 & H.B. 2123, 21st Leg. (Haw. 2002); H.B. 739, 2002 Reg. Sess. (Miss. 2002); H.B. 385, 102d Gen. Assemb. (Tenn. 2001).