

# SENATE, No. 2483

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED AUGUST 1, 2016

**Sponsored by:**

**Senator LORETTA WEINBERG**

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**Senator JENNIFER BECK**

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**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators T.Kean, Allen, Addiego, Bateman, Assemblyman Holley, Assemblywomen Vainieri Huttie, Muoio, Jimenez, Assemblyman Lagana, Assemblywomen McKnight, Jones, Tucker and Pinkin**

**SYNOPSIS**

Enhances protections for domestic violence victims by restricting access to firearms by certain persons; provides for minimum terms of incarceration for offenders who commit physically violent acts.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 11/22/2016)

S2483 WEINBERG, BECK

2

1 AN ACT concerning domestic violence and firearms, amending  
2 P.L.1991, c.261, and supplementing Title 2C of the New Jersey  
3 Statutes.

4

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

7

8 1. Section 11 of P.L.1991, c.261 (C:2C:25-27) is amended to  
9 read as follows:

10 11. a. When a defendant is found guilty of a crime or offense  
11 involving domestic violence and a condition of sentence restricts  
12 the defendant's ability to have contact with the victim, the victim's  
13 friends, co-workers, or relatives, or an animal owned, possessed,  
14 leased, kept, or held by either party or a minor child residing in the  
15 household, that condition shall be recorded in an order of the court  
16 and a written copy of that order shall be provided to the victim by  
17 the clerk of the court or other person designated by the court. In  
18 addition to restricting a defendant's ability to have contact with the  
19 victim, the victim's friends, co-workers, or relatives, or an animal  
20 owned, possessed, leased, kept, or held by either party or a minor  
21 child residing in the household, the court may require the defendant  
22 to receive professional counseling from either a private source or a  
23 source appointed by the court, and if the court so orders, the court  
24 shall require the defendant to provide documentation of attendance  
25 at the professional counseling. In any case where the court order  
26 contains a requirement that the defendant receive professional  
27 counseling, no application by the defendant to dissolve the  
28 restraining order shall be granted unless, in addition to any other  
29 provisions required by law or conditions ordered by the court, the  
30 defendant has completed all required attendance at such counseling.

31 b. In addition the court may enter an order directing the  
32 possession of an animal owned, possessed, leased, kept, or held by  
33 either party or a minor child residing in the household. Where a  
34 person has abused or threatened to abuse such animal, there shall be  
35 a presumption that possession of the animal shall be awarded to the  
36 non-abusive party.

37 c. (1) When a defendant is found guilty of a crime or offense  
38 involving domestic violence, the court shall inform the defendant  
39 that the defendant is prohibited from purchasing, owning,  
40 possessing, or controlling a firearm pursuant to section 6 of  
41 P.L.1979, c.179 (C.2C:39-7) and from receiving or retaining a  
42 firearms purchaser identification card or permit to purchase a  
43 handgun pursuant to N.J.S.2C:58-3. The court shall order the  
44 defendant to arrange for the immediate surrender to a law  
45 enforcement officer of any firearm that has not already been seized

**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 or surrendered and any firearms purchaser identification card or  
2 permit to purchase a handgun possessed by the defendant. No later  
3 than five business days after the order is entered, however, the  
4 defendant may arrange to sell any surrendered firearm to a licensed  
5 retail dealer of firearms who shall be authorized to take possession  
6 of that purchased firearm from the law enforcement agency to  
7 which it was surrendered no later than 10 business days after the  
8 order is entered. Any card or permit issued to the defendant shall be  
9 deemed immediately revoked. The court shall establish a process  
10 for notifying the appropriate authorities of the conviction requiring  
11 the revocation of the card or permit. A law enforcement officer  
12 accepting a surrendered firearm shall provide the defendant with a  
13 receipt listing the date of surrender, the name of the defendant, and  
14 any item that has been surrendered, including the serial number,  
15 manufacturer, and model of the surrendered firearm. The defendant  
16 shall provide a copy of this receipt to the prosecutor within 48 hours  
17 of service of the order, and shall attest under penalty that any  
18 firearms owned or possessed at the time of the order have been  
19 transferred in accordance with this section and that the defendant  
20 currently does not possess any firearms. The defendant alternatively  
21 may attest under penalty that he did not own or possess a firearm at  
22 the time of the order and currently does not possess a firearm. If  
23 the court, upon motion of the prosecutor, finds probable cause that  
24 the defendant has failed to surrender any firearm, card, or permit,  
25 the court may order a search for and removal of these items at any  
26 location where the judge has reasonable cause to believe these items  
27 are located. The judge shall state with specificity the reasons for  
28 and the scope of the search and seizure authorized by the order.

