

PHYSICAL SCARS ARE NOT THE ONLY EVIDENCE:
CRUCIAL EXPANSION OF NEW YORK’S PENAL LAW
TO DEFINE COERCIVE CONTROL AND
TECHNOLOGICAL ABUSE AS DOMESTIC VIOLENCE

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TABLE OF CONTENTS

INTRODUCTION	192
PART I.....	196
A. <i>What Is Domestic Violence?</i>	196
B. <i>History of Domestic Violence – Common Law and Change in State Legislation</i>	197
PART II.....	199
A. <i>The Rise in Domestic Violence During the COVID-19 Pandemic</i>	199
B. <i>The Creation of the New York State Task Force</i>	203
C. <i>Existing New York Domestic Violence Law</i>	205
PART III	207
A. <i>New York Should Abolish the Timely Requirement of Filing Police Reports</i>	207
B. <i>New York Must Expand its Penal Law Definition of Domestic Violence to Include Coercive Control</i>	208
C. <i>New York Must Add Technological Abuse to Its Penal Law</i> ...	212
CONCLUSION.....	215

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INTRODUCTION

When Om Sayf, a “Syrian YouTuber with 5 million subscribers on her YouTube channel,”¹ used a hand signal at the end of one of her online videos, it sent her followers into a frenzy.² The beginning of the video consisted of Sayf speaking in Arabic, saying, “I spent the best two years on YouTube with you, I won’t upload any videos on my channel, however, I want to tell you something.”³ After this, she lifted her hand to the camera, put her thumb against her palm, and then closed her other four fingers on top of her thumb to make a fist.⁴ Quickly afterward, she opened her hand and waved goodbye.⁵ To those unfamiliar with this gesture, it may have just seemed like an interesting or elaborate way of waving goodbye. However, the gesture was anything but that.⁶

Sayf was actually raising the “Signal for Help,” which is a hand signal created by the Canadian Women’s Foundation (the “Foundation”) in response to COVID-19.⁷ The Foundation created this signal for people to use while on video calls to alert the person on the other side of the screen that they need help.⁸ Further, the Foundation stated that it developed this signal:

[T]o assist those experiencing violence as a result of home isolation during the pandemic. . . . Signal for Help is a simple single-hand gesture that can be visually and silently displayed during video calls to alert family, friends, or colleagues that an individual needs help and would like someone to check in safely with them.⁹

¹ Hannah Ahmed, *Rumors of Domestic Violence and Murder to Publicity Stunt. Who’s Om Sayf and What’s Her Story?*, EL-SHAI, <https://www.el-shai.com/whos-om-sayf-and-whats-her-story/> (last visited Feb. 6, 2022).

² See Eilish O’Sullivan, *Popular Youtuber Appears to Secretly Signal For Help In ‘Last’ Video, Worrying Fans*, DAILY DOT (Jan. 19, 2021), <https://www.dailydot.com/irl/om-sayf-youtube-video/>.

³ *Id.*

⁴ *See id.*

⁵ *See id.*

⁶ *See Signal For Help Campaign Launches to Help People Experiencing Gender-Based Violence During Home Isolation*, CANADIAN WOMEN’S FOUND. (Apr. 14, 2020), <https://canadianwomen.org/signal-for-help-campaign-launches-to-help-people-experiencing-gender-based-violence-during-home-isolation/>.

⁷ *How A Single TikTok Post Spread The Word About Gender-Based Violence and COVID-19*, CANADIAN WOMEN’S FOUND. (Nov. 5, 2020), <https://canadianwomen.org/blog/tiktok-gender-based-violence-covid/>.

⁸ *See Signal For Help Campaign Launches to Help People Experiencing Gender-Based Violence During Home Isolation*, *supra* note 6.

⁹ *Id.*

2023] *DEFINITION OF DOMESTIC VIOLENCE* 193

As evidenced by Sayf, who used this signal in her video while in Turkey,¹⁰ the signal has reached individuals far from Canada.

Due to a viral advertisement video posted on the music application TikTok illustrating the hand signal, people from all different countries are now aware of the signal.¹¹ In the TikTok video, a woman nonchalantly asks her friend on the phone for her banana bread recipe.¹² In the background, the viewer can see that a man is walking back and forth in the same room.¹³ After slyly lifting her hand to put her hair behind her ear, the woman raises her hand to the camera and performs the Signal for Help hand movement while continuing to talk about the recipe.¹⁴ This hand motion is a silent and effective way to get the attention of the person on the other side of the phone without alerting the potential abuser—such as the man in the background of the frame—who may also be home.¹⁵ Similar videos have been shared on other social media platforms, such as Twitter.¹⁶ One video posted on Twitter by Harjinder Singh Kukreja, username @SinghLions, consists of a compilation of different individuals making the Signal For Help hand sign with the caption stating, “[e]veryone should know the international sign for *[h]elp me*. Let’s make this famous #HelpMe.”¹⁷ The video has received over nine million views.¹⁸ While this signal may be new, domestic violence is by no means a new concept.¹⁹ However, the prevalence of domestic violence escalated during the COVID-19 pandemic throughout the United States and worldwide due to unprecedented forced isolation.²⁰

¹⁰ See Nadine Carroll, *Youtuber Suddenly Shuts Down with Secret Call For Help*, YAHOO NEWS (Jan. 18, 2021), https://au.news.yahoo.com/youtuber-om-sayf-shuts-down-with-secret-call-for-help-084341180.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xLmNvbS8&guce_referrer_sig=AQAAAJgnWcb2M_ickppzv5U-o-4LmMARYtTpmJPXixl6ovzG-m87HIDrMSc-NBhPGvqWBUxQMKF-H_AQXFRXtcPX5B5XCehbY1zq1YYDGwOxsV5wbdXqPt8hPfkf2V1LFNCiVoTxHJyYZr09_ALEOwSkPH-TsDSIIBqRfdYfPuuIW3.

¹¹ See *How A Single TikTok Post Spread The Word About Gender-Based Violence and COVID-19*, *supra* note 7.

¹² See *Domestic Abuse Hand Signal That Could Save Lives Goes Viral On TikTok*, VT. (June 9, 2020), <https://vt.co/lifestyle/domestic-abuse-hand-signal-that-could-save-lives-goes-viral-on-tiktok>.

¹³ See *id.*

¹⁴ See *id.*

¹⁵ *Id.*

¹⁶ Harjinder Singh Kukreja (@SinghLions), TWITTER (Mar. 10, 2021, 8:30 AM), https://twitter.com/SinghLions/status/1369641737782632456?ref_src=twsrc%5Etfw%7Ctwcamp%5Eteetembed%7Ctwtterm%5E1369641737782632456%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.upworthy.com%2Finternational-signal-for-help.

¹⁷ *Id.* (emphasis added).

¹⁸ *Id.*

¹⁹ See generally *id.*

²⁰ Brad Boserup, Mark McKenney, & Adel Elkbuli, *Alarming Trends in US Domestic Violence During The COVID-19 Pandemic*, 38 AM. J. EMERGENCY MED. 2753, 2753 (2020).

According to the New York Times, at the start of COVID-19, roughly “316 million people in at least 42 states, three countries, 10 cities, the District of Columbia and Puerto Rico [we]re being urged to stay home.”²¹ While these stay-at-home orders were meant to protect people from the virus, they also exacerbated domestic violence.²² Victims were forced to remain inside with their abusers for extended periods, in many cases without any opportunity to access help due to the pandemic and mandatory stay-at-home orders.²³ While the rise in domestic violence took place all around the world,²⁴ this Note will primarily focus on New York State. Only three weeks after “Patient Zero” was first identified in New York, the state quickly became the epicenter of the COVID-19 pandemic in the United States.²⁵ In March 2020, New York accounted for about five percent of global confirmed cases.²⁶ During this time, then-Governor Andrew Cuomo was concerned about the lack of necessary supplies, namely ventilators and masks, as the state’s hospitals were rapidly reaching capacity.²⁷ As the COVID-19 test positivity rate in New York continued to grow, Governor Cuomo issued a stay-at-home order.²⁸ This Executive Order (the “Order”), also known as New York on PAUSE (“Policies Assure Uniform Safety for Everyone”), essentially laid out what type of activities were permissible for New York residents.²⁹ Governor Cuomo received praise at the beginning of the

²¹ Sarah Mervosh, Denise Lu, & Vanessa Swales, *See Which States and Cities Have Told Residents To Stay Home*, N.Y. TIMES (Apr. 20, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html>.

²² Jenifer Warren, *New Analysis Shows 8% Increase in U.S. Domestic Violence Incidents Following Pandemic Stay-At-Home Orders*, COUNCIL ON CRIM. JUST., <https://counciloncj.org/new-analysis-shows-8-increase-in-u-s-domestic-violence-incidents-following-pandemic-stay-at-home-orders/> (last visited Feb. 13, 2022).

²³ Matteo Antonio Sacco, Fiorella Caputo, Pietrantonio Ricci, Francesco Sicilia, Luigi De Aloe, Carlo Filippo Bonetta, Fabrizio Cordasco, Carmen Scalise, Giulia Cacciatore, Angelica Zibetti, Santo Gratteri, & Isabella Aquila, *The Impact of the Covid-19 Pandemic On Domestic Violence: The Dark Side of Home Isolation During Quarantine*, 88 MEDICO-LEGAL J. 71, 72 (2020).

²⁴ Amalesh Sharma & Sourav Bikash Borah, *Covid-19 and Domestic Violence: An Indirect Path to Social and Economic Crisis*, 37 J. FAM. VIOLENCE 759, 759 (2020).

²⁵ *Patient Zero*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/patient%20zero> (last visited Nov. 25, 2022); Jesse McKinley, *New York City Region Is Now an Epicenter of the Coronavirus Pandemic*, N.Y. TIMES (Mar. 22, 2020), <https://www.nytimes.com/2020/03/22/nyregion/Coronavirus-new-York-epicenter.html>.

