

ASSEMBLY, No. 1747

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

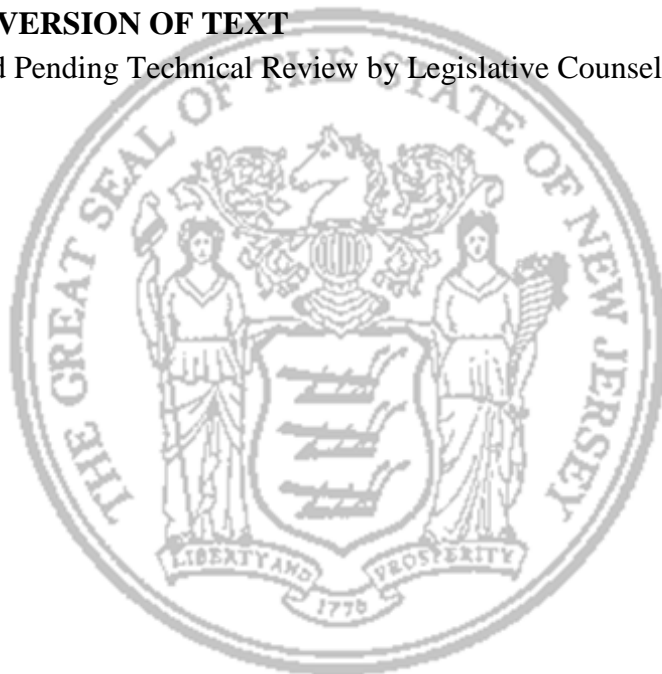
Assemblywoman Murphy and Assemblyman Schaer

SYNOPSIS

Adds new civil penalties and increases surcharges imposed on domestic violence offenders; establishes “Domestic Violence Victims’ Legal Assistance Fund.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/6/2018)

1 AN ACT concerning domestic violence penalties, amending various
2 sections of the statutory law and supplementing Title 30 of the
3 Revised Statutes.

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

7
8 1. Section 1 of P.L.2001, c.195 (C.2C:25-29.1) is amended to
9 read as follows:

10 1. a. In addition to any other disposition, any person found by
11 the court in a final hearing pursuant to section 13 of P.L.1991, c.261
12 (C.2C:25-29) to have committed an act of domestic violence shall
13 be ordered by the court to pay **[a]** two separate civil **[penalty of]**
14 penalties, as follows:

15 (1) A penalty of at least \$50, but not to exceed \$500; and

16 (2) A penalty of \$1,500, payable at \$500 per year for three years.

17 In imposing **[this]** these civil **[penalty]** penalties, the court shall
18 take into consideration the nature and degree of injury suffered by
19 the victim. **[The court may waive the penalty in cases of extreme**
20 **financial hardship.]**

21 b. If the court finds that the person does not have the ability to
22 pay the civil penalty set forth in paragraph (1) of subsection a. of
23 this section in full on the date of the hearing, or the ability to make
24 the first payment of the civil penalty set forth in paragraph (2) of
25 subsection a. of this section in full of the date of the hearing or to
26 make the subsequent two payments on the dates they are due, the
27 court may order the payment of the penalties in installments for a
28 period of time determined by the court. If a person defaults on any
29 payment and the court finds that the defendant does not have the
30 ability to pay, the court may:

31 (1) reduce the penalties, suspend the penalties, or modify the
32 installment plan;

33 (2) order the person to perform community service in lieu of
34 payment of the penalties;

35 (3) impose any other alternative permitted by law in lieu of
36 payment of the penalties; or

37 (4) waive the penalties in cases of extreme financial hardship.

38 (cf: P.L.2001, c.195, s.1)

39
40 2. Section 2 of P.L.2001, c.195 (C.2C:25-29.2) is amended to
41 read as follows:

42 2. a. All civil penalties imposed pursuant to section 1 of
43 P.L.2001, c.195 (C.2C:25-29.1) shall be collected as provided by
44 the Rules of Court. All moneys collected pursuant to paragraph (1)

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 shall be forwarded to the Domestic Violence Victims' Fund
2 established pursuant to section 3 of P.L.2001, c.195 (C.30:14-15).