29 (2) A law enforcement officer who receives a firearm that is  
30 surrendered, but not purchased and taken possession of by a  
31 licensed retail dealer of firearms within 10 business days of when  
32 the order is entered pursuant to paragraph (1) of this subsection,  
33 may dispose of the surrendered firearm in accordance with the  
34 provisions of N.J.S.2C:64-6. A firearm purchased by a licensed  
35 retail dealer from a defendant shall become part of the inventory of  
36 the dealer.

37 (cf: P.L.2011, c.213, s.2)

38

39 2. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to  
40 read as follows:

41 12. a. A victim may file a complaint alleging the commission of  
42 an act of domestic violence with the Family Part of the Chancery  
43 Division of the Superior Court in conformity with the Rules of  
44 Court. The court shall not dismiss any complaint or delay  
45 disposition of a case because the victim has left the residence to  
46 avoid further incidents of domestic violence. Filing a complaint  
47 pursuant to this section shall not prevent the filing of a criminal  
48 complaint for the same act.

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

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

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

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

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

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

34       d. Summons and complaint forms shall be readily available at  
35 the clerk's office, at the municipal courts and at municipal and State  
36 police stations.

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

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

46       g. If it appears that the plaintiff is in danger of domestic  
47 violence, the judge shall, upon consideration of the plaintiff's  
48 domestic violence complaint, order emergency ex parte relief, in the

1 nature of a temporary restraining order. A decision shall be made  
2 by the judge regarding the emergency relief forthwith.

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

11 i. An order for emergency, ex parte relief shall be granted  
12 upon good cause shown and shall remain in effect until a judge of  
13 the Family Part issues a further order. Any temporary order  
14 hereunder is immediately appealable for a plenary hearing de novo  
15 not on the record before any judge of the Family Part of the county  
16 in which the plaintiff resides or is sheltered if that judge issued the  
17 temporary order or has access to the reasons for the issuance of the  
18 temporary order and sets forth in the record the reasons for the  
19 modification or dissolution. The denial of a temporary restraining  
20 order by a municipal court judge and subsequent administrative  
21 dismissal of the complaint shall not bar the victim from refiling a  
22 complaint in the Family Part based on the same incident and  
23 receiving an emergency, ex parte hearing de novo not on the record  
24 before a Family Part judge, and every denial of relief by a  
25 municipal court judge shall so state.

26 j. Emergency relief may include forbidding the defendant from  
27 returning to the scene of the domestic violence, forbidding the  
28 defendant from possessing any firearm or other weapon enumerated  
29 in subsection r. of N.J.S.2C:39-1, ordering the search for and  
30 seizure of any **[such]** firearm or other weapon at any location  
31 where the judge has reasonable cause to believe the weapon is  
32 located and the seizure of any firearms purchaser identification card  
33 or permit to purchase a handgun issued to the defendant and any  
34 other appropriate relief.

