

[First Reprint]

ASSEMBLY, No. 1704

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on March 9, 2023, with amendments.

(Sponsorship Updated As Of: 12/21/2023)

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 read
8 as follows:

9 7. A law enforcement officer shall disseminate and explain to the
10 victim the following notice, which shall be ¹**["written"] prepared¹** ¹**["in**
11 **both English and Spanish"]** ¹**[".]"** by the ¹**["Administrative Office of the**
12 **Courts,]"** ¹**Attorney General¹** in English, Spanish, and ¹**up to¹ 10**
13 **additional** ¹**high demand¹** languages ¹**["commonly"]¹** **spoken in the**
14 **State:**

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

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

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

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

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

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

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

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

36 On weekends, holidays and other times when the courts are closed,
37 you still have a right to get a TRO. The police officer who gave you
38 this paper can help you get in touch with a judge who can give you a
39 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 read
43 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted March 9, 2023.

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

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

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

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

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

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

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

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

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

44 f. A plaintiff may seek emergency, ex parte relief in the nature of
45 a temporary restraining order. A municipal court judge or a judge of
46 the Family Part of the Chancery Division of the Superior Court may
47 enter an ex parte order when necessary to protect the life, health or
48 well-being of a victim on whose behalf the relief is sought.

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

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

14 (2) '[Any temporary restraining order shall be issued in the
15 primary language or languages used by both the plaintiff and the
16 defendant] The Administrative Office of the Court shall prepare
17 standard templates for temporary restraining orders in English,
18 Spanish, and the other high demand languages identified in its
19 Language Access Plan as approved by the Supreme Court. These
20 templates shall be available for law enforcement, judges of the
21 Municipal Court, and judges and staff of the Superior Court to
22 provide to the victim and defendant when issuing temporary
23 restraining orders pursuant to this section¹.

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

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

46 If the order requires the surrender of any firearm or other weapon,
47 a law enforcement officer shall accompany the defendant, or may
48 proceed without the defendant if necessary, to the scene of the

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

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

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

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

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

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

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

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

5 q. Prior to the issuance of any temporary or final restraining order
6 issued pursuant to this section, the court shall order that a search be
7 made of the domestic violence central registry with regard to the
8 defendant's record.

9 (cf: P.L.2016, c.91, s.2)

10

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

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

31 (1) The previous history of domestic violence between the plaintiff
32 and defendant, including threats, harassment and physical 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 the
37 victim's safety; and

38 (6) The existence of a verifiable order of protection from another
39 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 act
45 of contempt under this act, shall not be subject to mediation or
46 negotiation in any form. In addition, where a temporary or final order
47 has been issued pursuant to this act, no party shall be ordered to
48 participate in mediation on the issue of custody or parenting time.

1 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 The Administrative Office of the Courts shall prepare standard
4 templates for final restraining orders in English, Spanish and the other
5 high demand languages identified in its Language Access Plan as
6 approved by the Supreme Court. These templates shall be available
7 for judges and staff of the Superior Court Family Part to provide to the
8 victim and defendant when issuing final restraining orders pursuant to
9 this section¹.

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

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

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

43 (2) An order granting exclusive possession to the plaintiff of the
44 residence or household regardless of whether the residence or
45 household is jointly or solely owned by the parties or jointly or solely
46 leased by the parties. This order shall not in any manner affect title or
47 interest to any real property held by either party or both jointly. If it is
48 not possible for the victim to remain in the residence, the court may

1 order the defendant to pay the victim's rent at a residence other than
2 the one previously shared by the parties if the defendant is found to
3 have a duty to support the victim and the victim requires alternative
4 housing.

5 (3) An order providing for parenting time. The order shall protect
6 the safety and well-being of the plaintiff and minor children and shall
7 specify the place and frequency of parenting time. Parenting time
8 arrangements shall not compromise any other remedy provided by the
9 court by requiring or encouraging contact between the plaintiff and
10 defendant. Orders for parenting time may include a designation of a
11 place of parenting time away from the plaintiff, the participation of a
12 third party, or supervised parenting time.

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

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

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

41 (5) An order requiring the defendant to receive professional
42 domestic violence counseling from either a private source or a source
43 appointed by the court and, in that event, requiring the defendant to
44 provide the court at specified intervals with documentation of
45 attendance at the professional counseling. The court may order the
46 defendant to pay for the professional counseling. No application by
47 the defendant to dissolve a final order which contains a requirement
48 for attendance at professional counseling pursuant to this paragraph

1 shall be granted by the court unless, in addition to any other provisions
2 required by law or conditions ordered by the court, the defendant has
3 completed all required attendance at such counseling.

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

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

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

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

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

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

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

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

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

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

1 (16) In addition to the order required by this subsection
2 prohibiting the defendant from possessing any firearm, the court may
3 also issue an order prohibiting the defendant from possessing any other
4 weapon enumerated in subsection r. of N.J.S.2C:39-1 and ordering the
5 search for and seizure of any firearm or other weapon at any location
6 where the judge has reasonable cause to believe the weapon is located.
7 The judge shall state with specificity the reasons for and scope of the
8 search and seizure authorized by the order.

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

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

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

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

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

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

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

39
40 4. This act shall take effect on the 120th day following
41 enactment.