

[First Reprint]

**ASSEMBLY, No. 1078**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

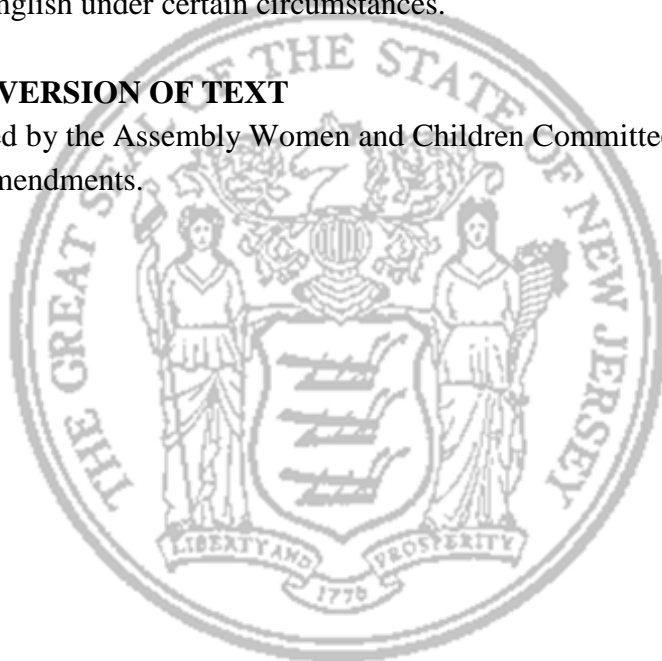
**Assemblywoman Downey, Assemblyman Houghtaling, Assemblywomen  
Timberlake, Jimenez, Vainieri Huttle and Lopez**

**SYNOPSIS**

Requires domestic violence orders to be issued in other languages in addition to English under certain circumstances.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Women and Children Committee on March 15, 2021, with amendments.



1 AN ACT concerning certain domestic violence orders and amending  
2 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 7 of P.L.1991, c.261 (C.2C:25-23) is amended to  
8 read as follows:

9 7. A law enforcement officer shall disseminate and explain to  
10 the victim the following notice, which shall be written **[in both**  
11 **English and Spanish]** , by the Administrative Office of the Courts,  
12 in English, Spanish, and up to 10 additional languages commonly  
13 spoken in the State:

14 "You have the right to go to court to get an order called a  
15 temporary restraining order, also called a TRO, which may protect  
16 you from more abuse by your attacker. The officer who handed you  
17 this card can tell you how to get a TRO.

18 The kinds of things a judge can order in a TRO may include:

19 (1) That your attacker is temporarily forbidden from entering  
20 the home you live in;

21 (2) That your attacker is temporarily forbidden from having  
22 contact with you or your relatives;

23 (3) That your attacker is temporarily forbidden from bothering  
24 you at work;

25 (4) That your attacker has to pay temporary child support or  
26 support for you;

27 (5) That you be given temporary custody of your children;

28 (6) That your attacker pay you back any money you have to  
29 spend for medical treatment or repairs because of the violence.  
30 There are other things the court can order, and the court clerk will  
31 explain the procedure to you and will help you fill out the papers  
32 for a TRO.

33 You also have the right to file a criminal complaint against your  
34 attacker. The police officer who gave you this paper will tell you  
35 how to file a criminal complaint.

36 On weekends, holidays and other times when the courts are  
37 closed, you still have a right to get a TRO. The police officer who  
38 gave you this paper can help you get in touch with a judge who can  
39 give you a TRO."

40 (cf: P.L.1991, c.261, s.7)

41

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

**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:

<sup>1</sup>Assembly AWC committee amendments adopted March 15, 2021.

1           12. a. A victim may file a complaint alleging the commission of  
2 an act of domestic violence with the Family Part of the Chancery  
3 Division of the Superior Court in conformity with the Rules of Court.  
4 The court shall not dismiss any complaint or delay disposition of a  
5 case because the victim has left the residence to avoid further incidents  
6 of domestic violence. Filing a complaint pursuant to this section shall  
7 not prevent the filing of a criminal complaint for the same act.

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

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

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

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

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

34           (3) Information provided by the plaintiff concerning firearms to  
35 which the defendant has access shall be kept confidential and shall not  
36 be disseminated or disclosed, provided that nothing in this subsection  
37 shall prohibit dissemination or disclosure of this information in a  
38 manner consistent with and in furtherance of the purpose for which the  
39 information was provided.

