

[First Reprint]

SENATE, No. 1809

STATE OF NEW JERSEY
220th LEGISLATURE

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SYNOPSIS

Adds coercive control to definition of domestic violence.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on June 12, 2023, with amendments.



(Sponsorship Updated As Of: 6/15/2023)

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

3

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

6

7 ¹[1. Section 3 of P.L.1991, c.261 (C.2C:25-19) is amended to
8 read as follows:

9 3. As used in this act:

10 a. "Domestic violence" means the occurrence of one or more of
11 the following acts inflicted upon a person protected under this act
12 by an adult or an emancipated minor:

13 (1) Homicide N.J.S.2C:11-1 et seq.

14 (2) Assault N.J.S.2C:12-1

15 (3) Terroristic threats N.J.S.2C:12-3

16 (4) Kidnapping N.J.S.2C:13-1

17 (5) Criminal restraint N.J.S.2C:13-2

18 (6) False imprisonment N.J.S.2C:13-3

19 (7) Sexual assault N.J.S.2C:14-2

20 (8) Criminal sexual contact N.J.S.2C:14-3

21 (9) Lewdness N.J.S.2C:14-4

22 (10) Criminal mischief N.J.S.2C:17-3

23 (11) Burglary N.J.S.2C:18-2

24 (12) Criminal trespass N.J.S.2C:18-3

25 (13) Harassment N.J.S.2C:33-4

26 (14) Stalking P.L.1992, c.209 (C.2C:12-10)

27 (15) Criminal coercion N.J.S.2C:13-5

28 (16) Robbery N.J.S.2C:15-1

29 (17) Contempt of a domestic violence order pursuant to
30 subsection b. of N.J.S.2C:29-9 that constitutes a crime or disorderly
31 persons offense

32 (18) Any other crime involving risk of death or serious bodily
33 injury to a person protected under the "Prevention of Domestic
34 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.)

35 (19) Cyber-harassment P.L.2013, c.272 (C.2C:33-4.1)

36 (20) Coercive control. As used in this paragraph, "coercive
37 control" means a pattern of behavior against a person protected
38 under this act that in purpose or effect unreasonably interferes with
39 a person's free will and personal liberty. "Coercive control"
40 includes, but is not limited to, unreasonably engaging in any of the
41 following:

42 (a) Isolating the person from friends, relatives, or other sources
43 of support;

44 (b) Depriving the person of basic necessities;

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:

¹Senate SJU committee amendments adopted June 12, 2023.

1 (c) Controlling, regulating or monitoring the person's
2 movements, communications, daily behavior, finances, economic
3 resources or access to services;

4 (d) Compelling the person by force, threat or intimidation,
5 including, but not limited to, threats based on actual or suspected
6 immigration status, to (i) engage in conduct from which such person
7 has a right to abstain, or (ii) abstain from conduct that such person
8 has a right to pursue;

9 (e) Name-calling, degradation, and demeaning the person
10 frequently;

11 (f) Threatening to harm or kill the individual or a child or
12 relative of the individual;

13 (g) Threatening to public information or make reports to the
14 police or to the authorities;

15 (h) Damaging property or household goods; or

16 (i) Forcing the person to take part in criminal activity or child
17 abuse.

18 When one or more of these acts is inflicted by an unemancipated
19 minor upon a person protected under this act, the occurrence shall
20 not constitute "domestic violence," but may be the basis for the
21 filing of a petition or complaint pursuant to the provisions of
22 section 11 of P.L.1982, c.77 (C.2A:4A-30).

23 b. "Law enforcement agency" means a department, division,
24 bureau, commission, board or other authority of the State or of any
25 political subdivision thereof which employs law enforcement
26 officers.

27 c. "Law enforcement officer" means a person whose public
28 duties include the power to act as an officer for the detection,
29 apprehension, arrest and conviction of offenders against the laws of
30 this State.

