

SENATE, No. 4095

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED NOVEMBER 30, 2023

Sponsored by:

Senator ANTHONY M. BUCCO
District 25 (Morris and Somerset)

Co-Sponsored by:

Senators Stanfield and Diegnan

SYNOPSIS

Establishes protections from abusive and controlling litigation for victims of domestic violence.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2023)

1 AN ACT concerning abusive and controlling litigation in domestic
2 violence situations and supplementing P.L.1991, c.261.

3

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

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7 1. As used in this section:

8 a. "Abusive and controlling litigation" means litigation
9 initiated, advanced, or continued by a person that is filed in bad
10 faith and primarily for the purpose of delay; malicious injury; or
11 harassing, intimidating, or maintaining contact with the other party.

12 "Litigation" means any kind of legal action or proceeding
13 including, but not limited to: filing a summons, complaint, demand,
14 or petition; serving a summons, complaint, demand, or petition,
15 regardless of whether it has been filed; filing a motion, notice of
16 court date, or order to appear; serving a motion, notice of court
17 date, or order to appear, regardless of whether it has been filed or
18 scheduled; filing a subpoena, subpoena duces tecum, request for
19 interrogatories, request for production, notice of deposition, or other
20 discovery request; or serving a subpoena, subpoena duces tecum,
21 request for interrogatories, request for production, notice of
22 deposition, or other discovery request.

23 "Victim of abusive and controlling litigation" means a person
24 against whom abusive and controlling litigation has been initiated,
25 advanced, or continued by an abusive and controlling litigant.

26 b. Upon a motion filed pursuant to this section, the court shall
27 determine whether a person is an abusive and controlling litigant.
28 The court shall find that a person is an abusive and controlling
29 litigant if the person:

30 (1) has committed an act of domestic violence pursuant to the
31 provisions of the "Prevention of Domestic Violence Act of 1991,"
32 P.L.1991, c.261 (C.2C:25-17 et al.) or the provisions of a
33 substantially similar statute under the laws of another state or the
34 United States; and

35 (2) in bad faith and primarily for the purpose of delay; malicious
36 injury; or harassing, intimidating, or maintaining contact with the
37 other party, initiates, advances, or continues litigation against the
38 person who is the victim of the act of domestic violence; and

39 (3) with regard to litigation initiated, advanced, or continued by
40 the person allegedly engaging in abusive and controlling litigation,
41 the court finds by a preponderance of the evidence that:

42 (a) claims, allegations, and other legal contentions in the
43 litigation are without any reasonable basis in law or equity and
44 could not be supported by a good faith argument for an extension,
45 modification, or reversal of existing law, an existing order, or the
46 establishment of a new order; or

47 (b) allegations and other factual contentions in the litigation are
48 made without evidentiary support; or

1 (c) one or more issues that are the basis of the litigation have
2 previously been the subject of litigation filed in the same or another
3 court in this State or any other court of competent jurisdiction and
4 the actions have been litigated and disposed of unfavorably to the
5 alleged abusive and controlling litigant.

6 c. A motion may be filed at any time to determine whether a
7 person is an abusive and controlling litigant by a party who is a
8 victim of domestic violence pursuant to the provisions of the
9 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
10 (C.2C:25-17 et al.), or on the court's own motion. The motion may
11 be filed orally while under oath, or in writing, in accordance with
12 the rules of court. In its discretion, the court may schedule a
13 hearing to determine whether a person is an abusive and controlling
14 litigant or, in lieu of a hearing, the court may rely on an affidavit in
15 support of the motion.

16 d. There shall be a rebuttable presumption that a person is an
17 abusive and controlling litigant if:

18 (1) the litigation initiated, advanced, or continued by the person
19 allegedly engaging in abusive and controlling litigation involves the
20 same or substantially similar issues between the same or
21 substantially similar parties which have been litigated within the
22 past five years in the same court or any other court of competent
23 jurisdiction; or

24 (2) within the past 10 years, a court in this State or another
25 jurisdiction has determined that the party allegedly engaging in
26 abusive and controlling litigation has previously engaged in abusive
27 and controlling litigation or similar conduct; or

28 (3) within the past 10 years, the party allegedly engaging in
29 abusive and controlling litigation has been found to have initiated,
30 advanced, or continued litigation that was found to have been
31 frivolous pursuant to section 1 of P.L.1988, c.46 (C.2A:15-59.1) or
32 a similar rule or law in this State or another jurisdiction.

