

**ASSEMBLY, No. 1704**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblywoman ANGELA V. MCKNIGHT**

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**Co-Sponsored by:**

**Assemblywomen Timberlake, Jimenez, Lopez, Tucker, Assemblyman  
Mejia, Assemblywomen Chaparro, Jasey, Haider, Park, Assemblymen  
Stanley and Karabinchak**

**SYNOPSIS**

Requires domestic violence orders to be issued in other languages in addition to English under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/23/2023)**

1 AN ACT concerning certain domestic violence orders and amending  
2 P.L.1991, c.261.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. Section 7 of P.L.1991, c.261 (C.2C:25-23) is amended to  
8 read as follows:

9 7. A law enforcement officer shall disseminate and explain to  
10 the victim the following notice, which shall be written **[in both**  
11 **English and Spanish]** , by the Administrative Office of the Courts,  
12 in English, Spanish, and 10 additional languages commonly spoken  
13 in the State:

14 "You have the right to go to court to get an order called a  
15 temporary restraining order, also called a TRO, which may protect  
16 you from more abuse by your attacker. The officer who handed you  
17 this card can tell you how to get a TRO.

18 The kinds of things a judge can order in a TRO may include:

19 (1) That your attacker is temporarily forbidden from entering  
20 the home you live in;

21 (2) That your attacker is temporarily forbidden from having  
22 contact with you or your relatives;

23 (3) That your attacker is temporarily forbidden from bothering  
24 you at work;

25 (4) That your attacker has to pay temporary child support or  
26 support for you;

27 (5) That you be given temporary custody of your children;

28 (6) That your attacker pay you back any money you have to  
29 spend for medical treatment or repairs because of the violence.  
30 There are other things the court can order, and the court clerk will  
31 explain the procedure to you and will help you fill out the papers  
32 for a TRO.

33 You also have the right to file a criminal complaint against your  
34 attacker. The police officer who gave you this paper will tell you  
35 how to file a criminal complaint.

36 On weekends, holidays and other times when the courts are  
37 closed, you still have a right to get a TRO. The police officer who  
38 gave you this paper can help you get in touch with a judge who can  
39 give you a TRO."

40 (cf: P.L.1991, c.261, s.7)

41

42 2. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to  
43 read as follows:

44 12. a. A victim may file a complaint alleging the commission of  
45 an act of domestic violence with the Family Part of the Chancery

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Division of the Superior Court in conformity with the Rules of  
2 Court. The court shall not dismiss any complaint or delay  
3 disposition of a case because the victim has left the residence to  
4 avoid further incidents of domestic violence. Filing a complaint  
5 pursuant to this section shall not prevent the filing of a criminal  
6 complaint for the same act.

7 On weekends, holidays and other times when the court is closed,  
8 a victim may file a complaint before a judge of the Family Part of  
9 the Chancery Division of the Superior Court or a municipal court  
10 judge who shall be assigned to accept complaints and issue  
11 emergency, ex parte relief in the form of temporary restraining  
12 orders pursuant to this act.

13 A plaintiff may apply for relief under this section in a court  
14 having jurisdiction over the place where the alleged act of domestic  
15 violence occurred, where the defendant resides, or where the  
16 plaintiff resides or is sheltered, and the court shall follow the same  
17 procedures applicable to other emergency applications. Criminal  
18 complaints filed pursuant to this act shall be investigated and  
19 prosecuted in the jurisdiction where the offense is alleged to have  
20 occurred. Contempt complaints filed pursuant to N.J.S.2C:29-9  
21 shall be prosecuted in the county where the contempt is alleged to  
22 have been committed and a copy of the contempt complaint shall be  
23 forwarded to the court that issued the order alleged to have been  
24 violated.

25 b. The court shall waive any requirement that the petitioner's  
26 place of residence appear on the complaint.

27 c. (1) The clerk of the court, or other person designated by the  
28 court, shall assist the parties in completing any forms necessary for  
29 the filing of a summons, complaint, answer or other pleading.

