

Equal Justice

NEWSLETTER OF THE NYS JUDICIAL COMMITTEE ON WOMEN IN THE COURTS



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Legislation Puts New York In the Vanguard in Combating Sex Trafficking

Anti-trafficking legislation attacking both supply and demand in the sex industry was recently signed into law by Governor Elliot Spitzer. The new law is among the strongest anti-trafficking measures in the country. It provides law enforcement with the tools necessary to combat what the United States Department of State calls a grave human rights violation and a form of modern day slavery. Most trafficking victims are women and children, and most victims are trafficked for purposes of sexual exploitation.

The legislation creates the crime of Sex Trafficking and makes it a Class B Felony punishable by up to 25 years in prison. The heart of this new crime is advancing or profiting from prostitution by means of broadly defined forms of force, fraud, or coercion. The definition recognizes the vast array of devices employed to entrap victims. It outlaws the use not only physical violence but also threats, imprisonment, use of drugs and alcohol, debt bondage, taking documents, and instilling fear of arrest or deportation. Although many victims are moved across state or international borders, trade in human beings, not movement, defines trafficking in New York's legislation. A Class D felony of labor trafficking is also included in the legislation.

The demand side of the sex industry is addressed in a provision raising the penalty for patronizing a prostitute. The legislation makes the lowest count of patronizing a Class A Misdemeanor.

The new law tackles as well the growing problem of sex tourism, which fuels trafficking in countries outside of the United States. Selling travel-related services knowing that the traveler's journey is for purposes of patronizing prostitutes is, under the legislation, a Class D Felony and a crime whether or not prostitution is legal in the traveler's destination.

Victims' needs are the subject of provisions easing the way to eligibility for the social services victims need to reclaim their lives and by authorizing state contracts with agencies to provide services. A new interagency task force will oversee the implementation of the new law, collect data, develop training, and identify best practices for combating trafficking.

New York's Anti-Trafficking law goes into effect on November 1, 2007.

KEY PROVISIONS OF NEW YORK'S ANTI-TRAFFICKING LEGISLATION

CHAPTER 74, LAWS OF NEW YORK, 2007

- Section 1.** Defines selling travel-related services as a form of promoting prostitution and designates it a Class D Felony. Penal Law § 230.25.
- Section 2.** Creates the crime of Sex Trafficking and makes it a Class B Felony. Penal Law § 230.34 and 230.36.
- Section 3.** Creates the crime of Labor Trafficking and makes it a Class D Felony. Penal Law § 135.35 and 135.36.
- Section 4.** Makes the lowest count of patronizing a prostitute a Class A rather than a Class B misdemeanor. Penal Law § 230.04.
- Section 11.** Provides for social services for trafficking victims and creates an interagency task force. Social Services Law Article 1–D.

New Edition of the Lawyer’s Manual on Domestic Violence Published. The fifth edition of the *Lawyer’s Manual on Domestic Violence: Representing the Victim* was recently published by the Appellate Division, First Department. The expanded and updated version includes new chapters on such issues as youth and domestic violence, Hague Convention cases, and public assistance for immigrant victims. Requests for copies should be made to womeninthecourts@courts.state.ny.us.

The *Lawyer’s Manual* is also available on line at

<http://www.nycourts.gov/ip/womeninthecourts/DV-Lawyers-Manual-Book.pdf>

Justice Works Re-Published. *JusticeWorks: A Public Guide to Ensuring Access and Equality in New York State Courts* has been reissued. An easy-to-use guide addressed to court users, *JusticeWorks* pulls together material on court offices and services. Also included is information on addressing problems and making complaints. Copies are available on line at

<http://www.nycourts.gov/litigants/JusticeWorks07.pdf>, from the Division of Court Operations at 212-42-2760, or from Monique Coleman at mocolema@courts.state.ny.us

RECENT STUDY CALLS INTO QUESTION THE SUCCESS OF BATTERER PROGRAMS IN PROMOTING ACCOUNTABILITY

PERPETRATORS OF DOMESTIC ABUSE who fail to comply with the court-mandated attendance at batterer programs often escape consequences necessary to hold them accountable for abuse, according to a Center for Court Innovation report for the National Institute of Justice. The survey found lags in reporting non-compliance and delays in bringing offenders back to court. The survey also found that low level sanctions, such verbal reprimands, are far more common than serious sanctions, such as jail time. Most courts in the national survey lack written protocols for handling non-compliance.

The report concluded that while the vast majority of the surveyed courts in theory support accountability as a

justification for batterer programs, fewer courts “appear to promote accountability in practice through the actions they take in response a report of batterer program noncompliance.”

Earlier research from the Center for Court Innovation found that batterer programs have no effect on recidivism. In the year following a conviction, abusers assigned to batterer programs are arrested on new charges as frequently as those who are not ordered to attend programs. Victims confirmed these findings. They reported the same levels of re-abuse, including threats, stalking, harassment, and physical assault, whether or not batterer programs are part of the case disposition.

Resources available from the Publications Page of the Center for Court Innovation website: www.courtinnovation.org

“**Court Response to Batterer Program Noncompliance: A National Perspective,**” Melissa Labriola, Michael Rempel, Chris O’Sullivan and Phyllis B. Frank, Report to Submitted to the National Institute of Justice, March 2007.

“**Testing the Effectiveness of Batterer Programs and Judicial Monitoring: Results from a Randomized Trial at the Bronx Misdemeanor Domestic Violence Court,**” Melissa Labriola, Michael Rempel and Robert Davis, Final Report Submitted to the National Institute of Justice, Nov. 2005.