²⁶ McKinley, *supra* note 25.

²⁷ *Id.*

²⁸ Amy Pitt, *New York Issues a ‘Pause’ On Non-Essential Services and Gatherings. Here’s What That Means*, CURBED (Apr. 7, 2020, 9:09 AM), <https://ny.curbed.com/2020/3/20/21187022/coronavirus-new-york-shutdown-shelter-in-place>.

²⁹ *Id.*

2023] *DEFINITION OF DOMESTIC VIOLENCE* 195

COVID-19 pandemic for how he was handling the rise in cases and deaths.³⁰ Shortly after this Order was initiated, Cuomo’s then-Secretary Melissa DeRosa and the New York State Council on Women and Girls created a special task force intended solely to help victims of domestic violence.³¹ This task force aimed to find new solutions for domestic violence victims and survivors during the pandemic.³² On June 11, 2020, Governor Cuomo accepted the task force’s recommendations.³³ These recommendations included ways for New York to “adapt to the new normal and to transform its approach to domestic violence . . . and move beyond the idea that shelter is the only option for victims and survivors . . .”³⁴ Although Governor Cuomo “accepted” these proposals, he did not sign any additional domestic violence laws into the existing New York penal code regarding domestic violence.³⁵

This Note illustrates the pitfalls of Governor Cuomo’s supposed acceptance of these recommendations. In addition, this Note focuses on the existing gaps in New York State’s domestic violence laws and the necessary changes that the state legislature must make. It is imperative for the New York State Legislature to recognize that domestic violence does not solely include physical violence.³⁶ There are other actions that, while they may not leave physical scars, still must be treated as domestic violence. The essential

³⁰ Seth Wenig & Pablo Martinez Monsivais, *Cuomo Wins Praise For ‘Wisdom’ Amid Coronavirus Crisis as Trump Blusters*, THE GUARDIAN (Mar. 23, 2020), <https://www.theguardian.com/world/2020/mar/23/cuomo-wins-praise-for-wisdom-amid-coronavirus-crisis-as-trump-blusters>.

³¹ Patricia Fersch, *Domestic Violence During COVID-19: The Ugly Underside of ‘Staying At Home With The Family’*, FORBES (Feb. 11, 2021, 3:20 PM), <https://www.forbes.com/sites/patriciafersch/2021/02/11/domestic-violence-during-covid-19-the-ugly-underside-of-staying-at-home-with-the-family/?sh=157bda5a6188>; see also *Secretary to the Governor Melissa DeRosa Issues Report to Governor Outlining COVID-19 Domestic Violence Task Force’s Initial Recommendations to Reimagine NY’s Approach to Services for Domestic Violence Survivors*, N.Y.GOV. (June 11, 2020), <https://www.governor.ny.gov/news/secretary-governor-melissa-derosa-issues-report-governor-outlining-covid-19-domestic-violence>.

³² *Secretary to the Governor Melissa DeRosa Issues Report to Governor Outlining COVID-19 Domestic Violence Task Force’s Initial Recommendations to Reimagine NY’s Approach to Services for Domestic Violence Survivors*, *supra* note 31.

³³ *Id.*

³⁴ *COVID-19 Domestic Violence Task Force Recommendations*, N.Y. STATE COUNCIL ON WOMEN & GIRLS, COVID-19 DOMESTIC VIOLENCE TASK FORCE (May 28, 2020), <https://www.governor.ny.gov/sites/default/files/atoms/files/DVTF-Report-FINAL.pdf>.

³⁵ *2020 Domestic Violence Related Laws Approved by Legislature and Signed by Governor*, N.Y. STATE COALITION AGAINST DOMESTIC VIOLENCE (July 29, 2020), https://www.nyscadv.org/file_download/8ff9be9e-4e26-47f7-888c-176926347076.

³⁶ Lisa Aronson Fontes, *Domestic Violence Isn’t About Just Physical Violence – and State Laws are Beginning to Recognize That*, THE CONVERSATION (July 7, 2021, 12:52 PM), <https://theconversation.com/domestic-violence-isnt-about-just-physical-violence-and-state-laws-are-beginning-to-recognize-that-159025>.

area of reform that current Governor Kathy Hochul and the New York State Legislature must pursue includes expanding New York’s Penal Law definition of domestic violence to include coercive control and technological abuse.

PART I

A. What Is Domestic Violence?

Domestic violence (“DV”) has been defined as affecting people “of all races, cultures, genders, sexual orientations, socioeconomic classes, and religions . . .”³⁷ However, non-white and other marginalized groups tend to have the highest rates of domestic violence.³⁸ According to the General Assembly, violence against women can be defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”³⁹ The National Coalition Against Domestic Violence (“NCADV”) has collected and published statistics that indicate that “nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men.”⁴⁰ The World Health Organization conducted a study based on 161 countries that found that almost one in three women are victims of physical and/or sexual violence.⁴¹ This same study showed that “almost one third (27%) of women aged 15 - 49 years who have been in a relationship report that they have been subjected to some form of physical and/or sexual violence by their intimate partner.”⁴² The Centers for Disease Control and Prevention’s (“CDC”) 2015 National Intimate Partner and Sexual Violence Survey measured Intimate Partner Violence (“IPV”) based on four different types, namely sexual violence, stalking, physical violence, and psychological aggression.⁴³ The results were staggering and illustrated that “1 in 4 women and 1 in 10 men experienced contact sexual violence, physical violence, and

³⁷ Megan L. Evans, Margo Lindauer, & Maureen E. Farrell, *A Pandemic within a Pandemic — Intimate Partner Violence During COVID-19*, 383 *NEW ENG. J. MED.* 2302, 2302 (Dec. 10, 2020).

³⁸ *Id.*

³⁹ G.A. Res. 48/104 (I), Declaration on the Elimination of Violence against Women (Dec. 20, 1993).

⁴⁰ *Statistics*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/STATISTICS> (last visited Jan. 15, 2022).

⁴¹ *Violence Against Women*, WHO (Mar. 9, 2021), <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

⁴² *Id.*

⁴³ Sharon G. Smith, Xinjian Zhang, Kathleen C. Basile, Melissa T. Merrick, Jing Wang, Marcie-jo Kresnow, & Jieru Chen, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2015 Data Brief- Updated Release* NAT’L CTR. FOR INJ. PREVENTION & CONTROL, CTRS. FOR DISEASE CONTROL & PREVENTION 7 (Nov. 2018), <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 197

or stalking by an intimate partner.”⁴⁴ While people of all genders are plagued by domestic violence, statistics confirm that domestic violence is most prevalent against women.⁴⁵ For this reason, this Note will concentrate on female victims of domestic violence.

B. History of Domestic Violence – Common Law and Change in State Legislation

In the early American judicial system, domestic violence was generally accepted, in part because courts did not want to get involved in familial and interpersonal disputes.⁴⁶ History demonstrates that domestic violence “existed for centuries as an acceptable, and, indeed, a desirable part of a patriarchal family system within a patriarchal society.”⁴⁷ This allowance of domestic violence was also a result of the long-standing doctrine of coverture in which, legal scholars have noted, women “had to merge themselves into men’s legal identity or else be left exposed to legal incapacity.”⁴⁸ Women did not have legal rights and were instead seen as a part of their husbands.⁴⁹ The United States Supreme Court in *Bradwell v. Illinois* affirm that “a woman had no legal existence separate from her husband, who was regarded as her head and representative in the social state.”⁵⁰ This distinction, or lack thereof, between husbands and wives was also articulated by William Blackstone in the Eighteenth Century.⁵¹ Blackstone argued that husband and wife were one person; thus, the wife was forbidden from suing her husband because, in essence, she would be suing *herself*.⁵² The inability of wives to sue their husbands resulted in the common law doctrine of interspousal immunity.⁵³ Interspousal immunity was the principle that a “tort committed

⁴⁴ *Id.*

⁴⁵ *Id.*; see also Minna Lyons & Gayle Brewer, *Experiences of Intimate Partner Violence during Lockdown and the COVID-19 Pandemic*, 37 J. FAM. VIOLENCE 969, 969 (Feb. 26, 2021) (“Although male perpetrator-female victim is the most common pattern, female perpetrators and male victims are not unusual.”).

⁴⁶ See Jeffrey R. Baker, *The Failure and Promise of Common Law Equity in Domestic Abuse Cases*, 58 LOY. L. REV. 559, 563 (2013).

⁴⁷ Tulin D. Acikalin, *Debunking the Dichotomy of Nonintervention: The Role Of The State in Regulating Domestic Violence*, 74 TUL. L. REV. 1046, 1049 (2000).

⁴⁸ Baker, *supra* note 46, at 565.

⁴⁹ *Id.* at 566 (“[T]he unity of husband and wife’ and the ‘sanctity of home’ limited abused spouses’ remedies to divorce or criminal actions. The ‘unity of spouses’ function ratified the husband’s domination and control of his wife and expressly precluded any possible tort recovery for injuries he had inflicted.”); see also Acikalin, *supra* note 47 (“[W]hen a woman married, her legal status was subsumed into the marriage.”).

⁵⁰ *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872).

⁵¹ 1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 173-174 (1765).

⁵² *Id.*

⁵³ Jack L. Herskowitz, *Tort Liability Between Husband and Wife: The Interspousal Immunity Doctrine*, 21 U. MIAMI L. REV. 423, 423 (1966).