3 b. All moneys collected pursuant to paragraph (2) of subsection
4 a. of section 1 of P.L.2001, c.195 (C.2C:25-29.1) shall be deposited
5 annually in the "Domestic Violence Victims' Legal Assistance
6 Fund" established pursuant to section 5 of P.L. , c. (C.)
7 (pending before the Legislature as this bill). All monies deposited in
8 the "Domestic Violence Victims' Legal Assistance Fund" shall be
9 appropriated to organizations that provide for direct legal services
10 to victims of domestic violence, including but not limited to
11 medical and legal advocacy services, information, and referral.
12 (cf: P.L.2001, c.195, s.2)

13

14 3. Section 50 of P.L.2002, c.34 (C.2C:25-29.4) is amended to
15 read as follows:

16 50. a. In addition to any other penalty, fine or charge imposed
17 pursuant to law, a person convicted of **[an act of]** a crime or
18 offense involving domestic violence, as that term is defined by
19 subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), shall be
20 subject to a surcharge in the amount of **[\$100]** \$500 payable to the
21 Treasurer of the State of New Jersey for use by the Department of
22 **[Human Services]** Children and Families to fund grants for
23 domestic violence prevention, training, and assessment.

24 b. An amount equal to the revenue derived from the increase in
25 the surcharge collected pursuant to this section, as amended by
26 P.L. , c. (C.) (pending before the Legislature as this bill)
27 shall be deposited annually in the "Domestic Violence Victims'
28 Legal Assistance Fund" established pursuant to section 5 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill). All
30 monies deposited in the "Domestic Violence Victims' Legal
31 Assistance Fund" shall be appropriated to organizations that
32 provide for direct legal services to victims of domestic violence,
33 including but not limited to medical and legal advocacy services,
34 information, and referral.
35 (cf: P.L.2002, c.34, s.50)

36

37 4. Section 14 of P.L.1991, c.261 (C.2C:25-30) is amended to
38 read as follows:

39 14. a. Except as provided below, a violation by the defendant of
40 an order issued pursuant to this act shall constitute an offense under
41 subsection b. of N.J.S.2C:29-9 and each order shall so state. All
42 contempt proceedings conducted pursuant to N.J.S.2C:29-9
43 involving domestic violence orders, other than those constituting
44 indictable offenses, shall be heard by the Family Part of the
45 Chancery Division of the Superior Court. All contempt proceedings
46 brought pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.) shall be
47 subject to any rules or guidelines established by the Supreme Court
48 to guarantee the prompt disposition of criminal matters.

1 Additionally, and notwithstanding the term of imprisonment
2 provided in N.J.S.2C:43-8, any person convicted of a second or
3 subsequent nonindictable domestic violence contempt offense shall
4 serve a minimum term of not less than 30 days. Orders entered
5 pursuant to paragraphs (3), (4), (5), (8) and (9) of subsection b. of
6 section 13 of this act shall be excluded from enforcement under
7 subsection b. of N.J.S.2C:29-9; however, violations of these orders
8 may be enforced in a civil or criminal action initiated by the
9 plaintiff or by the court, on its own motion, pursuant to applicable
10 court rules.

11 b. In addition to any other disposition, a person convicted of a
12 violation under the provisions of this section shall be subject to a
13 monetary penalty of \$500 for a first offense and \$1,000 for a second
14 or subsequent offense. All monetary penalties imposed pursuant to
15 this section shall be collected and forwarded to the “Domestic
16 Violence Victims’ Legal Assistance Fund” established pursuant to
17 section 5 of P.L. , c. (C.) (pending before the Legislature
18 as this bill). All monies deposited in the “Domestic Violence
19 Victims’ Legal Assistance Fund” shall be appropriated to
20 organizations that provide for direct legal services to victims of
21 domestic violence, including but not limited to medical and legal
22 advocacy services, information, and referral.

23 (cf: P.L.1994, c.94, s.6)

24

25 5. (New section) There is hereby established the “Domestic
26 Violence Victims’ Legal Assistance Fund,” a dedicated fund within
27 the General Fund and administered by the Division of Child
28 Protection and Permanency in the Department of Children and
29 Families. The fund shall be the depository of moneys realized
30 from:

31 a. the civil penalty imposed pursuant to paragraph (2) of
32 subsection a. of section 1 of P.L.2001, c.195 (C.2C:25-29.1);

33 b. the increase in the surcharge imposed pursuant to subsection
34 a. of section 50 of P.L.2002, c.34 (C.2C:25-29.4), as amended by
35 P.L. , c. (C.) (pending before the Legislature as this bill);
36 and

37 c. the penalty imposed pursuant to subsection b. of section 14
38 of P.L.1991, c.261 (C.2C:25-30).

39 The fund shall also be the depository of any other moneys made
40 available for the purposes of the fund.

41 All monies deposited in the “Domestic Violence Victims’ Legal
42 Assistance Fund” shall be appropriated to organizations that
43 provide for direct legal services to victims of domestic violence,
44 including but not limited to, medical and legal advocacy services,
45 information and referral, and community education.