30 (2) The plaintiff may provide information concerning firearms  
31 to which the defendant has access, including the location of these  
32 firearms, if known, on a form to be prescribed by the  
33 Administrative Director of the Courts.

34 (3) Information provided by the plaintiff concerning firearms to  
35 which the defendant has access shall be kept confidential and shall  
36 not be disseminated or disclosed, provided that nothing in this  
37 subsection shall prohibit dissemination or disclosure of this  
38 information in a manner consistent with and in furtherance of the  
39 purpose for which the information was provided.

40 d. Summons and complaint forms shall be readily available at  
41 the clerk's office, at the municipal courts and at municipal and State  
42 police stations.

43 e. As soon as the domestic violence complaint is filed, both the  
44 victim and the abuser shall be advised of any programs or services  
45 available for advice and counseling.

46 f. A plaintiff may seek emergency, ex parte relief in the nature  
47 of a temporary restraining order. A municipal court judge or a  
48 judge of the Family Part of the Chancery Division of the Superior

1 Court may enter an ex parte order when necessary to protect the  
2 life, health or well-being of a victim on whose behalf the relief is  
3 sought.

4 g. If it appears that the plaintiff is in danger of domestic  
5 violence, the judge shall, upon consideration of the plaintiff's  
6 domestic violence complaint, order emergency ex parte relief, in the  
7 nature of a temporary restraining order. A decision shall be made  
8 by the judge regarding the emergency relief forthwith.

9 h. (1) A judge may issue a temporary restraining order upon  
10 sworn testimony or complaint of an applicant who is not physically  
11 present, pursuant to court rules, or by a person who represents a  
12 person who is physically or mentally incapable of filing personally.  
13 A temporary restraining order may be issued if the judge is satisfied  
14 that exigent circumstances exist sufficient to excuse the failure of  
15 the applicant to appear personally and that sufficient grounds for  
16 granting the application have been shown.

17 (2) Any temporary restraining order shall be issued in the  
18 primary language or languages used by both the plaintiff and the  
19 defendant.

20 i. An order for emergency, ex parte relief shall be granted  
21 upon good cause shown and shall remain in effect until a judge of  
22 the Family Part issues a further order. Any temporary order  
23 hereunder is immediately appealable for a plenary hearing de novo  
24 not on the record before any judge of the Family Part of the county  
25 in which the plaintiff resides or is sheltered if that judge issued the  
26 temporary order or has access to the reasons for the issuance of the  
27 temporary order and sets forth in the record the reasons for the  
28 modification or dissolution. The denial of a temporary restraining  
29 order by a municipal court judge and subsequent administrative  
30 dismissal of the complaint shall not bar the victim from refiling a  
31 complaint in the Family Part based on the same incident and  
32 receiving an emergency, ex parte hearing de novo not on the record  
33 before a Family Part judge, and every denial of relief by a  
34 municipal court judge shall so state.

35 j. Emergency relief may include forbidding the defendant from  
36 returning to the scene of the domestic violence, forbidding the  
37 defendant from possessing any firearm or other weapon enumerated  
38 in subsection r. of N.J.S.2C:39-1, ordering the search for and  
39 seizure of any firearm or other weapon at any location where the  
40 judge has reasonable cause to believe the weapon is located and the  
41 seizure of any firearms purchaser identification card or permit to  
42 purchase a handgun issued to the defendant and any other  
43 appropriate relief.