198 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

by one spouse against the person or character of the other, does not give rise to a cause of action in favor of the injured spouse.”⁵⁴ Essentially, one spouse could not sue the other for any reason, which ultimately included any domestic violence abuse.⁵⁵

Under the pressure of advocates, state legislatures in the twentieth century began implementing new domestic violence policies.⁵⁶ One area of reform in many state legislatures was a move away from the requirement of a warrant to arrest alleged abusers and a move toward mandatory arrests or arrests with probable cause.⁵⁷ This change in arrest policies was a major success for domestic violence survivors; it finally seemed that victims’ reports would be taken seriously and abusers would face the consequences for their actions.⁵⁸ By the 1990s, every state had authorized the issuance of protective orders.⁵⁹ Until this point, however, no unified federal legislation targeted domestic violence abusers or survivors.⁶⁰ That changed in 1994 when Congress passed the Violence Against Women Act of 1994 (“VAWA”).⁶¹

VAWA was the first federal law with the goal of ending violence against women.⁶² VAWA represented the first time that “Congress ha[d] taken steps to adopt a comprehensive, multidisciplinary approach to putting an end to domestic violence, not just to redressing it.”⁶³ VAWA was created to “educate judges, employers, social workers, law enforcement agents, and prosecutors, and creat[e] civil and criminal actions directly addressing domestic violence.”⁶⁴ Law enforcement officials were to be educated on the seriousness of domestic violence, which further illustrated the move away

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Nancy James, *Domestic Violence: A History of Arrest Policies and a Survey of Modern Laws*, 28 FAM. L.Q. 509, 509 (1994).

⁵⁷ *Id.* (“[A] warrant was required unless the offense occurred in the presence of the arresting officer. A key feature of the newer legislation has been the authorization of arrest where peace officers have probable cause to believe physical abuse has occurred within the family.”); *see also* Baker, *supra* note 46, at 577 (“[S]tate legislatures have considered mandatory arrest policies in which police are bound to arrest someone on a domestic violence scene.”).

⁵⁸ James, *supra* note 56, at 513 (discussing the effectiveness of arrest policies in stating that an arrest “communicate[s] the attitude that violent behavior is neither excused nor tolerated.”) (citing WIS. STAT. ANN. § 968.075 (West 1993)).

⁵⁹ Baker, *supra* note 46, at 578. For New York’s Statute, *see* N.Y. CRIM. PRO. LAW § 530.12 (McKinney 2020).

⁶⁰ *History of VAWA*, LEGALMOMENTUM, <https://www.legalmomentum.org/history-ava> (last visited Feb. 8, 2022).

⁶¹ *Id.*

⁶² *Id.*

⁶³ Acikalin, *supra* note 47, at 1057.

⁶⁴ *Id.* at 1058.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 199

from states' lack of involvement in these matters.⁶⁵ Since its enactment in 1994, VAWA has been reauthorized four times: in 2000, 2005, 2013, and most recently in 2022.⁶⁶ Supporters of its continued renewal have stated that the "delay [of VAWA reauthorization] is not an option, especially when the [COVID-19] pandemic and economic crisis have only further increased the risks of abuse and the barriers to safety for women in the United States."⁶⁷ Notwithstanding VAWA's re-authorization, because most familial matters are adjudicated on a state-by-state basis,⁶⁸ this Note will focus on New York State legislation.

PART II

A. *The Rise in Domestic Violence During the COVID-19 Pandemic*

To stop the spread of COVID-19, states across the United States implemented mandatory stay-at-home orders.⁶⁹ The rationale was that if people stayed home, fewer people would be able to transmit, and thus contract, the virus.⁷⁰ While this was a good solution from a disease-transmission perspective, it also meant that many abused people were forced to isolate at home with their abusers, without the ability to escape or get help from outsiders.⁷¹ One study found that in China, domestic violence cases tripled in February 2020, when stay-at-home orders were in place, from

⁶⁵ *Id.*

⁶⁶ LISA N. SACCO, CONG. RSCH. SERV., R45410, THE VIOLENCE AGAINST WOMEN ACT (VAWA): HISTORICAL OVERVIEW, FUNDING, AND REAUTHORIZATION (Apr. 23, 2019); *Fact Sheet: Reauthorization of the Violence Against Women Act (VAWA)*, WhiteHouse.Gov (Mar. 16, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/16/fact-sheet-reauthorization-of-the-violence-against-women-act-vawa/>.

⁶⁷ Savannah Behrmann, *Democrats Want to Renew The Expired Violence Against Women Act, Again. Here's What You Need To Know*, USA TODAY (Mar. 16, 2021, 6:59 PM), <https://www.usatoday.com/story/news/politics/2021/03/16/violence-against-women-act-joe-biden-backing-goes-back-house/4704243001/>.

⁶⁸ See Linda D. Elrod, *The Federalization of Family Law*, 36 HUM. RTS. 6 (July 1, 2009).

⁶⁹ See Mervosh, Lu, & Swales, *supra* note 21.

⁷⁰ See Harry Stevens, *Why Outbreaks Like Coronavirus Spread Exponentially, and How To "Flatten the Curve,"* WASHINGTON POST (Mar. 14, 2020), <https://www.washingtonpost.com/graphics/2020/world/corona-simulator/>.

⁷¹ See Alex R. Piquero, Wesley G. Jennings, Erin Jemison, Catherine Kaukinen, & Felicia Marie Knaul, *Domestic Violence During the Covid-19 Pandemic- Evidence From A Systematic Review and Meta-analysis*, 74 J. CRIM. JUST. 1, 4 (2021); see also Amber M. Jarnecke & Julianne C. Flanagan, *Staying Safe During COVID-19: How a Pandemic Can Escalate Risk For Intimate Partner Violence and What Can Be Done to Provide Individuals with Resources and Support*, 12 PSYCH. TRAUMA: THEORY, RSCH. PRAC. & POL'Y S202 (2020) ("[I]t is clear how the current social and economic climate might predispose partners to increased conflict and IPV; namely, lockdowns, stay-at-home orders, and social distancing guidelines mean partners are spending comparatively more time at home together.").

200 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

February 2019, when there were no stay-at-home orders.⁷² Similarly, in France, domestic violence increased by thirty percent while people were forced to stay home.⁷³ Statistics from the National Commission on COVID-19 and Criminal Justice found that, following stay-at-home orders in the United States, reported incidents of domestic violence rose by 8.1%.⁷⁴ For example, after the stay-at-home orders were implemented in March 2020, there was a twenty-two percent increase in domestic violence reports in Portland, Oregon; an eighteen percent increase in San Antonio, Texas; and a twenty-seven percent increase in Jefferson County, Alabama.⁷⁵ United Nations Secretary-General António Guterres stated that, “For many women and girls, the threat looms largest where they should be safest. In their own homes . . . [w]e know lockdowns and quarantines are essential to suppressing COVID-19. But they can trap women with abusive partners.”⁷⁶

Research has demonstrated a correlation between individuals spending more time together and an increase in violence.⁷⁷ However, if victims wanted to leave, often times, due to the limited capacity and closures of shelters, it was not easy or feasible to do so.⁷⁸ Other barriers due to COVID-19, such as the inability to travel and the fear of potentially infecting other relatives, also contributed to individuals staying with their abusers during this time.⁷⁹ Some abusers even tried to use COVID-19 to their advantage as a way to further control their victims.⁸⁰ In one instance, an abuser falsely claimed that his partner had COVID-19 so she could not leave the state.⁸¹ Employees at the National Domestic Violence Hotline also corroborated the existence of this trend.⁸² Such incidents included abusers “using COVID-19 as a means of

⁷² Boserup, McKenney, & Elkbuli, *supra* note 20.

⁷³ *Id.*

⁷⁴ Piquero, Jennings, Jemison, Kaukinen, & Knaul, *supra* note 71.

⁷⁵ *Id.*

⁷⁶ Department of Global Communications, *UN Supporting ‘Trapped’ Domestic Violence Victims During COVID-19 Pandemic*, UNITED NATIONS (June 12, 2020), <https://www.un.org/en/coronavirus/un-supporting-%E2%80%98trapped%E2%80%99-domestic-violence-victims-during-covid-19-pandemic> (citation omitted).

⁷⁷ See Sharma & Bikash Borah, *supra* note 24; see also Amanda Taub, *A New Covid-19 Crisis: Domestic Abuse Rises Worldwide*, N.Y. TIMES (Apr. 14, 2020), <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html> (quoting sociologist Marianne Hester, who stated that “domestic violence goes up whenever families spend more time together, such as the Christmas and summer vacations.”); see also Jarnecke & Flanagan, *supra* note 71 (discussing the fear of contracting COVID-19).

⁷⁸ Evans, Lindauer, & Farrell, *supra* note 37.

⁷⁹ See Méliissa Godin, *As Cities Around the World Go On Lockdown, Victims of Domestic Violence Look for A Way Out*, TIME (Mar. 18, 2020, 1:58 PM), <https://time.com/5803887/coronavirus-domestic-violence-victims/>.

⁸⁰ See Lyons & Brewer, *supra* note 45.

⁸¹ See *id.*

⁸² See Godin, *supra* note 79.