46

47 6. Section 3 of P.L.2001, c.195 (30:14-15) is amended to read
48 as follows:

1 3. a. There is hereby established the "Domestic Violence
2 Victims' Fund," a dedicated fund within the General Fund and
3 administered by the Division of Child Protection and Permanency
4 in the Department of Children and Families. The fund shall be the
5 depository of moneys realized from the civil penalty imposed
6 pursuant to paragraph (1) of subsection a. of section 1 of P.L.2001,
7 c.195 (C.2C:25-29.1), and any other moneys made available for the
8 purposes of the fund.

9 b. All moneys deposited in the "Domestic Violence Victims'
10 Fund" shall be used for direct services to victims of domestic
11 violence, including, but not limited to, shelter services, legal
12 advocacy services, and legal assistance services, and for related
13 administrative costs of the Division of Child Protection and
14 Permanency.

15 (cf: P.L.2012, c.16, s.128)

16
17 7. This act shall take effect immediately.
18
19

20 STATEMENT

21
22 This bill would impose new civil penalties on domestic violence
23 offenders and increase the surcharges imposed on these offenders
24 under current law. The additional revenue would be appropriated to
25 organizations that provide for direct legal services to domestic
26 violence victims.

27 FINAL HEARING: NEW CIVIL PENALTY. Currently, N.J.S.A.2C:25-
28 29.1 provides that a person found by the court in a final hearing to
29 have committed an act of domestic violence must pay a civil
30 penalty of \$50 to \$500. The monies are forwarded to the "Domestic
31 Violence Victims' Fund," established by N.J.S.A.30:14-15, which
32 uses the monies for services to domestic violence victims. This bill
33 adds an additional civil penalty of \$1,500, payable at \$500 per year
34 for three years. The monies from the new penalty would be
35 deposited into a new fund created by the bill, the "Domestic
36 Violence Victims' Legal Assistance Fund."

37 INABILITY TO PAY. Under the bill, if the court finds that the
38 person does not have the ability to pay the penalty for the
39 "Domestic Violence Victims' Fund" in full on the date of the
40 hearing or, in the case of the new penalty for the "Domestic
41 Violence Victims' Legal Assistance Fund," the ability to make the
42 first payment in full on the date of the hearing and the ability to
43 make the two subsequent payments on the dates they are due, the
44 court may order the payment of the penalties in installments for a
45 period of time to be determined by the court. If the person defaults
46 on the payment then the court may: (1) reduce, suspend or modify
47 the installment plan; (2) order community service; (3) impose any

1 other alternative in lieu of payment; or (4) waive the penalties in
2 cases of extreme hardship.

3 CRIMINAL CONVICTION: INCREASED SURCHARGE. The bill also
4 increases the current surcharge imposed on persons convicted of a
5 crime or offense involving domestic violence. Under
6 N.J.S.A.2C:25-29.4, a person convicted of an act of domestic
7 violence is subject to a surcharge in the amount of \$100 payable to
8 the State Treasurer for use by the Department of Human Services to
9 fund grants for domestic violence prevention, training, legal
10 assistance services and assessment. This amount would be
11 increased to \$500 under the bill. The monies realized by the
12 increase in the surcharge would be deposited into the new
13 “Domestic Violence Victims’ Legal Assistance Fund.”

14 TECHNICAL CORRECTION. The bill also makes a technical
15 correction to N.J.S.A.2C:25-29.4 concerning the reference to the
16 department, changing it to the Department of Children and Families
17 to reflect the current structure.

18 VIOLATION OF RESTRAINING ORDER: NEW CIVIL PENALTY. In
19 addition, the bill amends N.J.S.A.2C:25-30 to create a new civil
20 penalty for persons convicted of violating a domestic violence
21 restraining order. The bill would impose a civil penalty of \$500 for
22 the first violation and \$1,000 for a second or subsequent violation.
23 This civil penalty would also be deposited into the new fund
24 established by the bill.

25 NEW FUND. The “Domestic Violence Victims’ Legal Assistance
26 Fund” established by the bill would be a dedicated fund within the
27 General Fund and administered by the Division of Child Protection
28 and Permanency in the Department of Children and Families. All
29 monies deposited in the new fund would be appropriated to
30 organizations that provide for direct legal services to victims of
31 domestic violence, including but not limited to medical and legal
32 advocacy services, information and referral, and community
33 education. The fund would be the depository of moneys realized
34 from the increases in the surcharge and the new civil penalties
35 imposed by the bill, and would also be the depository of any other
36 moneys made available for the purposes of the fund.