44 If the order requires the surrender of any firearm or other  
45 weapon, a law enforcement officer shall accompany the defendant,  
46 or may proceed without the defendant if necessary, to the scene of  
47 the domestic violence or any other location where the judge has  
48 reasonable cause to believe any firearm or other weapon belonging

1 to the defendant is located, to ensure that the defendant does not  
2 gain access to any firearm or other weapon, and that the firearm or  
3 other weapon is appropriately surrendered in accordance with the  
4 order. If the order prohibits the defendant from returning to the  
5 scene of domestic violence or any other location where the judge  
6 has reasonable cause to believe any firearm or other weapon  
7 belonging to the defendant is located, any firearm or other weapon  
8 located there shall be seized by a law enforcement officer. The  
9 order shall include notice to the defendant of the penalties for a  
10 violation of any provision of the order, including but not limited to  
11 the penalties for contempt of court and unlawful possession of a  
12 firearm or other weapon pursuant to N.J.S.2C:39-5. Other  
13 appropriate relief may include but is not limited to an order  
14 directing the possession of any animal owned, possessed, leased,  
15 kept, or held by either party or a minor child residing in the  
16 household and providing that the animal shall not be disposed of  
17 prior to entry of a final order pursuant to section 13 of P.L.1991,  
18 c.261 (C.2C:25-29).

19 The judge shall state with specificity the reasons for and scope of  
20 any search and seizure authorized by the order. The provisions of  
21 this subsection prohibiting a defendant from possessing a firearm or  
22 other weapon shall not apply to any law enforcement officer while  
23 actually on duty, or to any member of the Armed Forces of the  
24 United States or member of the National Guard while actually on  
25 duty or traveling to or from an authorized place of duty.

26 k. The judge may permit the defendant to return to the scene of  
27 the domestic violence to pick up personal belongings and effects  
28 but shall, in the order granting relief, restrict the time and duration  
29 of such permission and provide for police supervision of such visit.

30 l. An order granting emergency relief, together with the  
31 complaint or complaints, shall immediately be forwarded to the  
32 appropriate law enforcement agency for service on the defendant,  
33 and to the police of the municipality in which the plaintiff resides or  
34 is sheltered, and shall immediately be served upon the defendant  
35 along with a copy of the translated order, if applicable, by the  
36 police, except that an order issued during regular court hours may  
37 be forwarded to the sheriff for immediate service upon the  
38 defendant in accordance with the Rules of Court. If personal  
39 service cannot be effected upon the defendant, the court may order  
40 other appropriate substituted service. At no time shall the plaintiff  
41 be asked or required to serve any order on the defendant.

42 m. (Deleted by amendment, P.L.1994, c.94.)

43 n. Notice of temporary restraining orders issued pursuant to  
44 this section shall be sent by the clerk of the court or other person  
45 designated by the court to the appropriate chiefs of police, members  
46 of the State Police and any other appropriate law enforcement  
47 agency or court.

48 o. (Deleted by amendment, P.L.1994, c.94.)

1 p. Any temporary or final restraining order issued pursuant to  
2 this act shall be in effect throughout the State, and shall be enforced  
3 by all law enforcement officers.

4 q. Prior to the issuance of any temporary or final restraining  
5 order issued pursuant to this section, the court shall order that a  
6 search be made of the domestic violence central registry with regard  
7 to the defendant's record.  
8 (cf: P.L.2016, c.91, s.2)

9  
10 3. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to  
11 read as follows:

12 13. a. A hearing shall be held in the Family Part of the  
13 Chancery Division of the Superior Court within 10 days of the  
14 filing of a complaint pursuant to section 12 of P.L.1991, c.261  
15 (C.2C:25-28) in the county where the ex parte restraints were  
16 ordered, unless good cause is shown for the hearing to be held  
17 elsewhere. A copy of the complaint shall be served on the defendant  
18 in conformity with the Rules of Court. If a criminal complaint  
19 arising out of the same incident which is the subject matter of a  
20 complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) or  
21 P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed, testimony  
22 given by the plaintiff or defendant in the domestic violence matter  
23 shall not be used in the simultaneous or subsequent criminal  
24 proceeding against the defendant, other than domestic violence  
25 contempt matters and where it would otherwise be admissible  
26 hearsay under the rules of evidence that govern where a party is  
27 unavailable. At the hearing the standard for proving the allegations  
28 in the complaint shall be by a preponderance of the evidence. The  
29 court shall consider but not be limited to the following factors:

30 (1) The previous history of domestic violence between the  
31 plaintiff and defendant, including threats, harassment and physical  
32 abuse;

33 (2) The existence of immediate danger to person or property;

34 (3) The financial circumstances of the plaintiff and defendant;

35 (4) The best interests of the victim and any child;

36 (5) In determining custody and parenting time the protection of  
37 the victim's safety; and

38 (6) The existence of a verifiable order of protection from  
39 another jurisdiction.

