

[Second Reprint]

**ASSEMBLY, No. 3730**

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**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

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INTRODUCED MAY 2, 2022

**Sponsored by:**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**SYNOPSIS**

Permits court to order counseling for children in households with domestic violence in appropriate cases; requires order of permanent custody to domestic violence victim in appropriate cases.

**CURRENT VERSION OF TEXT**

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



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

1 AN ACT concerning counseling for a child in certain domestic  
2 violence situations and amending 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 12 of P.L.1991, c.261 (C.2C:25-28) is amended to  
8 read as follows:

9 12. a. A victim may file a complaint alleging the commission of  
10 an act of domestic violence with the Family Part of the Chancery  
11 Division of the Superior Court in conformity with the Rules of  
12 Court. The court shall not dismiss any complaint or delay  
13 disposition of a case because the victim has left the residence to  
14 avoid further incidents of domestic violence. Filing a complaint  
15 pursuant to this section shall not prevent the filing of a criminal  
16 complaint for the same act.

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

23 A plaintiff may apply for relief under this section in a court  
24 having jurisdiction over the place where the alleged act of domestic  
25 violence occurred, where the defendant resides, or where the  
26 plaintiff resides or is sheltered, and the court shall follow the same  
27 procedures applicable to other emergency applications. Criminal  
28 complaints filed pursuant to this act shall be investigated and  
29 prosecuted in the jurisdiction where the offense is alleged to have  
30 occurred. Contempt complaints filed pursuant to N.J.S.2C:29-9  
31 shall be prosecuted in the county where the contempt is alleged to  
32 have been committed and a copy of the contempt complaint shall be  
33 forwarded to the court that issued the order alleged to have been  
34 violated.

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

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

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

44 (3) Information provided by the plaintiff concerning firearms to  
45 which the defendant has access shall be kept confidential and shall

**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:

<sup>1</sup>Assembly AJU committee amendments adopted February 16, 2023.

<sup>2</sup>Assembly AJU committee amendments adopted March 9, 2023.

1 not be disseminated or disclosed, provided that nothing in this  
2 subsection shall prohibit dissemination or disclosure of this  
3 information in a manner consistent with and in furtherance of the  
4 purpose for which the information was provided.

5 d. Summons and complaint forms shall be readily available at  
6 the clerk's office, at the municipal courts and at municipal and State  
7 police stations.

8 e. As soon as the domestic violence complaint is filed, both the  
9 victim and the abuser shall be advised of any programs or services  
10 available for advice and counseling, including services available for  
11 children who may have witnessed or been exposed to domestic  
12 violence while residing in the household.

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

19 g. If it appears that the plaintiff is in danger of domestic  
20 violence, the judge shall, upon consideration of the plaintiff's  
21 domestic violence complaint, order emergency ex parte relief, in the  
22 nature of a temporary restraining order. A decision shall be made  
23 by the judge regarding the emergency relief forthwith.

24 h. A judge may issue a temporary restraining order upon sworn  
25 testimony or complaint of an applicant who is not physically  
26 present, pursuant to court rules, or by a person who represents a  
27 person who is physically or mentally incapable of filing personally.  
28 A temporary restraining order may be issued if the judge is satisfied  
29 that exigent circumstances exist sufficient to excuse the failure of  
30 the applicant to appear personally and that sufficient grounds for  
31 granting the application have been shown.

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

47 j. Emergency relief may include forbidding the defendant from  
48 returning to the scene of the domestic violence, forbidding the

1 defendant from possessing any firearm or other weapon enumerated  
2 in subsection r. of N.J.S.2C:39-1, ordering the search for and  
3 seizure of any firearm or other weapon at any location where the  
4 judge has reasonable cause to believe the weapon is located and the  
5 seizure of any firearms purchaser identification card or permit to  
6 purchase a handgun issued to the defendant and any other  
7 appropriate relief.

8 If the order requires the surrender of any firearm or other  
9 weapon, a law enforcement officer shall accompany the defendant,  
10 or may proceed without the defendant if necessary, to the scene of  
11 the domestic violence or any other location where the judge has  
12 reasonable cause to believe any firearm or other weapon belonging  
13 to the defendant is located, to ensure that the defendant does not  
14 gain access to any firearm or other weapon, and that the firearm or  
15 other weapon is appropriately surrendered in accordance with the  
16 order. If the order prohibits the defendant from returning to the  
17 scene of domestic violence or any other location where the judge  
18 has reasonable cause to believe any firearm or other weapon  
19 belonging to the defendant is located, any firearm or other weapon  
20 located there shall be seized by a law enforcement officer. The  
21 order shall include notice to the defendant of the penalties for a  
22 violation of any provision of the order, including but not limited to  
23 the penalties for contempt of court and unlawful possession of a  
24 firearm or other weapon pursuant to N.J.S.2C:39-5. Other  
25 appropriate relief may include but is not limited to an order  
26 directing the possession of any animal owned, possessed, leased,  
27 kept, or held by either party or a minor child residing in the  
28 household and providing that the animal shall not be disposed of  
29 prior to entry of a final order pursuant to section 13 of P.L.1991,  
30 c.261 (C.2C:25-29).

31 The judge shall state with specificity the reasons for and scope of  
32 any search and seizure authorized by the order. The provisions of  
33 this subsection prohibiting a defendant from possessing a firearm or  
34 other weapon shall not apply to any law enforcement officer while  
35 actually on duty, or to any member of the Armed Forces of the  
36 United States or member of the National Guard while actually on  
37 duty or traveling to or from an authorized place of duty.