31 d. "Victim of domestic violence" means a person protected
32 under this act and shall include any person who is 18 years of age or
33 older or who is an emancipated minor and who has been subjected
34 to domestic violence by a spouse, former spouse, or any other
35 person who is a present household member or was at any time a
36 household member. "Victim of domestic violence" also includes
37 any person, regardless of age, who has been subjected to domestic
38 violence by a person with whom the victim has a child in common,
39 or with whom the victim anticipates having a child in common, if
40 one of the parties is pregnant. "Victim of domestic violence" also
41 includes any person who has been subjected to domestic violence
42 by a person with whom the victim has had a dating relationship.

43 e. "Emancipated minor" means a person who is under 18 years
44 of age but who has been married, has entered military service, has a
45 child or is pregnant or has been previously declared by a court or an
46 administrative agency to be emancipated.

47 (cf: P.L.2016, c.77, s.1) **1**

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

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

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

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

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

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

29 (5) In determining custody and parenting time the protection of
30 the victim's safety; **【and】**

31 (6) The existence of a verifiable order of protection from
32 another jurisdiction; and

33 (7) Any pattern of coercive control against a person that in
34 purpose or effect unreasonably interferes with, threatens, or exploits
35 a person's liberty, freedom, bodily integrity, or human rights with
36 the court specifically considering evidence of the need for
37 protection from immediate danger or the prevention of further
38 abuse. If the court finds that one or more factors of coercive
39 control are more or less relevant than others, the court shall make
40 specific written findings of fact and conclusions of law on the
41 reasons why the court reached that conclusion. Coercive control
42 may include, but shall not be limited to:

43 (a) isolating the person from friends, relatives, transportation,
44 medical care, or other source of support;

45 (b) depriving the person of basic necessities;

46 (c) monitoring the person's movements, communications, daily
47 behavior, finances, economic resources, or access to services;

1 (d) compelling the person by force, threat, or intimidation,
2 including, but not limited to, threats based on actual or suspected
3 immigration status;

4 (e) threatening to make or making baseless reports to the police,
5 courts, the Division of Child Protection and Permanency (DCPP)
6 within the Department of Children and Families, the Board of
7 Social Services, Immigration and Customs Enforcement (ICE), or
8 other parties;

9 (f) threatening to harm or kill the individual's relative or pet;

10 (g) threatening to deny or interfere with an individual's custody
11 or parenting time, other than through enforcement of a valid
12 custody arrangement or court order pursuant to current law
13 including, but not limited to, an order issued pursuant to Title 9 of
14 the Revised Statutes; or

15 (h) any other factors or circumstances that the court deems
16 relevant or material.

17 An order issued under this act shall only restrain or provide
18 damages payable from a person against whom a complaint has been
19 filed under this act and only after a finding or an admission is made
20 that an act of domestic violence was committed by that person. The
21 issue of whether or not a violation of this act occurred, including an
22 act of contempt under this act, shall not be subject to mediation or
23 negotiation in any form. In addition, where a temporary or final
24 order has been issued pursuant to this act, no party shall be ordered
25 to participate in mediation on the issue of custody or parenting time.

26 b. In proceedings in which complaints for restraining orders
27 have been filed, the court shall grant any relief necessary to prevent
28 further abuse. In addition to any other provisions, any restraining
29 order issued by the court shall bar the defendant from purchasing,
30 owning, possessing or controlling a firearm and from receiving or
31 retaining a firearms purchaser identification card or permit to
32 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
33 which the restraining order is in effect or two years, whichever is
34 greater. The order shall require the immediate surrender of any
35 firearm or other weapon belonging to the defendant. The order
36 shall include notice to the defendant of the penalties for a violation
37 of any provision of the order, including but not limited to the
38 penalties for contempt of court and unlawful possession of a firearm
39 or other weapon pursuant to N.J.S.2C:39-5.