35 If the order requires the surrender of any firearm or other  
36 weapon, a law enforcement officer shall accompany the defendant,  
37 or may proceed without the defendant if necessary, to the scene of  
38 the domestic violence or any other location where the judge has  
39 reasonable cause to believe any firearm or other weapon belonging  
40 to the defendant is located, to ensure that the defendant does not  
41 gain access to any firearm or other weapon, and that the firearm or  
42 other weapon is appropriately surrendered in accordance with the  
43 order. If the order prohibits the defendant from returning to the  
44 scene of domestic violence or any other location where the judge  
45 has reasonable cause to believe any firearm or other weapon  
46 belonging to the defendant is located, any firearm or other weapon  
47 located there shall be seized by a law enforcement officer. The  
48 order shall include notice to the defendant of the penalties for a

1 violation of any provision of the order, including but not limited to  
2 the penalties for contempt of court and unlawful possession of a  
3 firearm or other weapon pursuant to N.J.S.2C:39-5. Other  
4 appropriate relief may include but is not limited to an order  
5 directing the possession of any animal owned, possessed, leased,  
6 kept, or held by either party or a minor child residing in the  
7 household and providing that the animal shall not be disposed of  
8 prior to entry of a final order pursuant to section 13 of P.L.1991,  
9 c.261 (C.2C:25-29).

10 The judge shall state with specificity the reasons for and scope of  
11 any search and seizure authorized by the order. The provisions of  
12 this subsection prohibiting a defendant from possessing a firearm or  
13 other weapon shall not apply to any law enforcement officer while  
14 actually on duty, or to any member of the Armed Forces of the  
15 United States or member of the National Guard while actually on  
16 duty or traveling to or from an authorized place of duty.

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

21 l. An order granting emergency relief, together with the  
22 complaint or complaints, shall immediately be forwarded to the  
23 appropriate law enforcement agency for service on the defendant,  
24 and to the police of the municipality in which the plaintiff resides or  
25 is sheltered, and shall immediately be served upon the defendant by  
26 the police, except that an order issued during regular court hours  
27 may be forwarded to the sheriff for immediate service upon the  
28 defendant in accordance with the Rules of Court. If personal  
29 service cannot be effected upon the defendant, the court may order  
30 other appropriate substituted service. At no time shall the plaintiff  
31 be asked or required to serve any order on the defendant.

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

33 n. Notice of temporary restraining orders issued pursuant to  
34 this section shall be sent by the clerk of the court or other person  
35 designated by the court to the appropriate chiefs of police, members  
36 of the State Police and any other appropriate law enforcement  
37 agency or court.

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

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

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

46 (cf: P.L.2011, c.213, s.3)

1       3. 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. The court shall consider but not be limited to the  
21 following factors:

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

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

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

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

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

30       (6) The existence of a verifiable order of protection from  
31 another jurisdiction.

32       An order issued under this act shall only restrain or provide  
33 damages payable from a person against whom a complaint has been  
34 filed under this act and only after a finding or an admission is made  
35 that an act of domestic violence was committed by that person. The  
36 issue of whether or not a violation of this act occurred, including an  
37 act of contempt under this act, shall not be subject to mediation or  
38 negotiation in any form. In addition, where a temporary or final  
39 order has been issued pursuant to this act, no party shall be ordered  
40 to participate in mediation on the issue of custody or parenting time.

41       b. In proceedings in which complaints for restraining orders  
42 have been filed, the court shall grant any relief necessary to prevent  
43 further abuse. In addition to any other provisions, any restraining  
44 order issued by the court shall bar the defendant from purchasing,  
45 owning, possessing or controlling a firearm and from receiving or  
46 retaining a firearms purchaser identification card or permit to  
47 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
48 which the restraining order is in effect or two years, whichever is

1 greater~~], except that this provision]~~. The order shall require the  
2 immediate surrender of any firearm or other weapon belonging to  
3 the defendant. The order shall include notice to the defendant of  
4 the penalties for a violation of any provision of the order, including  
5 but not limited to the penalties for contempt of court and unlawful  
6 possession of a firearm or other weapon pursuant to N.J.S.2C:39-5.