33 e. Upon finding that a person is an abusive and controlling
34 litigant, in addition to any other relief deemed appropriate, the court
35 shall enter an order:

36 (1) dismissing any matter or denying any relief requested
37 pursuant to pending abusive and controlling litigation initiated,
38 advanced, or continued by the abusive and controlling litigant;

39 (2) awarding reasonable attorneys' fees, expenses, and costs of
40 responding to the abusive and controlling litigation, including those
41 associated with a motion filed pursuant to this section;

42 (3) identifying the victim of the abusive and controlling
43 litigation and providing that the victim shall not be required to
44 respond any pending or future litigation, unless directed to do so by
45 the court; and

46 (4) prohibiting the abusive and controlling litigant from
47 initiating, advancing, or continuing litigation involving the victim
48 of the abusive and controlling litigation, except upon leave of court

1 granted upon application submitted in accordance with the rules of
2 court.

3 g. If the court finds by a preponderance of the evidence that the
4 litigation does not constitute abusive and controlling litigation, the
5 court shall enter written findings and the litigation shall proceed.

6 f. Nothing in this section shall be deemed to restrict an abusive
7 and controlling litigant from filing, initiating, advancing, or
8 continuing litigation that does not violate the provisions of this
9 subsection.

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11 2. This act shall take effect on the first day of the fourth month
12 next following the date of enactment.

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STATEMENT

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17 This bill establishes protections from abusive and controlling
18 litigation for victims of domestic violence.

19 Specifically, this bill provides additional protections for victims
20 of domestic violence who suffer continued abuse in the form of
21 abusive and controlling litigation. “Abusive and controlling
22 litigation” is defined under the bill to mean litigation initiated,
23 advanced, or continued by a person that is filed in bad faith and
24 primarily for the purpose of delay or malicious injury, or harassing,
25 intimidating, or maintaining contact with the other party.

26 While current law provides relief for citizens in this State who
27 are subjected to baseless or “frivolous” litigation, the relief is
28 limited to certain types of litigation, and typically limits the relief to
29 an award of attorneys’ fees and costs. Current law does not provide
30 specific protections for victims of domestic violence who are
31 subjected to ongoing litigation filed in bad faith by their abuser in
32 an attempt to maintain contact with them or cause financial or
33 emotional harm.

34 This bill establishes a process for the court to determine whether
35 a person is an abusive and controlling litigant. Under the bill, the
36 process is initiated upon motion of a victim of domestic violence or
37 on the court’s own motion. A person is deemed an abusive and
38 controlling litigant if the person has committed an act of domestic
39 violence pursuant to the provisions of the “Prevention of Domestic
40 Violence Act of 1991”; initiates, advances, or continues litigation
41 against their victim in bad faith and primarily for the purpose of
42 delay; malicious injury; or harassing, intimidating, or maintaining
43 contact with the victim; and the court finds, by a preponderance of
44 the evidence that:

- 1 • claims, allegations, and other legal contentions in the
2 litigation are without any reasonable basis in law or equity
3 and could not be supported by a good faith argument for an
4 extension, modification, or reversal of existing law, an
5 existing order, or the establishment of a new order; or
6 • allegations and other factual contentions in the litigation are
7 made without evidentiary support; or
8 • one or more of issues that are the basis of the litigation have
9 previously been the subject of litigation filed in the same or
10 another court in this State or any other court of competent
11 jurisdiction and the actions have been litigated and disposed
12 of unfavorably to the alleged abusive and controlling litigant.

13 The provisions of the bill provide that there is a rebuttable
14 presumption that a person is an abusive and controlling litigant if:

- 15 • the litigation initiated, advanced, or continued by the person
16 allegedly engaging in abusive and controlling litigation
17 involves the same or substantially similar issues between the
18 same or substantially similar parties which have been
19 litigated within the past five years; or
20 • within the past 10 years, a court has determined that person
21 has previously engaged in abusive and controlling litigation
22 or similar conduct; or
23 • within the past 10 years, the party allegedly engaging in
24 abusive and controlling litigation has been found to have
25 initiated, advanced, or continued litigation that was found to
26 have been frivolous.

27 Upon finding that a person is an abusive and controlling litigant,
28 the court is required to enter an order:

- 29 • dismissing any matter or denying any relief requested
30 pursuant to pending abusive and controlling litigation;
31 • awarding reasonable attorneys' fees and costs, including
32 those associated with a motion filed pursuant to this bill;
33 • providing that the victim is not required to respond any
34 pending or future litigation initiated by the abusive and
35 controlling litigant, unless directed to do so by the court; and
36 • prohibiting the abusive and controlling litigant from
37 initiating, advancing, or continuing litigation involving the
38 victim of the abusive and controlling litigation, except upon
39 leave of court granted upon application submitted in
40 accordance with the rules of court.

41 Nothing in the provisions of the bill is to be deemed to restrict an
42 abusive and controlling litigant from filing, initiating, advancing, or
43 continuing litigation that does not violate the provisions of the bill.