40 An order issued under this act shall only restrain or provide  
41 damages payable from a person against whom a complaint has been  
42 filed under this act and only after a finding or an admission is made  
43 that an act of domestic violence was committed by that person. The  
44 issue of whether or not a violation of this act occurred, including an  
45 act of contempt under this act, shall not be subject to mediation or  
46 negotiation in any form. In addition, where a temporary or final  
47 order has been issued pursuant to this act, no party shall be ordered  
48 to participate in mediation on the issue of custody or parenting time.

1     An order issued under this section shall be issued in the primary  
2     language or languages used by both the plaintiff and the defendant.

3     b. In proceedings in which complaints for restraining orders  
4     have been filed, the court shall grant any relief necessary to prevent  
5     further abuse. In addition to any other provisions, any restraining  
6     order issued by the court shall bar the defendant from purchasing,  
7     owning, possessing or controlling a firearm and from receiving or  
8     retaining a firearms purchaser identification card or permit to  
9     purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
10    which the restraining order is in effect or two years, whichever is  
11    greater. The order shall require the immediate surrender of any  
12    firearm or other weapon belonging to the defendant. The order  
13    shall include notice to the defendant of the penalties for a violation  
14    of any provision of the order, including but not limited to the  
15    penalties for contempt of court and unlawful possession of a firearm  
16    or other weapon pursuant to N.J.S.2C:39-5.

17    A law enforcement officer shall accompany the defendant, or  
18    may proceed without the defendant if necessary, to any place where  
19    any firearm or other weapon belonging to the defendant is located  
20    to ensure that the defendant does not gain access to any firearm or  
21    other weapon, and a law enforcement officer shall take custody of  
22    any firearm or other weapon belonging to the defendant. If the  
23    order prohibits the defendant from returning to the scene of  
24    domestic violence or other place where firearms or other weapons  
25    belonging to the defendant are located, any firearm or other weapon  
26    located there shall be seized by a law enforcement officer. The  
27    provisions of this subsection requiring the surrender or removal of a  
28    firearm, card, or permit shall not apply to any law enforcement  
29    officer while actually on duty, or to any member of the Armed  
30    Forces of the United States or member of the National Guard while  
31    actually on duty or traveling to or from an authorized place of duty.  
32    At the hearing the judge of the Family Part of the Chancery  
33    Division of the Superior Court may issue an order granting any or  
34    all of the following relief:

35    (1) An order restraining the defendant from subjecting the  
36    victim to domestic violence, as defined in this act.

37    (2) An order granting exclusive possession to the plaintiff of the  
38    residence or household regardless of whether the residence or  
39    household is jointly or solely owned by the parties or jointly or  
40    solely leased by the parties. This order shall not in any manner  
41    affect title or interest to any real property held by either party or  
42    both jointly. If it is not possible for the victim to remain in the  
43    residence, the court may order the defendant to pay the victim's rent  
44    at a residence other than the one previously shared by the parties if  
45    the defendant is found to have a duty to support the victim and the  
46    victim requires alternative housing.

47    (3) An order providing for parenting time. The order shall  
48    protect the safety and well-being of the plaintiff and minor children

1 and shall specify the place and frequency of parenting time.  
2 Parenting time arrangements shall not compromise any other  
3 remedy provided by the court by requiring or encouraging contact  
4 between the plaintiff and defendant. Orders for parenting time may  
5 include a designation of a place of parenting time away from the  
6 plaintiff, the participation of a third party, or supervised parenting  
7 time.