40 A law enforcement officer shall accompany the defendant, or
41 may proceed without the defendant if necessary, to any place where
42 any firearm or other weapon belonging to the defendant is located
43 to ensure that the defendant does not gain access to any firearm or
44 other weapon, and a law enforcement officer shall take custody of
45 any firearm or other weapon belonging to the defendant. If the
46 order prohibits the defendant from returning to the scene of
47 domestic violence or other place where firearms or other weapons
48 belonging to the defendant are located, any firearm or other weapon

1 located there shall be seized by a law enforcement officer. The
2 provisions of this subsection requiring the surrender or removal of a
3 firearm, card, or permit shall not apply to any law enforcement
4 officer while actually on duty, or to any member of the Armed
5 Forces of the United States or member of the National Guard while
6 actually on duty or traveling to or from an authorized place of duty.
7 At the hearing the judge of the Family Part of the Chancery
8 Division of the Superior Court may issue an order granting any or
9 all of the following relief:

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

12 (2) An order granting exclusive possession to the plaintiff of the
13 residence or household regardless of whether the residence or
14 household is jointly or solely owned by the parties or jointly or
15 solely leased by the parties. This order shall not in any manner
16 affect title or interest to any real property held by either party or
17 both jointly. If it is not possible for the victim to remain in the
18 residence, the court may order the defendant to pay the victim's rent
19 at a residence other than the one previously shared by the parties if
20 the defendant is found to have a duty to support the victim and the
21 victim requires alternative housing.

22 (3) An order providing for parenting time. The order shall
23 protect the safety and well-being of the plaintiff and minor children
24 and shall specify the place and frequency of parenting time.
25 Parenting time arrangements shall not compromise any other
26 remedy provided by the court by requiring or encouraging contact
27 between the plaintiff and defendant. Orders for parenting time may
28 include a designation of a place of parenting time away from the
29 plaintiff, the participation of a third party, or supervised parenting
30 time.

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

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

43 (4) An order requiring the defendant to pay to the victim
44 monetary compensation for losses suffered as a direct result of the
45 act of domestic violence. The order may require the defendant to
46 pay the victim directly, to reimburse the Victims of Crime
47 Compensation Office for any and all compensation paid by the
48 Victims of Crime Compensation Office directly to or on behalf of

1 the victim, and may require that the defendant reimburse any parties
2 that may have compensated the victim, as the court may determine.
3 Compensatory losses shall include, but not be limited to, loss of
4 earnings or other support, including child or spousal support, out-
5 of-pocket losses for injuries sustained, cost of repair or replacement
6 of real or personal property damaged or destroyed or taken by the
7 defendant, cost of counseling for the victim, moving or other travel
8 expenses, reasonable attorney's fees, court costs, and compensation
9 for pain and suffering. Where appropriate, punitive damages may be
10 awarded in addition to compensatory damages.

11 (5) An order requiring the defendant to receive professional
12 domestic violence counseling from either a private source or a
13 source appointed by the court and, in that event, requiring the
14 defendant to provide the court at specified intervals with
15 documentation of attendance at the professional counseling. The
16 court may order the defendant to pay for the professional
17 counseling. No application by the defendant to dissolve a final
18 order which contains a requirement for attendance at professional
19 counseling pursuant to this paragraph shall be granted by the court
20 unless, in addition to any other provisions required by law or
21 conditions ordered by the court, the defendant has completed all
22 required attendance at such counseling.

23 (6) An order restraining the defendant from entering the
24 residence, property, school, or place of employment of the victim or
25 of other family or household members of the victim and requiring
26 the defendant to stay away from any specified place that is named
27 in the order and is frequented regularly by the victim or other
28 family or household members.

29 (7) An order restraining the defendant from making contact with
30 the plaintiff or others, including an order forbidding the defendant
31 from personally or through an agent initiating any communication
32 likely to cause annoyance or alarm including, but not limited to,
33 personal, written, or telephone contact with the victim or other
34 family members, or their employers, employees, or fellow workers,
35 or others with whom communication would be likely to cause
36 annoyance or alarm to the victim.

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

43 (9) An order granting either party temporary possession of
44 specified personal property, such as an automobile, checkbook,
45 documentation of health insurance, an identification document, a
46 key, and other personal effects.

47 (10) An order awarding emergency monetary relief, including
48 emergency support for minor children, to the victim and other

1 dependents, if any. An ongoing obligation of support shall be
2 determined at a later date pursuant to applicable law.

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

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

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

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

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

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

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

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

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

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

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

7 e. Prior to the issuance of any order pursuant to this section,
8 the court shall order that a search be made of the domestic violence
9 central registry.¹

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

11

12 2. This act shall take effect immediately.