7 A law enforcement officer shall accompany the defendant, or  
8 may proceed without the defendant if necessary, to any place where  
9 any firearm or other weapon belonging to the defendant is located  
10 to ensure that the defendant does not gain access to any firearm or  
11 other weapon, and a law enforcement officer shall take custody of  
12 any firearm or other weapon belonging to the defendant. If the  
13 order prohibits the defendant from returning to the scene of  
14 domestic violence or other place where firearms or other weapons  
15 belonging to the defendant are located, any firearm or other weapon  
16 located there shall be seized by a law enforcement officer. The  
17 provisions of this subsection requiring the surrender or removal of a  
18 firearm, card, or permit shall not apply to any law enforcement  
19 officer while actually on duty, or to any member of the Armed  
20 Forces of the United States or member of the National Guard while  
21 actually on duty or traveling to or from an authorized place of duty.  
22 At the hearing the judge of the Family Part of the Chancery  
23 Division of the Superior Court may issue an order granting any or  
24 all of the following relief:

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

27 (2) An order granting exclusive possession to the plaintiff of the  
28 residence or household regardless of whether the residence or  
29 household is jointly or solely owned by the parties or jointly or  
30 solely leased by the parties. This order shall not in any manner  
31 affect title or interest to any real property held by either party or  
32 both jointly. If it is not possible for the victim to remain in the  
33 residence, the court may order the defendant to pay the victim's rent  
34 at a residence other than the one previously shared by the parties if  
35 the defendant is found to have a duty to support the victim and the  
36 victim requires alternative housing.

37 (3) An order providing for parenting time. The order shall  
38 protect the safety and well-being of the plaintiff and minor children  
39 and shall specify the place and frequency of parenting time.  
40 Parenting time arrangements shall not compromise any other  
41 remedy provided by the court by requiring or encouraging contact  
42 between the plaintiff and defendant. Orders for parenting time may  
43 include a designation of a place of parenting time away from the  
44 plaintiff, the participation of a third party, or supervised parenting  
45 time.

46 (a) The court shall consider a request by a custodial parent who  
47 has been subjected to domestic violence by a person with parenting  
48 time rights to a child in the parent's custody for an investigation or

1 evaluation by the appropriate agency to assess the risk of harm to  
2 the child prior to the entry of a parenting time order. Any denial of  
3 such a request must be on the record and shall only be made if the  
4 judge finds the request to be arbitrary or capricious.

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

10 (4) An order requiring the defendant to pay to the victim  
11 monetary compensation for losses suffered as a direct result of the  
12 act of domestic violence. The order may require the defendant to  
13 pay the victim directly, to reimburse the Victims of Crime  
14 Compensation Office for any and all compensation paid by the  
15 Victims of Crime Compensation Office directly to or on behalf of  
16 the victim, and may require that the defendant reimburse any parties  
17 that may have compensated the victim, as the court may determine.  
18 Compensatory losses shall include, but not be limited to, loss of  
19 earnings or other support, including child or spousal support, out-  
20 of-pocket losses for injuries sustained, cost of repair or replacement  
21 of real or personal property damaged or destroyed or taken by the  
22 defendant, cost of counseling for the victim, moving or other travel  
23 expenses, reasonable attorney's fees, court costs, and compensation  
24 for pain and suffering. Where appropriate, punitive damages may be  
25 awarded in addition to compensatory damages.

26 (5) An order requiring the defendant to receive professional  
27 domestic violence counseling from either a private source or a  
28 source appointed by the court and, in that event, requiring the  
29 defendant to provide the court at specified intervals with  
30 documentation of attendance at the professional counseling. The  
31 court may order the defendant to pay for the professional  
32 counseling. No application by the defendant to dissolve a final  
33 order which contains a requirement for attendance at professional  
34 counseling pursuant to this paragraph shall be granted by the court  
35 unless, in addition to any other provisions required by law or  
36 conditions ordered by the court, the defendant has completed all  
37 required attendance at such counseling.

38 (6) An order restraining the defendant from entering the  
39 residence, property, school, or place of employment of the victim or  
40 of other family or household members of the victim and requiring  
41 the defendant to stay away from any specified place that is named  
42 in the order and is frequented regularly by the victim or other  
43 family or household members.

