

## Hope and Healing: The Intersection of New York’s Adult Survivors Act, New York City’s Protection Law, and Battered Woman Syndrome

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The Adult Survivors Act in New York State represents a significant legislative step towards addressing the complex needs of individuals who have suffered from trauma, particularly those affected by Battered Woman Syndrome (BWS). This statute not only acknowledges the psychological ramifications of domestic violence but also provides a framework for recovery and support. For survivors of BWS, this law

offers a glimmer of hope, facilitating the survivors' reintegration into society while recognizing the unique challenges they face.

## **Understanding Battered Woman Syndrome**

Battered Woman Syndrome is a psychological condition that arises from prolonged exposure to intimate partner violence. It encompasses a range of emotional, cognitive, and behavioral responses to ongoing abuse, often leading to complex trauma. According to Lenore Walker, who first coined the phrase describing the syndrome in 1979, BWS is characterized by a cycle of violence and coercive control that includes tension building, acute battering incidents, and reconciliation phases. Victims may exhibit symptoms akin to post-traumatic stress disorder (PTSD), including anxiety, depression, and feelings of helplessness.

## **Symptoms and Diagnosis**

The symptoms of BWS can vary widely among individuals, but often include:

- Fear for safety, loss of economic stability, family
- Emotional distress
- Cognitive impairment
- Difficulty with decision-making
- Isolation

While BWS is not officially recognized in the Diagnostic Statistical Manual of Mental Disorders (DSM-5), it is often utilized in legal contexts as a defense mechanism for women who have killed their abusers. The legal system has increasingly acknowledged the psychological impact of

domestic violence on victims, with many states now allowing expert testimony regarding BWS in court cases.

## **The Adult Survivors Act: A Legislative Response**

New York State's Adult Survivors Act (ASA) was enacted to support individuals recovering from sexual abuse and exploitation by giving them a look-back window to file a civil action against their abuser regardless of the statute of limitations that would otherwise apply to their claims. Enacted in May, 2022, the act grants adult survivors of sexual abuse a renewed opportunity to seek redress through civil litigation. Key provisions of the ASA include:

1. **One Year Look-Back Window:** The ASA establishes a one-year lookback window during which adult survivors of sexual offenses can file civil lawsuits, regardless of when the abuse occurred and how long ago the abuse occurred. This window began on Nov. 24, 2022 and closed on Nov. 24, 2023.
2. **Extension of ASA in NY:** Victim survivors of domestic violence that occurred in New York City have until March 25, 2025 to file claims that previously expired pursuant to the New York City Victims of Gender-Motivated Violence Protection Law (PL). Will New York residents successfully enact a revival statute statewide? Survivors of sexual assault may need to push their agenda on passage of such statewide legislation.
3. **Revival of Time-Barred Claims:** The ASA revived previously time-barred claims, allowing individuals who did not file within the original statute of limitations to pursue their cases in court. This includes claims that may have been barred as a result of failing to meet notice requirements.

4. Expanded Definition of Sexual Offenses: The ASA applied to a broad range of sexual offenses as defined by New York's Penal Law, including but not limited to rape, sexual assault, and incest.
5. Trial Preference: The ASA mandated that courts give preference to ASA cases, ensuring that they are adjudicated in a timely manner. This provision aims to expedite the legal process for survivors seeking justice.
6. Institutional Accountability: Survivors may also sue institutions that may have facilitated or covered up the abuse, thereby holding organizations accountable for their role in enabling such conduct.

## **Implications for Survivors of BWS**

For BWS survivors, the ASA and PL provide critical resources that can aid in their healing process. Those who experience domestic violence can face other issues, including substance abuse. BWS, the ASA and the PL address the need for comprehensive support systems that recognize the complexities of trauma recovery. The legal recognition afforded by the ASA and PL and the acknowledgement of BWS in court systems serves to validate the experiences of survivors. Such validation is crucial in countering the societal stigma pervading outcries of domestic violence. When legal systems recognize the psychological impact of abuse through statutes like the ASA and the PL, that recognition encourages victims to seek help without fear of retribution.

## **Baseline for PL**

Some courts apply a test to determine whether a plaintiff has adequately asserted a claim under PL. Pursuant to the holding in *Hughes v. Twenty-First Century Fox*, plaintiffs asserting PL claims should prove:

1. The alleged act constitutes a misdemeanor or felony against the plaintiff;
2. Make a presentation pointing to a serious risk of physical injury;
3. The act was perpetrated because of the plaintiff's gender;
4. There was, in part, animus against plaintiff's gender; and
5. A resultant injury to the plaintiff.

Are courts biased against claims of domestic violence and physical abuse? Joan Meier certainly contends that raising claims of domestic violence can have a negative effect on custody cases in her 2019 article. In the Hughes case, the court held that allegations of rape were insufficient to prove a claim under the PL due to the plaintiff's failure to establish that her attacker "harbored or expressed any animosity toward women." In Rosbach v. Montefiore Medical Center, the plaintiff's allegations of unwanted touching failed to establish that the defendant's conduct was "motivated by gender-based animus." In other cases, there have been holdings that a claim asserted involved trauma and forced sexual activity that was "dehumanizing" and that the defendant induced fear in the plaintiff that met the standards mandated by the PL. When asserting claims under the PL, one should consider allegations that a perpetrator "acted inappropriately with and used degrading language" toward women and being prepared to flesh out such allegations.

## **Conclusion**

There are many additional ramifications of the ASA and PL—new cases and charges are being filed in various venues seeking to assure that those accused of domestic abuse are finding themselves indicted on criminal charges. As society continues to evolve in its understanding of

domestic violence and its effects on victims, laws like the ASA and the PL are essential in creating supportive environments allowing survivors to heal and to thrive. Ultimately, the intersection of legislation that allows survivors of gender-based domestic violence to assert their claims highlights a growing recognition that, for some, recovery from trauma is not just possible—it is essential for rebuilding lives shattered by violence.

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