2023] DEFINITION OF DOMESTIC VIOLENCE 201

further isolating [victims] from their friends and family” and “threatening to throw their victims out on the street so they get sick.”⁸³ Additionally, even if victims attempted to seek judicial remedies, the courts were so backed up from the pandemic that this was not a timely solution.⁸⁴ With this being said, however, the rise in domestic violence was not solely due to victims spending more time at home with their abusers.⁸⁵ Other factors contributed to the increase in domestic violence.⁸⁶ Experts found that “the stay-at-home orders as well as the economic impact of the pandemic heightened the factors that tend to be associated with domestic violence: increased male unemployment, the stress of childcare and homeschooling, increased financial insecurity, and maladaptive coping strategies.”⁸⁷ Research has indicated that “among couples who report subjectively feeling high levels of financial strain the DV rate is 9.5% compared with 2.7% for couples who report subjectively feeling low levels of financial strain.”⁸⁸ Studies have also shown that there is a direct relationship between crises and natural disasters with domestic violence.⁸⁹ For example, one women’s health study discussed the increase of domestic

⁸³ *Id.*

⁸⁴ Taub, *supra* note 77 (describing a woman in China who filed for divorce after she was abused by her husband and as a result of COVID-19 it has been delayed); *Coughing Lawyers. Uneasy Jurors. Can Courts Work Under Coronavirus?*, N.Y. TIMES (Mar. 20, 2020), <https://www.nytimes.com/2020/03/20/nyregion/coronavirus-new-york-courts.html> (illustrating how courts were unable to process cases timely and efficiently during COVID-19 by stating, “In New York . . . the courts have not quite come to a halt, but they have slowed to a crawl. Trials have been delayed; grand juries have been put on hold; and sentencing have been postponed. Judges have been urged to avoid conducting hearings in person.”).

⁸⁵ See Piquero, Jennings, Jemison, Kaukinen, & Knaul, *supra* note 71, at 7.

⁸⁶ *See id.*

⁸⁷ *Id.* (noting that other potential factors may be “economic distress, marital conflict, and substance use and abuse” in addition to “increased food insecurity, decreased employer-sponsored insurance coverage for their children, and the loss of regular childcare leading to women’s increasing unemployment”). See also Jarnecke & Flanagan, *supra* note 71, at S203 (stating that “financial strain, in combination with increased and changing parenting responsibilities, lack of access to or having to change adaptive coping strategies (e.g., recreation, social support), might further amplify risk.”); see also Sharma & Bikash Borah, *supra* note 24 (stating that “high-stress levels among couples increase the rate of violence 3.5 times more than among those with low-stress levels.”); see also Shalini Mittal & Tushar Singh, *Gender-Based Violence During COVID-19 Pandemic: A Mini-Review*, 1 FRONTIERS IN GLOB. WOMEN’S HEALTH 1, 3 (2020) (stating that “pandemics also increase economic vulnerabilities because of the rise in unemployment, or, in the risk of unemployment. Several studies link economic insecurities to increased gender-based violence.”).

⁸⁸ Claire M. Renzetti, *Economic Stress and Domestic Violence*, CTR. RSCH. VIOLENCE AGAINST WOMEN (Sept. 2009), https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1000&context=crvaw_reports.

⁸⁹ See Department of Global Communications, *supra* note 76; see also Sharma & Bikash Borah, *supra* note 24 (citing studies that have discussed the trend in increased domestic violence such as the “HIV epidemic impact on female abuse,” “structural violence and poverty to the AIDS pandemic”; “domestic violence after a [natural] disaster.”).

202 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

violence during natural disasters, such as Hurricane Katrina, the 2010 earthquake in Haiti, and health crises such as Ebola, Cholera, and Zika.⁹⁰

Even with this well-documented evidence, we must be cognizant of how many domestic violence victims do not report their abuse at all.⁹¹ The United Nations has argued that “wide underreporting has made response and data gathering a challenge, with less than 40 per cent of women who experience violence seeking any help or reporting the crime. Of those women who do seek help, less than 10 per cent go to the police.”⁹² The pandemic may have also played a role in underreporting because it was difficult to collect data from victims during this time.⁹³

Despite this potential for underreporting, New York saw an increase in the reporting of domestic violence during the COVID-19 pandemic.⁹⁴ The New York State Domestic & Sexual Violence Hotline recorded a “33% increase in calls for April 2020 compared to April 2019, and shelter occupancy rates upstate [went up] to 78% in April 2020, versus 59% in April 2019.”⁹⁵ One study specifically looking at domestic violence calls before and after social distancing directives were implemented noted a 7.5% increase in calls from March through May.⁹⁶ Even more intriguing is that this study observed that “the biggest increase came during the first five weeks after widespread social distancing began, when domestic violence calls were up 9.7%.”⁹⁷ Data from the five boroughs also indicates the stark increase during this period.⁹⁸ New York City’s domestic violence organizations, including The Met Council and Sanctuary For Families, noticed a drastic increase in domestic violence calls they received during 2020 compared to prior years.⁹⁹ The Met Council stated that they “usually get approximately 70 new domestic violence cases each month, but that number nearly doubled in April [of 2020], to 135; and more than doubled in May and June [of 2020], when

⁹⁰ See Mittal & Singh, *supra* note 87, at 2-3.

⁹¹ See *id.* at 2.

⁹² Department of Global Communications, *supra* note 76.

⁹³ See Catherine Kaukinen, *When Stay-At-Home Orders Leave Victims Unsafe At Home: Exploring the Risk and Consequences of Intimate Partner Violence During the COVID-19 Pandemic*, 45 AM. J. CRIM. JUST. 668, 671 (2020).

⁹⁴ See Gabrielle Fonrouge, *Domestic Violence Soared During Coronavirus In NYC, Experts Say*, N.Y. POST (July 26, 2020, 8:52 PM), <https://nypost.com/2020/07/26/domestic-violence-soared-during-coronavirus-in-nyc-report-shows/>.

⁹⁵ *COVID-19 Domestic Violence Task Force Recommendations*, *supra* note 34.

⁹⁶ Emily Leslie & Riley Wilson, *Sheltering in Place and Domestic Violence: Evidence From Calls for Service During COVID-19*, 189 J. PUB. ECON. 1 (2021).

⁹⁷ *Id.*

⁹⁸ See Fonrouge, *supra* note 94.

⁹⁹ Maya Rajamani, *NYC Saw Surge In Domestic Violence During COVID-19 Lockdown: Report*, 1010 WINS (July 27, 2020, 4:54 PM), <https://www.audacy.com/1010wins/articles/nyc-saw-surge-in-domestic-violence-during-covid-19-lockdown>.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 203

the organization handled 145 and 146 new cases, respectively.”¹⁰⁰ Similarly, Sanctuary for Families “received 206 calls to its domestic violence helpline in May and 259 in June [of 2020], compared to 102 calls in May [2019] and 73 in June [2019].”¹⁰¹

During 2020, the number of individuals visiting domestic violence hotline websites increased.¹⁰² One report discussed the increase in visitors to the website NYC HOPE: “a government-run website that provides resources to domestic violence victims.”¹⁰³ Between March 18 [2020] and April 5 [2020], the website averaged 115 visits a day compared to 45 visits a day prior to when the state’s stay-at-home order was instituted.”¹⁰⁴ Calls to the New York City Domestic Violence Hotline also increased by seventeen percent from March 2020 to March 2021.¹⁰⁵ This alarming data led the Governor Cuomo and his staff to create the New York State Task Force.¹⁰⁶

B. The Creation of the New York State Task Force

In May 2020, Governor Cuomo announced, “While we have already taken aggressive actions to help some of our most vulnerable New Yorkers to get the help they need and get away from their abusers, there is more we can do to modernize the services we provide as we begin to enter a new normal.”¹⁰⁷ Secretary DeRosa echoed a similar sentiment on May 20, 2020, when she said, “[W]e need to do more to help women who are stuck in dangerous situations.”¹⁰⁸ The New York State Task Force was created in May 2020, chaired by DeRosa, and included twenty-seven other individuals,

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² See Jacklynn Blanchard, *Domestic Abuse In The Time of Covid-19*, ROCKEFELLER INST. GOV’T (May 27, 2020), <https://rockinst.org/blog/domestic-abuse-in-the-time-of-covid-19/>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *2021 Survey and Convening Findings on Wellness from Domestic and Gender-Based Violence (GBV) Service Providers During COVID-19*, NYC MAYOR’S OFFICE TO END DOMESTIC & GENDER-BASED VIOLENCE (May 2021), <https://www1.nyc.gov/assets/ocdv/downloads/pdf/2021-wellness-survey-findings.pdf>.

¹⁰⁶ See *Following Spike in Domestic Violence During COVID-19 Pandemic, Secretary To The Governor Melissa DeRosa & NYS Council on Women & Girls Launch Task Force to Find Innovative Solutions To Crisis*, N.Y. STATE (May 20, 2020), <https://www.governor.ny.gov/news/following-spike-domestic-violence-during-covid-19-pandemic-secretary-governor-melissa-derosa> (citation omitted).

¹⁰⁷ *Id.* (citation omitted).

¹⁰⁸ *See id.*

204 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

all with backgrounds in domestic violence work.¹⁰⁹ On June 11, 2020,¹¹⁰ Governor Cuomo accepted the Task Force’s three major recommendations: mobile advocacy, flexible funding, and housing choice.¹¹¹

Regarding mobile advocacy,¹¹² this Task Force’s goal was for survivors to virtually connect with professionals at home.¹¹³ The Task Force proposed that Governor Cuomo’s office and the Office for the Prevention of Domestic Violence (the “OPDV”) “partner with national technical assistance providers to enhance knowledge around the use of technology to reach more survivors.”¹¹⁴ Additionally, the OPDV was to create an online chat function through the website and text messaging function within the NYS Domestic and Sexual Violence Hotline.¹¹⁵ In an interview with *Vogue*, DeRosa stated her objectives behind this first recommendation:¹¹⁶ hotlines previously in place were “outdated” and she wanted a “more modern approach to reach more survivors.”¹¹⁷ In April 2020, New York State created a text messaging hotline that, as of March 2023, continues to operate twenty-four hours a day, seven days a week for victims to seek help.¹¹⁸ The second major recommendation by the Task Force was funding programs for survivors.¹¹⁹ These programs provided funding for housing and transportation with the

¹⁰⁹ *Secretary to the Governor Melissa DeRosa Issues Report to Governor Outlining COVID-19 Domestic Violence Task Force’s Initial Recommendations to Reimagine NY’s Approach to Services for Domestic Violence Survivors*, *supra* note 31 (this task force is made up of individuals from the Rape, Abuse and Incest National Network (RAINN), The National Center on Violence Against Women in the Black Community, National Coalition Against Domestic Violence (NCADV), Battered Women’s Justice Project, National Center on Domestic & Sexual Violence (NCDSV), among others).