44 (7) An order restraining the defendant from making contact with  
45 the plaintiff or others, including an order forbidding the defendant  
46 from personally or through an agent initiating any communication  
47 likely to cause annoyance or alarm including, but not limited to,  
48 personal, written, or telephone contact with the victim or other

1 family members, or their employers, employees, or fellow workers,  
2 or others with whom communication would be likely to cause  
3 annoyance or alarm to the victim.

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

10 (9) An order granting either party temporary possession of  
11 specified personal property, such as an automobile, checkbook,  
12 documentation of health insurance, an identification document, a  
13 key, and other personal effects.

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

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

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

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

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

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

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

43 (17) An order prohibiting the defendant from stalking or  
44 following, or threatening to harm, to stalk or to follow, the  
45 complainant or any other person named in the order in a manner  
46 that, taken in the context of past actions of the defendant, would put  
47 the complainant in reasonable fear that the defendant would cause  
48 the death or injury of the complainant or any other person.

1 Behavior prohibited under this act includes, but is not limited to,  
2 behavior prohibited under the provisions of P.L.1992, c.209  
3 (C.2C:12-10).

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

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

11 c. Notice of orders issued pursuant to this section shall be sent  
12 by the clerk of the Family Part of the Chancery Division of the  
13 Superior Court or other person designated by the court to the  
14 appropriate chiefs of police, members of the State Police and any  
15 other appropriate law enforcement agency.

16 d. Upon good cause shown, any final order may be dissolved or  
17 modified upon application to the Family Part of the Chancery  
18 Division of the Superior Court, but only if the judge who dissolves  
19 or modifies the order is the same judge who entered the order, or  
20 has available a complete record of the hearing or hearings on which  
21 the order was based.

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

25 (cf: P.L.2011, c.213, s.4)

26

27 4. (New section) a. Notwithstanding the provisions of  
28 subsection f. of N.J.S.2C:44-1, a person convicted of any of the  
29 following crimes of domestic violence, as defined in section 3 of  
30 P.L.1991, c.261 (C.2C:25-19), shall be sentenced in accordance  
31 with subsection b. of this section:

32 (1) Homicide, pursuant to N.J.S.2C:11-1 et seq.;

33 (2) Aggravated assault, pursuant to paragraph (1), (2), (3), (4),  
34 (6), (7) or (8) of subsection b. of N.J.S.2C:12-1;

35 (3) Assault by auto or vessel, pursuant to subsection c. of  
36 N.J.S.2C:12-1;

37 (4) Kidnapping, pursuant to N.J.S.2C:13-1;

38 (5) Criminal restraint, pursuant to N.J.S.2C:13-2;

39 (6) Sexual assault, pursuant to N.J.S.2C:14-2; or

40 (7) Criminal sexual contact, pursuant to N.J.S.2C:14-3.

41 b. (1) Unless the provisions of any other law provide for a  
42 higher mandatory minimum term of imprisonment, a person  
43 convicted of a crime of domestic violence set forth in subsection a.  
44 of this section shall be sentenced to a term of imprisonment as  
45 follows: for a second or subsequent crime of the fourth degree set  
46 forth in subsection a. of this section, 18 months; for a second or  
47 subsequent crime of the third degree set forth in subsection a. of

1 this section, five years; for a crime of the second degree, 10 years;  
2 and for a crime of the first degree, 20 years.

3 (2) The term of imprisonment imposed pursuant to paragraph (1)  
4 of this subsection shall include the imposition of a minimum term.  
5 The minimum term shall be fixed at one-half of the sentence  
6 imposed by the court or 42 months, whichever is greater, or 18  
7 months in the case of a fourth degree crime, during which the  
8 defendant shall be ineligible for parole.

9  
10 5. This act shall take effect on the first day of the seventh month  
11 next following enactment.

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13

14

STATEMENT

15

16 This bill enhances protections for domestic violence victims by  
17 restricting access to firearms by a person convicted of a domestic  
18 violence crime or subject to a domestic violence restraining order.