40           d. Summons and complaint forms shall be readily available at the  
41 clerk's office, at the municipal courts and at municipal and State police  
42 stations.

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

46           f. A plaintiff may seek emergency, ex parte relief in the nature of  
47 a temporary restraining order. A municipal court judge or a judge of  
48 the Family Part of the Chancery Division of the Superior Court may

1 enter an ex parte order when necessary to protect the life, health or  
2 well-being of a victim on whose behalf the relief is sought.

3 g. If it appears that the plaintiff is in danger of domestic violence,  
4 the judge shall, upon consideration of the plaintiff's domestic violence  
5 complaint, order emergency ex parte relief, in the nature of a  
6 temporary restraining order. A decision shall be made by the judge  
7 regarding the emergency relief forthwith.

8 h. (1) A judge may issue a temporary restraining order upon  
9 sworn testimony or complaint of an applicant who is not physically  
10 present, pursuant to court rules, or by a person who represents a person  
11 who is physically or mentally incapable of filing personally. A  
12 temporary restraining order may be issued if the judge is satisfied that  
13 exigent circumstances exist sufficient to excuse the failure of the  
14 applicant to appear personally and that sufficient grounds for granting  
15 the application have been shown.

16 (2) Any temporary restraining order<sup>1</sup> issued by a municipal court  
17 judge<sup>1</sup> shall be issued in the primary language or languages used by  
18 both the plaintiff and the defendant. The Administrative Office of the  
19 Courts shall prepare standard temporary restraining order forms in  
20 English, Spanish, and up to 10 additional languages commonly spoken  
21 in the State, for use by<sup>1</sup> municipal court<sup>1</sup> judges in complying with  
22 the provisions of this paragraph.

23 i. An order for emergency, ex parte relief shall be granted upon  
24 good cause shown and shall remain in effect until a judge of the  
25 Family Part issues a further order. Any temporary order hereunder is  
26 immediately appealable for a plenary hearing de novo not on the  
27 record before any judge of the Family Part of the county in which the  
28 plaintiff resides or is sheltered if that judge issued the temporary order  
29 or has access to the reasons for the issuance of the temporary order and  
30 sets forth in the record the reasons for the modification or dissolution.  
31 The denial of a temporary restraining order by a municipal court judge  
32 and subsequent administrative dismissal of the complaint shall not bar  
33 the victim from refileing a complaint in the Family Part based on the  
34 same incident and receiving an emergency, ex parte hearing de novo  
35 not on the record before a Family Part judge, and every denial of relief  
36 by a municipal court judge shall so state.

37 j. Emergency relief may include forbidding the defendant from  
38 returning to the scene of the domestic violence, forbidding the  
39 defendant from possessing any firearm or other weapon enumerated in  
40 subsection r. of N.J.S.2C:39-1, ordering the search for and seizure of  
41 any firearm or other weapon at any location where the judge has  
42 reasonable cause to believe the weapon is located and the seizure of  
43 any firearms purchaser identification card or permit to purchase a  
44 handgun issued to the defendant and any other appropriate relief.

45 If the order requires the surrender of any firearm or other weapon,  
46 a law enforcement officer shall accompany the defendant, or may  
47 proceed without the defendant if necessary, to the scene of the  
48 domestic violence or any other location where the judge has

1 reasonable cause to believe any firearm or other weapon belonging to  
2 the defendant is located, to ensure that the defendant does not gain  
3 access to any firearm or other weapon, and that the firearm or other  
4 weapon is appropriately surrendered in accordance with the order. If  
5 the order prohibits the defendant from returning to the scene of  
6 domestic violence or any other location where the judge has  
7 reasonable cause to believe any firearm or other weapon belonging to  
8 the defendant is located, any firearm or other weapon located there  
9 shall be seized by a law enforcement officer. The order shall include  
10 notice to the defendant of the penalties for a violation of any provision  
11 of the order, including but not limited to the penalties for contempt of  
12 court and unlawful possession of a firearm or other weapon pursuant  
13 to N.J.S.2C:39-5. Other appropriate relief may include but is not  
14 limited to an order directing the possession of any animal owned,  
15 possessed, leased, kept, or held by either party or a minor child  
16 residing in the household and providing that the animal shall not be  
17 disposed of prior to entry of a final order pursuant to section 13 of  
18 P.L.1991, c.261 (C.2C:25-29).