¹¹⁰ *See id.*

¹¹¹ *See COVID-19 Domestic Violence Task Force Recommendations*, *supra* note 34.

¹¹² Mobile Advocacy is a solution where “[m]obile advocates meet survivors in the location of their choice. This can be at the park, in a coffee shop, or survivor’s home. It also includes accompanying survivors to housing, employment, and child welfare appointments.” *Survivor-Driven, Trauma-Informed, Mobile Advocacy*, WASHINGTON STATE COALITION AGAINST DOMESTIC VIOLENCE (WSCADV), <https://wscadv.org/projects/domestic-violence-housing-first/toolkit/survivor-driven-trauma-informed-mobile-advocacy/#:~:text=Mobile%20advocates%20meet%20survivors%20in,employment%2C%20and%20child%20welfare%20appointments> (last visited Mar. 7, 2022).

¹¹³ *Secretary to the Governor Melissa DeRosa Issues Report to Governor Outlining COVID-19 Domestic Violence Task Force’s Initial Recommendations to Reimagine NY’s Approach to Services for Domestic Violence Survivors*, *supra* note 31.

¹¹⁴ *COVID-19 Domestic Violence Task Force Recommendations*, *supra* note 34.

¹¹⁵ *Id.*

¹¹⁶ Lauren Valenti, *Behind The New York Domestic Violence Task Force Launched In Response To COVID-19*, *VOGUE* (June 12, 2020), <https://www.vogue.com/article/new-york-covid-19-domestic-violence-task-force>.

¹¹⁷ *Id.*

¹¹⁸ *See Following Spike in Domestic Violence During COVID-19 Pandemic, Secretary To The Governor Melissa DeRosa & NYS Council on Women & Girls Launch Task Force to Find Innovative Solutions To Crisis*, *supra* note 106.

¹¹⁹ *See COVID-19 Domestic Violence Task Force Recommendations*, *supra* note 34.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 205

goal for survivors to “remain safe and stably housed.”¹²⁰ The third major recommendation concerning housing choices was that there must be additional options other than shelters to help victims of domestic abuse.¹²¹ The OPDV has reported that “housing instability is four times more likely for women who experience domestic violence than for those who do not and at least one in four homeless women reports domestic violence as the primary cause of their homelessness.”¹²² Linda Olsen, the housing program coordinator at the Washington State Coalition Against Domestic Violence,¹²³ has suggested that the lack of housing is a main reason why victims stay with or return to their abusers.¹²⁴ While these task force recommendations were certainly a step in the right direction, victims still do not have adequate protection and, as this Note will discuss, New York’s Penal Law must be amended to cover other forms of abuse so that more victims are included and protected by the State’s laws.

C. Existing New York Domestic Violence Law

In New York, a survivor of domestic violence can seek the legal remedy of an order of protection in family court, criminal court, or both.¹²⁵ While not explicitly labeled “domestic violence,” Section 265 of New York’s Penal Law includes domestic violence-type crimes under its “serious offenses.”¹²⁶ Under both the criminal and family statutory definitions, members of the same family or household include:

¹²⁰ *Id.*

¹²¹ *See id.*

¹²² *Request For Proposal Housing Navigator Program 2021-2022*, N.Y. STATE OFF. FOR PREVENTION DOMESTIC VIOLENCE (Dec. 28, 2020), https://grantsgateway.ny.gov/intelligrants_NYSGG/filenetdocretrieval.aspx?docid={015d9d7c-40ad-41b4-a4b4-6e90241c3c86}.

¹²³ Linda Olsen, *No One Should Have to Choose Between Staying With An Abusive Partner Or Becoming Homeless*, SEATTLE TIMES (July 4, 2016, 4:01 PM), <https://www.seattletimes.com/opinion/no-one-should-have-to-choose-between-staying-with-an-abusive-partner-or-becoming-homeless/> (“All too many times, survivors become caught in a cycle of fleeing from and returning to a violent home because of the lack of stable housing.”).

¹²⁴ *Request For Proposal Housing Navigator Program 2021-2022*, *supra* note 122 (homelessness is a “primary reason that victims return to living with their abusers.”).

¹²⁵ For family court orders of protection, *see* N.Y. FAM. CT. ACT § 812 (McKinney 2020); *see also* N.Y. FAM. CT. ACT § 842(a)(i) (for detailed requirements that the abuser may have to follow). For criminal orders of protection, *see* N.Y. CRIM. PROC. LAW § 530.12 (McKinney 2020); *see also* N.Y. DOM. REL. LAW § 240(3) (McKinney 2020). For more information on the pros and cons of filing for an order of protection in Family Court or Criminal Court, *see Difference Between Criminal and Family Orders of Protection*, NYCOURTS.GOV (Dec. 5, 2022), <https://nycourts.gov/CourtHelp/Safety/differences.shtml>.

¹²⁶ N.Y. PENAL LAW § 265(17)(b) (McKinney 2021) (list of offenses that are included in ‘serious offenses’ such as “assault in the third degree... criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the third degree . . . harassment in the first degree . . . or an attempt to commit any of the above-listed offenses.”).

206 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

[P]eople that are related to each other, . . . married, . . . formerly married regardless of whether they still live together, people who have children together regardless of whether they live together or are married, and people who were in an intimate relationship regardless of whether they lived together at any time.¹²⁷

The statute lists some factors that courts can consider in deciding whether the relationship between two people satisfies the legal standard of being in the same family or household.¹²⁸ Similarly, New York’s Family Court Act Section 812(e) also enumerates factors that may be considered, such as “the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship.”¹²⁹ This section further clarifies that neither a “casual acquaintance nor ordinary fraternization” of two people is enough to be an intimate relationship under this statute.¹³⁰

Before the pandemic, Governor Cuomo signed bills that were beneficial to domestic violence survivors and victims.¹³¹ For example, one instrumental change was that the domestic violence definition would be expanded to include “economic abuse, such as identity theft, grand larceny and coercion.”¹³² Governor Cuomo also notably signed off on the Domestic Violence Survivors Justice Act, which aimed to “reduce sentencing for victims who commit crimes against their abusers in self-defense.”¹³³ One law regarding domestic violence that Cuomo signed *during* the COVID-19 pandemic—when domestic violence victims were most at risk—pertained to confidentiality and stated that advocates for domestic violence victims were no longer allowed to disclose information that victims gave them.¹³⁴ This new law alone, however, did not adequately capture the changing needs of

¹²⁷ N.Y. FAM. CT. ACT § 812(1)(a)-(e); *see also* N.Y. CRIM. PROC. LAW § 530.11(1)(a)-(e) (discussion of who is included in “members of the same family or household.”); *see also* N.Y. FAM. CT. ACT § 812 (who is considered “members of the same family or household” in family court proceedings).

¹²⁸ N.Y. FAM. CT. ACT § 812(1)(a)-(e); *see also* N.Y. CRIM. PROC. LAW § 530.11(1)(a)-(e); *see also* N.Y. FAM. CT. ACT § 812.

¹²⁹ N.Y. FAM. CT. ACT § 812(1)(a)-(e).

¹³⁰ *Id.*

¹³¹ *See* Chad Arnold, *Domestic Violence in New York: How These New Laws Will Help to Protect Victims*, DEMOCRAT & CHRON. (Aug. 9, 2019, 12:25 PM), <https://www.democratandchronicle.com/story/news/politics/albany/2019/08/09/domestic-abuse-victims-getting-these-new-protections-ny/1965582001/>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *See* Governor Cuomo Signs Legislation Establishing A Domestic Violence Advocate-Victim Privilege, N.Y. STATE OFF. CHILD. & FAM. SERVS. 10 (July 23, 2021), <https://ocfs.ny.gov/main/news/for-release.php?idx=13309> (stating that “counselors are now only allowed to share a victim’s story if they intend to commit a crime, do someone harm, or if there is suspected child abuse.”).

2023] *DEFINITION OF DOMESTIC VIOLENCE* 207

victims.¹³⁵ The COVID-19 pandemic has revealed problems that the law does not address and for which amendments are necessary.¹³⁶ This Note argues that prior requirements, such as the mandatory timely filing of police reports, should be eliminated, and Governor Hochul and the New York State Legislature must further expand the definition of domestic violence to incorporate coercive control and technological abuse.

PART III

A. New York Should Abolish the Timely Requirement of Filing Police Reports

One recommendation set forth by the New York State Task Force was an executive order signed by the Governor allowing victims to obtain funding without first being required to file a police report.¹³⁷ As outlined by the Office of Victim Services, for a victim to be eligible for victim compensation,¹³⁸ they must “report the crime within one week to police or other criminal justice agency [and] file a claim within one year of the crime [with the Office of Victim Services].”¹³⁹ The Office of Victim Services asserts on their website that victims must “justify any delay in reporting [a] crime or filing [a] claim.”¹⁴⁰ The standards for victims when filing police reports is also set forth in New York Executive Law Section 646.¹⁴¹

¹³⁵ See Ashley Abramson, *How COVID-19 May Increase Domestic Violence and Child Abuse*, AM. PSYCH. ASS’N (Apr. 8, 2020), <https://www.apa.org/topics/covid-19/domestic-violence-child-abuse> (detailing how COVID-19 exacerbated domestic violence abuse).

¹³⁶ See *id.* (explaining the toll that COVID-19 had on domestic violence victims and the necessary changes that must follow).

¹³⁷ See *COVID-19 Domestic Violence Task Force Recommendations*, *supra* note 34.