19 Specifically, the bill requires the sentencing court to inform  
20 defendants convicted of a domestic violence crime or offense that  
21 they are prohibited from possessing a firearm, or obtaining a  
22 firearms purchaser identification card or permit to purchase a  
23 handgun. The bill also requires the court to order the defendant to  
24 arrange for the immediate surrender of firearms, firearms purchaser  
25 identification cards, and permits to purchase a handgun to a law  
26 enforcement officer. The bill allows the defendant five days after  
27 conviction to arrange to sell a surrendered firearm to a licensed  
28 firearms dealer; the dealer has 10 days after the date of the order to  
29 take possession of the firearm from the law enforcement agency to  
30 which it was surrendered. If the firearm is not purchased by a retail  
31 dealer within 10 days, it is subject to forfeiture; if it is purchased by  
32 a dealer, it becomes part of the dealer's inventory.

33 The bill requires any identification card and permit that has been  
34 issued to a connected defendant to be immediately revoked and  
35 requires the court to establish a process for notifying the  
36 appropriate authorities of the revocation. It also requires a law  
37 enforcement officer to whom weapons are surrendered to provide  
38 the defendant with a receipt naming the defendant, the surrender  
39 date, and description of a surrendered item, and requiring the  
40 defendant to provide a copy of the receipt to the prosecutor within  
41 48 hours. Defendants are required by the bill to attest under penalty  
42 that they surrendered or do not possess a firearm. The court is  
43 permitted to order a search for and removal of firearms if there is  
44 probable cause that the defendant has failed to surrender firearms  
45 and is required to state with specificity the reasons for and the  
46 scope of the search and seizure.

47 The bill also protects domestic violence victims by specifying  
48 that the plaintiff may provide information concerning firearms to

1 which the defendant has access, including the location of these  
2 firearms, if known, on a form to be prescribed by the  
3 Administrative Director of the Courts. The form is to also clarify  
4 the confidential nature of this information.

5 Under the bill, an order for a temporary or final restraining order  
6 is to include notice to the defendant of the penalties for a violation  
7 of any provision of the order, including but not limited to the  
8 penalties for contempt of court and unlawful possession of a firearm  
9 or other weapon.

10 Further, when a temporary restraining order requires the  
11 surrender of any firearm or other weapon and when a final  
12 restraining order is issued, the bill requires a law enforcement  
13 officer to accompany the defendant or proceed without the  
14 defendant if necessary to where the firearm or other weapon is  
15 located to ensure that the items are appropriately surrendered in  
16 accordance with the order. If the order prohibits the defendant from  
17 returning to a location where firearms or other weapons are located,  
18 any firearm or other weapon located there will be seized by a law  
19 enforcement officer.

20 Finally, the bill further strengthens protections for victims of  
21 domestic violence by providing mandatory minimum terms of  
22 incarceration, with set periods of parole ineligibility, for offenders  
23 who commit physically violent acts.

24 Under the provisions of the bill, a person convicted of any of the  
25 following crimes of domestic violence would be subject to the  
26 enhanced penalties provided in the bill:

- 27 (1) Homicide, pursuant to N.J.S.2C:11-1 et seq.;
- 28 (2) Aggravated assault and assault by auto or vessel pursuant to  
29 subsection b. and c. of N.J.S.2C:12-1;
- 30 (3) Kidnapping, pursuant to N.J.S.2C:13-1;
- 31 (4) Criminal restraint, pursuant to N.J.S.2C:13-2;
- 32 (5) Sexual assault, pursuant to N.J.S.2C:14-2; and
- 33 (6) Criminal sexual contact, pursuant to N.J.S.2C:14-3.

34 The bill provides that a person will be sentenced to a term of  
35 imprisonment as follows: 18 months for a second or subsequent  
36 crime of the fourth degree, five years for a second or subsequent  
37 crime of the third degree, 10 years for a crime of the second degree,  
38 and 20 years for a crime of the first degree, unless the provisions of  
39 any other law provide for a higher mandatory minimum term.

40 The court additionally will impose a period of parole ineligibility  
41 as follows: 18 months for a crime of the fourth degree, 42 months  
42 for a crime of the third degree, five years for a crime of the second  
43 degree, and 10 years for a crime of the first degree.