8 (a) The court shall consider a request by a custodial parent who  
9 has been subjected to domestic violence by a person with parenting  
10 time rights to a child in the parent's custody for an investigation or  
11 evaluation by the appropriate agency to assess the risk of harm to  
12 the child prior to the entry of a parenting time order. Any denial of  
13 such a request must be on the record and shall only be made if the  
14 judge finds the request to be arbitrary or capricious.

15 (b) The court shall consider suspension of the parenting time  
16 order and hold an emergency hearing upon an application made by  
17 the plaintiff certifying under oath that the defendant's access to the  
18 child pursuant to the parenting time order has threatened the safety  
19 and well-being of the child.

20 (4) An order requiring the defendant to pay to the victim  
21 monetary compensation for losses suffered as a direct result of the  
22 act of domestic violence. The order may require the defendant to  
23 pay the victim directly, to reimburse the Victims of Crime  
24 Compensation Office for any and all compensation paid by the  
25 Victims of Crime Compensation Office directly to or on behalf of  
26 the victim, and may require that the defendant reimburse any parties  
27 that may have compensated the victim, as the court may determine.  
28 Compensatory losses shall include, but not be limited to, loss of  
29 earnings or other support, including child or spousal support, out-  
30 of-pocket losses for injuries sustained, cost of repair or replacement  
31 of real or personal property damaged or destroyed or taken by the  
32 defendant, cost of counseling for the victim, moving or other travel  
33 expenses, reasonable attorney's fees, court costs, and compensation  
34 for pain and suffering. Where appropriate, punitive damages may be  
35 awarded in addition to compensatory damages.

36 (5) An order requiring the defendant to receive professional  
37 domestic violence counseling from either a private source or a  
38 source appointed by the court and, in that event, requiring the  
39 defendant to provide the court at specified intervals with  
40 documentation of attendance at the professional counseling. The  
41 court may order the defendant to pay for the professional  
42 counseling. No application by the defendant to dissolve a final  
43 order which contains a requirement for attendance at professional  
44 counseling pursuant to this paragraph shall be granted by the court  
45 unless, in addition to any other provisions required by law or  
46 conditions ordered by the court, the defendant has completed all  
47 required attendance at such counseling.

1 (6) An order restraining the defendant from entering the  
2 residence, property, school, or place of employment of the victim or  
3 of other family or household members of the victim and requiring  
4 the defendant to stay away from any specified place that is named  
5 in the order and is frequented regularly by the victim or other  
6 family or household members.

7 (7) An order restraining the defendant from making contact with  
8 the plaintiff or others, including an order forbidding the defendant  
9 from personally or through an agent initiating any communication  
10 likely to cause annoyance or alarm including, but not limited to,  
11 personal, written, or telephone contact with the victim or other  
12 family members, or their employers, employees, or fellow workers,  
13 or others with whom communication would be likely to cause  
14 annoyance or alarm to the victim.

15 (8) An order requiring that the defendant make or continue to  
16 make rent or mortgage payments on the residence occupied by the  
17 victim if the defendant is found to have a duty to support the victim  
18 or other dependent household members; provided that this issue has  
19 not been resolved or is not being litigated between the parties in  
20 another action.

21 (9) An order granting either party temporary possession of  
22 specified personal property, such as an automobile, checkbook,  
23 documentation of health insurance, an identification document, a  
24 key, and other personal effects.

25 (10) An order awarding emergency monetary relief, including  
26 emergency support for minor children, to the victim and other  
27 dependents, if any. An ongoing obligation of support shall be  
28 determined at a later date pursuant to applicable law.

29 (11) An order awarding temporary custody of a minor child.  
30 The court shall presume that the best interests of the child are  
31 served by an award of custody to the non-abusive parent.

32 (12) An order requiring that a law enforcement officer  
33 accompany either party to the residence or any shared business  
34 premises to supervise the removal of personal belongings in order  
35 to ensure the personal safety of the plaintiff when a restraining  
36 order has been issued. This order shall be restricted in duration.

37 (13) (Deleted by amendment, P.L.1995, c.242).

