

SENATE, No. 2817

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 9, 2022

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Establishes standards for domestic violence counseling and creates “Abuse Intervention Program Advisory Committee.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2022)

1 AN ACT concerning domestic violence, amending and
2 supplementing 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 13 of P.L.1991, c.261 (C.2C:25-29) is amended to
8 read as follows:

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

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

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

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

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

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

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

39 An order issued under this act shall only restrain or provide
40 damages payable from a person against whom a complaint has been
41 filed under this act and only after a finding or an admission is made
42 that an act of domestic violence was committed by that person. The
43 issue of whether or not a violation of this act occurred, including an
44 act of contempt under this act, shall not be subject to mediation or
45 negotiation in any form. In addition, where a temporary or final

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 order has been issued pursuant to this act, no party shall be ordered
2 to participate in mediation on the issue of custody or parenting time.

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 as set forth in section 2 of P.L. , c.
38 (C.) (pending before the Legislature as this bill), from either a
39 private source or a source appointed by the court and, in that event,
40 requiring the defendant to provide the court at specified intervals
41 with documentation of attendance at the professional counseling.
42 The court may order the defendant to pay for the professional
43 counseling. No application by the defendant to dissolve a final
44 order which contains a requirement for attendance at professional
45 counseling pursuant to this paragraph shall be granted by the court
46 unless, in addition to any other provisions required by law or
47 conditions ordered by the court, the defendant has completed all
48 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

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

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

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

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

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

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

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

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

37
38 2. (New section) Any domestic violence counseling program in
39 which a defendant participates based on a court order issued
40 pursuant to paragraph (5) of subsection b. of section 13 of
41 P.L.1991, c.261 (C.2C:25-29) shall contain the following
42 components:

43 a. Risk assessments that identify dynamics of domestic
44 violence and escalating risk factors, and includes information
45 provided by the courts;

46 b. Working collaboratively with the courts to support offender
47 accountability, requiring that offenders be held accountable for their

1 behavior, and that offenders are provided with services geared
2 towards behavioral change;

3 c. Information and education concerning the tactics of power
4 and control and the understanding of domestic violence as a
5 domination and control issue;

6 d. A protocol to demonstrate the defendant's attendance in
7 programming, and additional reporting as requested by the court to
8 support a prompt and effective review by the court for
9 noncompliance; and

10 e. Regular reviews of the program and compliance by the New
11 Jersey Advisory Council on Domestic Violence or the Department
12 of Children and Families for Batterers' Intervention Programs
13 funded by the Department of Children and Families.

14

15 3. (New section) a. There is created, within the Department of
16 Children and Families, the "Abuse Intervention Program Advisory
17 Committee." Committee membership shall consist of members
18 with recognizable expertise in the field of domestic violence.

19 The advisory committee shall include representatives from the
20 following: Administrative Office of the Courts, including
21 representatives of the Municipal Court and the Family and Criminal
22 Divisions of Superior Court; Department of Corrections;
23 Department of Human Services, Division of Mental Health and
24 Addiction Services; Department of Law and Public Safety;
25 Department of Education; domestic violence advocates who
26 represent underserved communities in rural and urban settings;
27 practicing licensed mental health professional; community
28 providers with experience providing treatment to domestic violence
29 perpetrators; a person who has received abuse intervention services;
30 community organizers providing restorative justice practices; and
31 faith community leaders.

32 b. In consultation with the committee, the Department of
33 Children and Families shall select an existing evidence-based,
34 evidence-supported or promising Batterers' Intervention Program
35 model.

36 c. Based on strategic priorities and subject to the availability of
37 funds, the Department of Children and Families shall fund the
38 selected abuse intervention programs.

39 d. The Department of Children and Families shall access
40 consultation and technical assistance from selected model
41 developers or other field experts.

42 e. The Department of Children and Families shall support the
43 development, refinement, and maintenance of the necessary
44 implementation infrastructure including, but not limited to, model
45 refinement, training, quality improvement, and evaluation.

46 f. The Department of Children and Families shall provide
47 periodic progress updates to the committee on the selected
48 Batterers' Intervention Program model.

1
2 4. This act shall take effect immediately.
3
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5 STATEMENT
6

7 This bill sets forth certain requirements governing court-ordered
8 domestic violence counseling and creates the “Abuse Intervention
9 Program Advisory Committee” within the Department of Children and
10 Families.

11 Under current law, as part of a final restraining order issued by
12 the court in a domestic violence matter, the court may order the
13 defendant to receive professional domestic violence counseling
14 from either a private source or a source appointed by the court and,
15 in that event, require the defendant to provide the court with
16 documentation of attendance.

17 Under the bill, any domestic violence counseling program in
18 which a defendant participates based on a court order issued in a
19 domestic violence matter would include the following components:

20 (1) risk assessments that identify dynamics of domestic violence
21 and escalating risk factors, and include information provided by the
22 courts;

23 (2) working collaboratively with the courts to support offender
24 accountability, requiring that offenders be held accountable for their
25 behavior, and that offenders are provided with services geared
26 towards behavioral change;

27 (3) information and education concerning the tactics of power
28 and control and the understanding of domestic violence as a
29 domination and control issue;

30 (4) a protocol to demonstrate the defendant’s attendance in
31 programming, and additional reporting as requested by the court to
32 support a prompt and effective review by the court for
33 noncompliance; and

34 (5) regular reviews of the program and compliance by the New
35 Jersey Advisory Council on Domestic Violence or the Department of
36 Children and Families for Batterers’ Intervention Programs funded by
37 the Department of Children and Families.

38 The bill creates the “Abuse Intervention Program Advisory
39 Committee” within the Department of Children and Families.

40 The advisory committee is to include representatives from the
41 following: Administrative Office of the Courts, including
42 representatives of the Municipal Court and the Family and Criminal
43 Divisions of Superior Court; Department of Corrections; Department
44 of Human Services, Division of Mental Health and Addiction
45 Services; Department of Law and Public Safety; Department of
46 Education; domestic violence advocates who represent underserved
47 communities in rural and urban settings; practicing licensed mental
48 health professional; community providers with experience providing

1 treatment to domestic violence perpetrators; a person who has received
2 abuse intervention services; community organizers providing
3 restorative justice practices; and faith community leaders.

4 In consultation with the committee, the Department of Children
5 and Families would select an existing evidence-based, evidence-
6 supported or promising Batterers' Intervention Program model. Based
7 on strategic priorities and subject to the availability of funds, the
8 Department of Children and Families is responsible for funding the
9 selected abuse intervention programs. The Department of Children
10 and Families is to access consultation and technical assistance from
11 selected model developers or other field experts; support the
12 development, refinement, and maintenance of the necessary
13 implementation infrastructure including, but not limited to, model
14 refinement, training, quality improvement, and evaluation; and provide
15 periodic progress updates to the committee on the selected Batterers'
16 Intervention Program model.

17 The domestic violence counseling provisions of this bill embody
18 recommendation 18 of the Report of the Supreme Court Ad Hoc
19 Committee on Domestic Violence, issued June 2016.