¹³⁸ See *Victim Compensation Services*, N.Y. STATE OFF. VICTIM SERVS., <https://ovs.ny.gov/victim-compensation> (last visited Mar. 22, 2022).

Victim compensation includes “expenses for medical or other related services that are not covered by other insurance or benefit programs, lost earnings . . . up to \$600 a week, lost savings of vulnerable elderly, or incompetent, or physically disabled persons, burial expenses, occupational rehabilitation expenses, counseling services to the victim of crime . . . damaged or destroyed [personal property] as the direct result of a crime, transportation expenses for necessary court appearances in connection with the prosecution of the crime or transportation for medical appointments necessary as a result of the crime, the cost of residing at or utilizing the services of a domestic violence, shelter, crime scene cleanup, attorney fees.

Id.

¹³⁹ See *Frequently Asked Questions*, N.Y. STATE OFF. VICTIM SERVS., <https://ovs.ny.gov/faq> (last visited Feb. 3, 2023).

¹⁴⁰ *Id.*

¹⁴¹ N.Y. EXEC. LAW § 646 (McKinney 2019).

208 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

However, this statute was last revised in 2019; there have not been any revisions since the COVID-19 pandemic.¹⁴²

The statute should be amended to remove the time limit on when a victim must file and report their abuse or even a requirement that a victim has to file and report their abuse at all. Setting a time requirement may lead victims to simply not report. There can be various reasons why victims may not promptly report their abuse to police officers.¹⁴³ However, none of these reasons justify excluding victims from obtaining victim compensation. Due to the ongoing COVID-19 pandemic, many victims have not had, and continue not to have, the opportunity to report during the short time frame of one week or to file within one year.¹⁴⁴ Also, some victims may not report out of fear,¹⁴⁵ which can stem from “fear [that] they won’t be believed, or will be victim-blamed.”¹⁴⁶ Additionally, a victim may choose not to report due to feeling ashamed or being in denial about what happened.¹⁴⁷ Other reasons for not reporting may include a victim’s fear of being cut off from their support network or uncertainty of what would happen after reporting.¹⁴⁸ Victims may fear that if they report, it would only enrage their abusers.¹⁴⁹ Additionally, victims may lack trust in the police or legal systems and have concerns over what the impact would be on their children.¹⁵⁰ Along with the abolishment of the current filing and reporting requirements, the introduction of an expanded definition of abuse must be added to state legislation.

B. New York Must Expand its Penal Law Definition of Domestic Violence to Include Coercive Control

It is essential for the New York Legislature to further expand its definition of domestic violence. Specifically, the New York Penal Code should be amended to include coercive control under its definition of

¹⁴² N.Y. EXEC. LAW § 646.

¹⁴³ See Kellie Scott, *Why Victim-Survivors Don’t Report Domestic Violence*, ABC EVERYDAY (Apr. 7, 2021), <https://www.abc.net.au/everyday/reasons-why-victim-survivors-dont-report-domestic-violence/100035002>.

¹⁴⁴ See generally *id.* (explaining why some victims do not report abuse); see also *Frequently Asked Questions*, *supra* note 139 (referencing the one week and one year timelines).

¹⁴⁵ See *id.*

¹⁴⁶ *Id.*; see also Ravneet Kaur & Suneela Garg, *Addressing Domestic Violence Against Women: An Unfinished Agenda*, 33 INDIAN J. CMTY. MED. 73, 75 (Apr. 2008) (“some women may believe that they deserve the beatings because of some wrong action on their part.”).

¹⁴⁷ See Scott, *supra* note 143.

¹⁴⁸ See *id.*; see also Kaur & Garg, *supra* note 146 (women may not report because they “fear the consequences of reporting violence and declare an unwillingness to subject themselves to the shame of being identified as battered women.”).

¹⁴⁹ Scott, *supra* note 143; see also Kaur & Garg, *supra* note 146 (“Other women refrain from speaking about the abuse because they fear that their partner will further harm them.”).

¹⁵⁰ See Scott, *supra* note 143.

2023] DEFINITION OF DOMESTIC VIOLENCE 209

domestic violence. Coercive control has been defined as “a systematic pattern of behavior that establishes dominance over another person through intimidation, isolation, and terror-inducing violence or threats of violence.”¹⁵¹ The CDC’s National Intimate Partner and Sexual Violence Survey defines coercive control as “behaviors that are intended to monitor and control or threaten an intimate partner” and further provides examples such as “k[ee]ping] you from having your own money . . . from seeing or talking to [] family or friends . . . demanding to know where you [a]re and what you were doing. . . .”¹⁵² Currently, unless a woman in New York is physically abused with proof of physical injury,¹⁵³ she will lack standing in court.¹⁵⁴ This “need” for physical abuse may further enable domestic violence because abusers may know that if their abuse is non-physical, they can get away with it, since the law does not recognize it as a crime.¹⁵⁵ If New York does not address coercive control soon, many women will continue to be abused and unprotected.¹⁵⁶ Most states do not include coercive control in their domestic violence statutes.¹⁵⁷ Thus, states are failing to capture the entire picture of domestic violence, instead focusing only on the physical violence of such incidents.¹⁵⁸ The United States is lagging behind other countries, such as Scotland, France, England, Wales, and Ireland, that have

¹⁵¹ Melissa E. Dichter, Kristie A. Thomas, Paul Crits-Christoph, Shannon N. Ogden, & Karin V. Rhodes, *Coercive Control in Intimate Partner Violence: Relationship With Women’s Experience of Violence, Use of Violence, and Danger*, 8 PSYCH. VIOLENCE 596, 597 (“[I]ndividuals experiencing coercive control are often isolated from friends, family, or other support systems; entrapped within the relationship due to financial, logistical, social, or emotional barriers to escaping.”); see also Fontes, *supra* note 36.

¹⁵² Smith, Zhang, Basile, Merrick, Wang, Kresnow, & Chen, *supra* note 43, at 14.

¹⁵³ See Kate Elizabeth Queram, *Why States Are Expanding Domestic Violence Laws To Include Abuse*, ROUTE FIFTY (Oct. 4, 2021), <https://www.route-fifty.com/health-human-services/2021/10/states-expanding-domestic-violence-coercive/185827/> (“[C]ourt cases relating to criminal domestic violence usually do not take emotional abuse tactics into consideration, relying instead on an “incident-specific” approach that requires proof of physical injury to determine whether abuse, or a pattern of abuse, have taken place.”); see also Allison Mahoney & Lindsay Lieberman, *Legally Recognizing Coercive Control Can Help Abuse Victims*, LAW360 (May 16, 2021, 8:02 PM), <https://www.law360.com/articles/1380900/legally-recognizing-coercive-control-can-help-abuse-victims>.

¹⁵⁴ See Lisa Aronson Fontes, *Controlling Your Partner is Illegal, But Not In The U.S.*, PSYCH. TODAY (Feb. 17, 2017), <https://www.psychologytoday.com/us/blog/invisible-chains/201702/controlling-your-partner-is-illegal-not-in-the-us>.

¹⁵⁵ See Evan Schein, *Coercive Control and the Legal Evolution of Domestic Abuse*, BERKMAN BOTTFER NEWMAN & SCHEIN, LLP (Mar. 9, 2021), <https://www.berkbot.com/blog/2021/march/coercive-control-and-the-legal-evolution-of-dome/>.

¹⁵⁶ See Mahoney & Lieberman, *supra* note 153.

¹⁵⁷ See Fontes, *supra* note 36.

¹⁵⁸ See *id.*; see also Mahoney & Lieberman, *supra* note 153 (until recently, “courts and legislatures in the United States have largely overlooked this common form of intimate partner violence. Without visible broken bones or black eyes to prove guilt, the law could not protect people . . . from invisible emotional wounds and psychological scars.”).

210 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

already codified “coercive control” into their nations’ laws.¹⁵⁹ One study found that “for 28% to 33% of victims, [] homicide or attempted homicide was the first act of physical violence in the relationship.”¹⁶⁰ Thus, even before the time physical abuse occurs, some form of domestic abuse likely has already occurred.¹⁶¹ This broadening of the statute would likely save victims before any physical harm happens, or worse.¹⁶² If coercive control is included in the New York Penal Code and non-physical abuse is treated of the same caliber as physical abuse, victims will be able to report their abuse earlier, and perhaps before any physical harm ensues. New York should follow the few states that have already made this change, such as California, Connecticut, and Hawaii, so that victims can have earlier access to crucial legal recourse.¹⁶³

The first U.S. state to pass a coercive control law was Hawaii.¹⁶⁴ Hawaii’s statute provides a definition of coercive control, along with eight examples of such control, including isolation; controlling how much money the person spends; name-calling; threats; and damaging property, among others.¹⁶⁵ Following Hawaii’s lead, California passed a similar law in 2020.¹⁶⁶ This amended law includes a definition of coercive control and the types of actions that are included under this term.¹⁶⁷ It states that coercive control “is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty.”¹⁶⁸ Examples include:

- (1) Isolating the other party from friends, relatives, or other sources of support;
- (2) Depriving the other party of basic necessity;
- (3) Controlling, regulating, or monitoring the other party’s movements, communications, daily behavior, finances, economic resources, or access to services;
- (4) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage

¹⁵⁹ See Carrie N. Baker, *A New Frontier In Domestic Violence Prevention: Coercive Control Bans*, MS. (Nov. 11, 2020), <https://msmagazine.com/2020/11/11/coercive-control-hawaii-california-domestic-violence/>.

¹⁶⁰ Fontes, *supra* note 36.

¹⁶¹ See *id.* (“Research shows, however, that domestic abuse is not about arguments, short tempers and violent tendencies. It’s about domination and control. Men who kill their female partners usually dominate them first – sometimes without physical violence.”).

¹⁶² See *id.* (“[A]ddressing coercive control is important . . . because it will reduce intimate partner homicides.”).

