

Memorandum in Opposition

COMMITTEE ON CHILDREN AND THE LAW

Children # 20

February 25, 2020

S. 7505-A, Part RR
A. 9505-A, Part RR

By: BUDGET
By: BUDGET
Senate Committee: Finance
Assembly Committee: Ways and Means
Effective Date: Immediately

THE COMMITTEE ON CHILDREN AND THE LAW OPPOSES THIS LEGISLATION, IN PART

Re: Opposition to the Executive's Article VII Bill, Part RR

We want to begin by thanking the Executive for his leadership and unwavering support for survivors of domestic violence and the children who are impacted daily by this disease facing our State and Nation. Unfortunately, the Committee strongly opposes Part RR of the above-listed bill, which is unnecessary, but worse, would have a devastating impact upon the children and parents it ostensibly seeks to assist.

As explained in the Executive's memorandum in support, this bill is intended to allow Family Courts to issue orders of protection without requiring the Petitioner to allege and prove that a family offense was committed. However, Article 8 was carefully constructed to balance a Petitioner's right to safety and security against a Respondent's right to have his/her freedom restricted by the issuance of an order of protection. Certain family offenses must be alleged, with a prima facie showing, and must later be proved by a preponderance of the evidence, because a finding of a family offense can be appropriately used as a basis to direct such things as supervised parenting time, batterer's intervention or anger management programs, mental health evaluations or therapy, and/or incarceration. The Executive's proposal seemingly seeks to address a concern that victims are unable obtain orders of protection under the current structure. This assumption, however, is false.

What would result from passage of Part RR is a new problem: the issuance of orders of protection to abusers. The abusers would be able present bare minimum allegations via a petition, or seemingly no petition at all, and based on judicial discretion, an order of protection could be issued. In the midst of already complicated family court proceedings it may be easier to issue dueling orders of protection in an attempt to calm the waters, but mutual orders of protection and mutual arrests are not the appropriate remedy in domestic

violence cases, they place victims and children at further risk, and Part RR would open the door to both.

Not only is this proposal unnecessary, but it would harm those that it intends to protect and assist. We ask that the Executive not pursue Part RR of the Public Protection and General Government Article VII Bill any further.

Based on the foregoing, NYSBA's Committee on Children and the Law **OPPOSES** Part RR of his legislation.