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

42 l. An order granting emergency relief, together with the  
43 complaint or complaints, shall immediately be forwarded to the  
44 appropriate law enforcement agency for service on the defendant,  
45 and to the police of the municipality in which the plaintiff resides or  
46 is sheltered, and shall immediately be served upon the defendant by  
47 the police, except that an order issued during regular court hours  
48 may be forwarded to the sheriff for immediate service upon the

1 defendant in accordance with the Rules of Court. If personal  
2 service cannot be effected upon the defendant, the court may order  
3 other appropriate substituted service. At no time shall the plaintiff  
4 be asked or required to serve any order on the defendant.

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

6 n. Notice of temporary restraining orders issued pursuant to  
7 this section shall be sent by the clerk of the court or other person  
8 designated by the court to the appropriate chiefs of police, members  
9 of the State Police and any other appropriate law enforcement  
10 agency or court.

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

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

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

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

20  
21 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read  
22 as follows:

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

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

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

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

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

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

1 (6) The existence of a verifiable order of protection from another  
2 jurisdiction.

3 An order issued under this act shall only restrain or provide  
4 damages payable from a person against whom a complaint has been  
5 filed under this act and only after a finding or an admission is made  
6 that an act of domestic violence was committed by that person. The  
7 issue of whether or not a violation of this act occurred, including an act  
8 of contempt under this act, shall not be subject to mediation or  
9 negotiation in any form. In addition, where a temporary or final order  
10 has been issued pursuant to this act, no party shall be ordered to  
11 participate in mediation on the issue of custody or parenting time.

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

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

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

45 (2) An order granting exclusive possession to the plaintiff of the  
46 residence or household regardless of whether the residence or  
47 household is jointly or solely owned by the parties or jointly or solely  
48 leased by the parties. This order shall not in any manner affect title or

1 interest to any real property held by either party or both jointly. If it is  
2 not possible for the victim to remain in the residence, the court may  
3 order the defendant to pay the victim's rent at a residence other than  
4 the one previously shared by the parties if the defendant is found to  
5 have a duty to support the victim and the victim requires alternative  
6 housing.

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

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

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

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

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

1 the defendant to dissolve a final order which contains a requirement  
2 for attendance at professional counseling pursuant to this paragraph  
3 shall be granted by the court unless, in addition to any other provisions  
4 required by law or conditions ordered by the court, the defendant has  
5 completed all required attendance at such counseling.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

27 (20) An order requiring the defendant to pay for a child to receive  
28 professional domestic violence counseling at the plaintiff's request,  
29 and, in that event, requiring the defendant to provide the court with  
30 documentation of payment to the professional counseling entity.  
31 Further, the court may order a defendant to provide reimbursement for  
32 costs incurred by the plaintiff associated with providing counseling for  
33 a child. <sup>2</sup>The order may require the defendant to pay the victim  
34 directly, to reimburse the Victims of Crime Compensation Office for  
35 any and all compensation paid by the Victims of Crime Compensation  
36 Office directly to or on behalf of the victim, and may require that the  
37 defendant reimburse any parties that may have compensated the  
38 victim, as the court may determine.<sup>2</sup> <sup>1</sup>The court may enter such order  
39 upon evaluating and determining the defendant's ability to pay for  
40 such services, either in whole or in part.

41 (21) If the court finds that an award of permanent sole custody to  
42 the plaintiff serves the best interests of the child, the court shall order  
43 permanent sole custody of the minor child to the plaintiff with  
44 appropriate parenting time for the defendant in accordance with  
45 section 3 of P.L. , c. (C. ) (pending before the Legislature as this  
46 bill).<sup>1</sup>

47 c. Notice of orders issued pursuant to this section shall be sent by  
48 the clerk of the Family Part of the Chancery Division of the Superior

1 Court or other person designated by the court to the appropriate chiefs  
2 of police, members of the State Police and any other appropriate law  
3 enforcement agency.

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

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

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

14

15 <sup>1</sup>3. (New section) a. Notwithstanding any provision of law to  
16 the contrary, a person found by the court to have committed  
17 domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.)  
18 shall not be awarded custody of any minor child, except upon a  
19 showing of clear and convincing evidence that it is in the best  
20 interest of the child for custody to be awarded to that person. A  
21 court that awards such custody to a person found by the court to  
22 have committed domestic violence pursuant to P.L.1991, c.261  
23 (C.2C:25-17 et seq.) shall stay enforcement of the order or  
24 judgment for at least 10 days in order to permit the appeal of the  
25 order or judgment and application for a stay in accordance with  
26 Rules of Court.

27 b. A denial of custody or visitation under this section shall not  
28 by itself terminate the parental rights of the person denied custody,  
29 nor shall it affect the obligation of the person to support the minor  
30 child. The court may provide for appropriate parenting time for the  
31 noncustodial parent where the court deems appropriate.

32 c. In any proceeding for the establishment or enforcement of  
33 such an obligation of support the victim shall not be required to  
34 appear in the presence of the person found by the court to have  
35 committed domestic violence pursuant to P.L.1991, c.261 (C.2C:25-  
36 17 et seq.), and the victim's and child's whereabouts shall be kept  
37 confidential.<sup>1</sup>

38

39 <sup>1</sup>[3.] 4.<sup>1</sup> This act shall take effect immediately.