¹⁶³ See CAL. FAM. CODE § 6320(c)(1)-(4) (West 2022); see also CONN. GEN. STAT. ANN. §46b-1(E)-(F) (2021); see also HAW. REV. STAT. ANN. §586-1(1)-(8) (West 2020).

¹⁶⁴ Mahoney & Lieberman, *supra* note 153; see also HAW. REV. STAT. ANN. §586-1(1)-(8).

¹⁶⁵ HAW. REV. STAT. ANN. §586-1(1)-(8).

¹⁶⁶ Fontes, *supra* note 36; CAL. FAM. CODE § 6320(c)(1)-(4).

¹⁶⁷ CAL. FAM. CODE § 6320(c)(1)-(4).

¹⁶⁸ *Id.*

2023] *DEFINITION OF DOMESTIC VIOLENCE* 211

in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.¹⁶⁹

As of this Note’s publication, Connecticut has become the third state to address coercive control.¹⁷⁰ In Connecticut General Statute Annotated Section 46b-1, the same definition for coercive control and the same four examples as California’s law are included.¹⁷¹ In addition to these examples of coercive control, Connecticut’s law enumerates supplemental examples of what may count as coercive controlling behavior.¹⁷² Some of these examples include “committing or threatening to commit cruelty to animals that intimidates the family or household member; or [] forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person’s sexuality or threats to release sexual images.”¹⁷³ The President and CEO of the Connecticut Coalition Against Domestic Violence—and one of the co-writers of this Connecticut law—argued that “by expanding the definition of family violence in Connecticut’s restraining order statute to address coercive control, we’ll be able to ensure court-ordered relief for the many non-physical tactics abusers use to gain and maintain control over their victims.”¹⁷⁴

The New York State Senate has proposed a bill that would establish coercive control as a crime.¹⁷⁵ This bill, Senate Bill S5650 from the 2021-22 Legislative Session, would be an amendment to New York’s Penal Law.¹⁷⁶ However, this amendment seems almost entirely focused on financial control.¹⁷⁷ While encompassing coercive financial abuse would broaden domestic violence coverage positively, it remains essential to include the other prominent aspects of coercive control present in Hawaii, California, and Connecticut’s coercive control statutes. Additional examples of coercive control that should be included in New York’s pending bill or Penal Law are:

¹⁶⁹ *Id.*

¹⁷⁰ Fontes, *supra* note 36; CONN. GEN. STAT. ANN. §46b-1 (2021).

¹⁷¹ CONN. GEN. STAT. ANN. §46b-1.

¹⁷² Fontes, *supra* note 36; CONN. GEN. STAT. ANN. §46b-1.

¹⁷³ CONN. GEN. STAT. ANN. §46b-1(E)-(F).

¹⁷⁴ Christine Dempsey, *A New Domestic Violence Law Going Into Effect In Connecticut Makes It Easier for Victims of Emotional Abuse To Get A Restraining Order*, HARTFORD COURANT (Sept. 30, 2021, 6:00 AM), <https://www.courant.com/breaking-news/hc-br-connecticut-domestic-violence-restraining-order-new-law-20210930-f2v6pnmhyzdt7hgadc64oab7i-story.html>.

¹⁷⁵ Fontes, *supra* note 36; *see also* S. 5650, 2021-22, Reg. Sess. (N.Y. 2021).

¹⁷⁶ N.Y.S. 5650; *see also* Mahoney & Lieberman, *supra* note 153 (stating that New York’s statute “criminalizing coercive control would bring these cases into the jurisdiction of criminal courts as opposed to civil or family courts [and would] require a higher burden of proof and carry much more serious penalties, including possible jail time.”).

¹⁷⁷ N.Y.S. 5650 (stating that coercive control “results in limiting or restricting, in full or in part, the victim’s behavior, movement, associations or access to or use of his or her own finances or financial information.”).

deprivation of basic needs; threats to engage in unwanted conduct; cruelty to animals; and forced sexual acts—as are present in the text of the Hawaii, California, and Connecticut statutes.¹⁷⁸ Conduct constituting coercive control has increasingly been reported during the COVID-19 pandemic.¹⁷⁹ COVID-19 stay-at-home orders created a perfect environment for abusers to use coercive control tactics, as the quarantine requirements made it easier for abusers to control and isolate their victims and harder for victims to escape.¹⁸⁰

C. New York Must Add Technological Abuse to Its Penal Law

Along with the absence of coercive control, New York’s Penal Law also fails to mention the increasingly common occurrence of technological abuse.¹⁸¹ The closest that the New York State Legislature has come to include this type of abuse has been the inclusion of stalking as a serious offense under the Penal Code.¹⁸² However, there is no mention of cyberstalking, defined as “the use of electronic communication to harass or threaten someone with physical harm.”¹⁸³

Technological abuse entails perpetrators “us[ing] technology against victims to monitor, threaten, harass, and hurt them . . . [and] may install spyware on victims’ phones, impersonate them on social media to humiliate them, or give children electronics that can reveal their location even after kids have fled with an abused parent.”¹⁸⁴ Some avenues of technological abuse can include:

Smartphones with surveillance technology . . . increasing the threat of technology-assisted stalking; monitoring someone’s location through tracking the location of a victim’s phone, or placing a GPS tracker on her vehicle; the nonconsensual distribution of intimate images . . . [the] perpetrator’s ability to hide small, disguised cameras in private places where women would be undressing; and . . . smart-home technology or devices . . .

¹⁷⁸ CAL. FAM. CODE § 6320(c)(1)-(4); CONN. GEN. STAT. ANN. §46b-1(E)-(F); HAW. REV. STAT. ANN. §586-1(1)-(8).

¹⁷⁹ Ciara Smyth, Patricia Cullen, Jan Breckenridge, Natasha Cortis, & Kylie Valentine, *COVID-19 Lockdowns, Intimate Partner Violence and Coercive Control*, 56 AUSTL. J. SOC. ISSUES 360, 367 (2021); see also Keren Lloyd Bright, *Five Reasons Why Coercive Control Has Increased During COVID-19*, OPEN U. BUS. SCH. (2021), <https://business-school.open.ac.uk/news/five-reasons-why-coercive-control-has-increased-during-covid-19>.

¹⁸⁰ Lloyd Bright, *supra* note 179.

¹⁸¹ N.Y. PENAL § 265.00(17)(a) (McKinney 2021) (only the inclusion of stalking in the third degree and stalking in the fourth degree as serious crimes under New York law).

¹⁸² *Id.*

¹⁸³ *Cyberstalking*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/legal/cyberstalking> (last visited Mar. 22, 2022).

¹⁸⁴ Katherine Kam, *The New Domestic Violence: Technology Abuse*, WEBMD (Nov. 30, 2020), <https://www.webmd.com/mental-health/news/20201130/the-new-domestic-violence-technology-abuse>.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 213

[that] can be activated from afar and can be used to monitor or harass victims in their homes.¹⁸⁵

A 2019 National Network to End Domestic Violence study reported that “71% of domestic abusers monitor survivors’ device activities [and] 54% downloaded stalkerware onto their partners’ devices.”¹⁸⁶ Recently, the introduction of Apple’s new AirTag device has unintentionally increased the potential for technological abuse.¹⁸⁷ Apple created its AirTag as a way to help people find misplaced items.¹⁸⁸ The AirTag works when an individual attaches it to an item they do not want to lose, such as keys, and if they misplace the item, a Bluetooth signal can detect where it is through the iCloud.¹⁸⁹ However, the National Network to End Domestic Violence (“NNEDV”) has stated that AirTags are “a worrisome surveillance tool that could be leveraged by an abuser to discreetly track a partner. An AirTag simply needs to be slipped into someone’s bag or jacket pocket to track exactly where they go.”¹⁹⁰ This can be extremely dangerous in a domestic violence context because if a victim tries to leave and hide from their abuser, this device would prevent her from doing so.¹⁹¹

A study conducted in 2021 found that “1 in 4 potential victims of [intimate partner violence] reported the harmful effect of the COVID-19 pandemic concerning technological intimate partner abuse.”¹⁹² While New York does have internet-related harassment laws in place,¹⁹³ this proposal

¹⁸⁵ Lisa Deaderick, *Domestic Violence Via Technology on the Rise During Pandemic*, SAN DIEGO UNION TRIB. (Jan. 24, 2021, 6:00 AM), <https://www.sandiegouniontribune.com/columnists/story/2021-01-24/domestic-violence-via-technology-on-the-rise-during-pandemic>.

¹⁸⁶ Méliissa Godin, *How Domestic Abusers Have Exploited Technology During The Pandemic*, TIME (Dec. 31, 2020, 11:54 AM), <https://time.com/5922566/technology-domestic-abuse-coronavirus-pandemic/>; Stalkerware has been defined as “a type of applications that abusers use to monitor and track their victims.” Luciano Mondragon, *What is stalkerware?*, F-SECURE (Jan. 27, 2021), <https://blog.f-secure.com/what-is-stalkerware/>. Spyware is further defined as “software that is installed in a computer or mobile device without the user’s knowledge and that transmits information about the user’s activities.” *Spyware*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/spyware> (last visited Mar. 22, 2022).

¹⁸⁷ Mark Wilson, *Apple AirTags Could Enable Domestic Abuse in Terrifying Ways*, FAST CO. (Apr. 29, 2021), <https://www.fastcompany.com/90630404/apple-airtags-could-enable-domestic-abuse-in-terrifying-ways>.

¹⁸⁸ *Id.*

¹⁸⁹ *AirTag*, APPLE, <https://www.apple.com/airtag/> (last visited Mar. 22, 2022).

¹⁹⁰ Wilson, *supra* note 187.