38 (14) An order granting any other appropriate relief for the  
39 plaintiff and dependent children, provided that the plaintiff consents  
40 to such relief, including relief requested by the plaintiff at the final  
41 hearing, whether or not the plaintiff requested such relief at the time  
42 of the granting of the initial emergency order.

43 (15) An order that requires that the defendant report to the  
44 intake unit of the Family Part of the Chancery Division of the  
45 Superior Court for monitoring of any other provision of the order.

46 (16) In addition to the order required by this subsection  
47 prohibiting the defendant from possessing any firearm, the court  
48 may also issue an order prohibiting the defendant from possessing

any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search for and seizure of any firearm or other weapon at any location where the judge has reasonable cause to believe the weapon is located. The judge shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(17) An order prohibiting the defendant from stalking or following, or threatening to harm, to stalk or to follow, the complainant or any other person named in the order in a manner that, taken in the context of past actions of the defendant, would put the complainant in reasonable fear that the defendant would cause the death or injury of the complainant or any other person. Behavior prohibited under this act includes, but is not limited to, behavior prohibited under the provisions of P.L.1992, c.209 (C.2C:12-10).

(18) An order requiring the defendant to undergo a psychiatric evaluation.

(19) An order directing the possession of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. Where a person has abused or threatened to abuse such animal, there shall be a presumption that possession of the animal shall be awarded to the non-abusive party.

c. Notice of orders issued pursuant to this section shall be sent by the clerk of the Family Part of the Chancery Division of the Superior Court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

d. Upon good cause shown, any final order may be dissolved or modified upon application to the Family Part of the Chancery Division of the Superior Court, but only if the judge who dissolves or modifies the order is the same judge who entered the order, or has available a complete record of the hearing or hearings on which the order was based.

e. Prior to the issuance of any order pursuant to this section, the court shall order that a search be made of the domestic violence central registry.

(cf: P.L.2016, c.91, s.3)

4. This act shall take effect on the 120th day following enactment.

## STATEMENT

This bill requires that certain domestic violence restraining orders and notices to domestic violence victims be issued in other languages in addition to English.

Currently, section 7 of P.L.1991, c.261 (C.2C:25-23) provides that a law enforcement officer must provide a domestic violence victim

1 with a notice of the victim's rights, including the right to go to court to  
2 obtain a temporary restraining order and the right to file criminal  
3 charges. The statute also provides that the notice must be written in  
4 both English and Spanish. This bill provides that the notice be written  
5 by the Administrative Office of the Courts (AOC), in English,  
6 Spanish, and 10 additional languages commonly spoken in the State.

7 Section 12 of P.L.1991, c.261 (C.2C:25-28) provides that a victim  
8 may file a domestic violence complaint with the Family Part of the  
9 Chancery Division of the Superior Court (Family Part) or, at times  
10 when the Family Part is closed, with a judge of the Family Part or a  
11 judge of the municipal court assigned to accept such complaints and  
12 issue temporary restraining orders. The statute does not specify  
13 whether the order must be issued in a language other than English.

14 This bill provides that any temporary restraining order be issued in  
15 the primary language or languages used by both the plaintiff and the  
16 defendant.

17 Section 12 of P.L.1991, c.261 (C.2C:25-28) also provides that an  
18 order granting emergency relief, together with the complaint or  
19 complaints, is to immediately be forwarded to the appropriate law  
20 enforcement agency for service on the defendant, and to the police of  
21 the municipality in which the plaintiff resides or is sheltered, and  
22 immediately be served upon the defendant by the police.

23 This bill provides that the order immediately be served upon the  
24 defendant by the police, along with a copy of the translated order, if  
25 applicable.

26 Section 13 of P.L.1991, c.261 (C.2C:25-29) provides that within  
27 10 days of the filing of a complaint for a temporary restraining order,  
28 the Family Part will conduct a hearing to determine whether to issue a  
29 permanent restraining order. This bill provides that any permanent  
30 restraining order be issued in the primary language or languages used  
31 by both the plaintiff and the defendant.