¹⁹¹ *Id.*

¹⁹² Alexandra Maftai & Oana Dănilă, *Give Me Your Password! What Are You Hiding? Associated Factors of Intimate Partner Violence Through Technological Abuse*, CURRENT PSYCH. 1, 13 (Aug. 10, 2021).

¹⁹³ See N.Y. PENAL § 240.30(1)-(2) (McKinney 2019). One such example includes:

[C]ommunicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of

214 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

seeks to add a technological-based domestic violence section into the Penal Law that would cover much more than just stalking. Spyware that can be placed on individuals' phones without them knowing, GPS trackers, smart houses that are controlled by technology, cameras and other similar technology that can be used for tracking should all be included in this amended law.¹⁹⁴

This shift has already taken place in other countries, such as the United Kingdom, demonstrating how common technological abuse has become.¹⁹⁵ The United Kingdom's bill, Domestic Abuse Bill 2019-21 (HC Bill 96),¹⁹⁶ includes technological abuse as part of the definition of domestic violence and makes it "illegal to use smart technology, such as smart locks or cameras, to spy, control or abuse a partner or ex-partner."¹⁹⁷ One survivor of technological abuse reported that after she went into her backyard with a glass of water, her husband called her saying, "that had better be a plastic glass. I don't want to have to drain the pool if you break it."¹⁹⁸ She realized from this interaction that her husband was watching her on cameras through their smart house.¹⁹⁹ Another survivor asserted that her abuser went into her social media accounts and sent messages to people in an attempt to control her friendships.²⁰⁰ Others have reported facing technological abuse such as their abusers sharing pictures of them as "revenge porn" through social media.²⁰¹

As one can imagine, these tactics only became more accessible to abusers when the stay-at-home orders went into place during COVID-19.²⁰² With these orders, abusers could watch their victims much more closely and

communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, or a member of such person's same family or household . . . , and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household.

Id.

¹⁹⁴ Kam, *supra* note 184.

¹⁹⁵ Ellen Daniel, *Domestic Abuse Bill Makes Tech Abuse Illegal*, VERDICT (Mar. 4, 2020), <https://www.verdict.co.uk/tech-abuse-bill/> (stating that in a recent survey in the National Network To End Domestic Violence it was reported that "the three most common types of technology that abusers used to harass victims were texting, social media accounts, and email.").

¹⁹⁶ Sally Lipscombe, *Domestic Abuse Bill 2019-21*, HOUSE COMMONS LIBRARY (Apr. 23, 2020), <https://researchbriefings.files.parliament.uk/documents/CBP-8787/CBP-8787.pdf>.

¹⁹⁷ Daniel, *supra* note 195.

¹⁹⁸ Kam, *supra* note 184 (citation omitted).

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² Deaderick, *supra* note 185 (there has been a "tremendous increase in the amount of monitoring done via technology, either in the form of apps installed on victims' phones, or by incessant communication via text and phone.").

2023] *DEFINITION OF DOMESTIC VIOLENCE* 215

easily.²⁰³ One technology software company reported that during COVID-19, the amount of spyware that was used went up by fifty-one percent worldwide.²⁰⁴ Another company, Malwarebytes, reported a “780% increase in the detection of monitoring apps and a 1677% increase in the detection of spyware since January.”²⁰⁵ In 2020, prior to the pandemic, Governor Cuomo signed Senate Bill S7926, to amend New York’s criminal procedure law regarding smart home technology abuse.²⁰⁶ This amended law asserted that upon obtaining a restraining order, the respondent must “refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.”²⁰⁷ This law, however, should be effective even before the issuance of an order of protection. New York’s Penal Code should be amended to reflect this change, like the previously discussed United Kingdom law.²⁰⁸

CONCLUSION

The severity and escalation of domestic violence during the past three years has led to this crisis being accurately referred to as a “pandemic within the COVID-19 pandemic.”²⁰⁹ The stressors associated with COVID-19,²¹⁰ in addition to the forced isolation with potential abusers, created an environment where more victims were being abused through less traditional means.²¹¹ This dangerous new space for abuse has been recognized and acted upon by states such as Hawaii, Connecticut, and California,²¹² and in countries such as the United Kingdom,²¹³ by expanding their definitions of domestic violence. It is now time for New York to follow this lead and broaden its own definition of domestic violence. The necessity of alerting

²⁰³ *Id.* (“[S]urveillance and monitoring, particularly for victims living with their abusers, may be heightened”); see also Godin, *supra* note 186 (stating that “it’s much easier to get access to a partner’s phone to alter privacy settings, obtain passwords, or install tracking software when people are spending so much time together in close proximity.”).

²⁰⁴ Godin, *supra* note 186.

²⁰⁵ *Id.*

²⁰⁶ S. 7926, 2019-2020 Leg. Sess. (N.Y. 2020), <https://www.nysenate.gov/legislation/bills/2019/s7926>.

²⁰⁷ N.Y. CRIM. PROC. §530.12 (8A-B) (McKinney 2020) (“‘Connected device,’ as used in this subdivision, shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.”).

²⁰⁸ Daniel, *supra* note 195.

²⁰⁹ Jeffrey Kluger, *Domestic Violence Is a Pandemic Within the COVID-19 Pandemic*, TIME (Feb. 3, 2021, 11:15 AM), <https://time.com/5928539/domestic-violence-covid-19/>.

²¹⁰ Piquero, Jennings, Jemison, Kaukinen, & Knaul, *supra* note 71, at 4; Jarnecke & Flanagan, *supra* note 71, at S203.

²¹¹ Lloyd Bright, *supra* note 179; Godin, *supra* note 186.

²¹² CAL. FAM. CODE § 6320(c)(1)-(4) (West 2022); CONN. GEN. STAT. ANN. §46b-1(b)(A)-(F) (West 2021); HAW. REV. STAT. ANN. §586-1(1)-(8) (West 2020).

²¹³ Daniel, *supra* note 195; Lipscombe, *supra* note 196.

216 *EQUAL RIGHTS & SOCIAL JUSTICE* [Vol. 29:2]

others to the signs of someone struggling with domestic abuse has been recognized by organizations like the Canadian Women’s Foundation and was instrumental in its creation of the Signal For Help hand signal.²¹⁴ In November 2021, a motorcyclist driving on a highway in Kentucky passed by a car in which a sixteen-year-old was using the Signal For Help signal in the window.²¹⁵ The motorcyclist recognized her cry for help and was able to notify the police.²¹⁶ While this literal sign has been recognized by many since its creation, it is now essential for the New York legislature and Governor Hochul to acknowledge the more discreet signs of domestic abuse that many victims face. In order to protect a greater number of victims, the legislature must recognize that abuse does not leave physical marks.²¹⁷ Most notably, the increase in domestic abuse during the COVID-19 pandemic has illustrated how crucial it is for New York State’s Penal Law to address coercive control and technological abuse.²¹⁸ New York survivors must know that their coercive, controlling, and technological abusers will be held accountable and will not get away with their actions just because the scars they left behind are not be visible.

In October 2021, Governor Hochul announced that New York will now recognize October as Domestic Violence Awareness Month.²¹⁹ Governor Hochul has already signed two important domestic violence bills into law, one pertaining to survivors’ ability to “shield their home address in public records when registering to vote,” and the second “require[ing] utility companies to release individuals from shared contracts without charge when they affirm that they are victims of domestic abuse.”²²⁰ Governor Hochul said, “our systems must evolve and we must continue to offer innovative solutions to meet the needs of survivors and families.”²²¹ This evolution must include legal recourse for coercive control and technological abuse.

²¹⁴ *Signal For Help Campaign Launches to Help People Experiencing Gender-Based Violence During Home Isolation*, *supra* note 6.

²¹⁵ Michael Bartiromo, *A Hand Signal Popularized on TikTok Helped Save An Abducted Teen: Here’s What It Looks Like*, FOX 8 (Nov. 9, 2021, 4:30 PM), <https://myfox8.com/news/a-hand-signal-popularized-on-tiktok-helped-save-an-abducted-teen-heres-what-it-looks-like/>.

²¹⁶ *Id.*

²¹⁷ Fontes, *supra* note 36.

²¹⁸ *Id.*; see also Mahoney & Lieberman, *supra* note 153; see also Kam, *supra* note 184.

²¹⁹ *Governor Hochul Proclaims October as Domestic Violence Awareness Month in New York State and Launches Bold, Innovative Initiatives to Help Survivors*, N.Y. STATE (Oct. 1, 2021), <https://www.governor.ny.gov/news/governor-hochul-proclaims-october-domestic-violence-awareness-month-new-york-state-and>.

²²⁰ Ethan Geringer-Sameth, *Hochul Signs Two Bills to Protect Domestic Violence Survivors*, GOTHAM GAZETTE (Oct. 28, 2021), <https://www.gothamgazette.com/state/10866-hochul-sign-law-bills-protect-domestic-violence-survivors>.

²²¹ Sile Moloney, *UPDATE Governor Marks Launch of Domestic Violence Awareness Month with \$6.5 Million in Funding*, NORWOOD NEWS (Oct. 1, 2021), <https://www.norwoodnews.org/governor-marks-launch-of-domestic-violence-awareness-month-with-6-5-million-in-funding/>.

2023] *DEFINITION OF DOMESTIC VIOLENCE* 217

Governor Hochul’s recognition of the dangers that technology can play in domestic abuse has already been documented in her creation of a new social media campaign.²²² The goal of this campaign is to “highlight technology’s intersection with DV, and spread awareness of the forms of technology-assisted abuse.”²²³ This campaign will include individuals who discuss the implications of technological abuse and “steps [to] protect privacy and safety in a digital world.”²²⁴ With this current trajectory, New Yorkers should be encouraged that technological abuse will be legally recognized as a form of domestic abuse in the near future, and coercive control should not be far behind.

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*