19 The judge shall state with specificity the reasons for and scope of  
20 any search and seizure authorized by the order. The provisions of this  
21 subsection prohibiting a defendant from possessing a firearm or other  
22 weapon shall not apply to any law enforcement officer while actually  
23 on duty, or to any member of the Armed Forces of the United States or  
24 member of the National Guard while actually on duty or traveling to or  
25 from an authorized place of duty.

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

30 l. An order granting emergency relief, together with the  
31 complaint or complaints, shall immediately be forwarded to the  
32 appropriate law enforcement agency for service on the defendant, and  
33 to the police of the municipality in which the plaintiff resides or is  
34 sheltered, and shall immediately be served upon the defendant <sup>1</sup>along  
35 with a copy of the translated order, if applicable,<sup>1</sup> by the police, except  
36 that an order issued during regular court hours may be forwarded to  
37 the sheriff for immediate service upon the defendant in accordance  
38 with the Rules of Court. If personal service cannot be effected upon  
39 the defendant, the court may order other appropriate substituted  
40 service. At no time shall the plaintiff be asked or required to serve any  
41 order on the defendant.

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

43 n. Notice of temporary restraining orders issued pursuant to this  
44 section shall be sent by the clerk of the court or other person  
45 designated by the court to the appropriate chiefs of police, members of  
46 the State Police and any other appropriate law enforcement agency or  
47 court.

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

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

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

9 (cf: P.L.2016, c.91, s.2)

10

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

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

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

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

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

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

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

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

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

1        An order issued under this section shall be issued in the primary  
2 language or languages used by both the plaintiff and the defendant.  
3 The Administrative Office of the Courts shall prepare standard forms  
4 in English, Spanish, and up to 10 additional languages commonly  
5 spoken in the State, for use by courts in complying with the provisions  
6 of this subsection.

7        b. In proceedings in which complaints for restraining orders have  
8 been filed, the court shall grant any relief necessary to prevent further  
9 abuse. In addition to any other provisions, any restraining order issued  
10 by the court shall bar the defendant from purchasing, owning,  
11 possessing or controlling a firearm and from receiving or retaining a  
12 firearms purchaser identification card or permit to purchase a handgun  
13 pursuant to N.J.S.2C:58-3 during the period in which the restraining  
14 order is in effect or two years, whichever is greater. The order shall  
15 require the immediate surrender of any firearm or other weapon  
16 belonging to the defendant. The order shall include notice to the  
17 defendant of the penalties for a violation of any provision of the order,  
18 including but not limited to the penalties for contempt of court and  
19 unlawful possession of a firearm or other weapon pursuant to  
20 N.J.S.2C:39-5.

21        A law enforcement officer shall accompany the defendant, or may  
22 proceed without the defendant if necessary, to any place where any  
23 firearm or other weapon belonging to the defendant is located to  
24 ensure that the defendant does not gain access to any firearm or other  
25 weapon, and a law enforcement officer shall take custody of any  
26 firearm or other weapon belonging to the defendant. If the order  
27 prohibits the defendant from returning to the scene of domestic  
28 violence or other place where firearms or other weapons belonging to  
29 the defendant are located, any firearm or other weapon located there  
30 shall be seized by a law enforcement officer. The provisions of this  
31 subsection requiring the surrender or removal of a firearm, card, or  
32 permit shall not apply to any law enforcement officer while actually on  
33 duty, or to any member of the Armed Forces of the United States or  
34 member of the National Guard while actually on duty or traveling to or  
35 from an authorized place of duty. At the hearing the judge of the  
36 Family Part of the Chancery Division of the Superior Court may issue  
37 an order granting any or all of the following relief:

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

40        (2) An order granting exclusive possession to the plaintiff of the  
41 residence or household regardless of whether the residence or  
42 household is jointly or solely owned by the parties or jointly or solely  
43 leased by the parties. This order shall not in any manner affect title or  
44 interest to any real property held by either party or both jointly. If it is  
45 not possible for the victim to remain in the residence, the court may  
46 order the defendant to pay the victim's rent at a residence other than  
47 the one previously shared by the parties if the defendant is found to

1 have a duty to support the victim and the victim requires alternative  
2 housing.

3 (3) An order providing for parenting time. The order shall protect  
4 the safety and well-being of the plaintiff and minor children and shall  
5 specify the place and frequency of parenting time. Parenting time  
6 arrangements shall not compromise any other remedy provided by the  
7 court by requiring or encouraging contact between the plaintiff and  
8 defendant. Orders for parenting time may include a designation of a  
9 place of parenting time away from the plaintiff, the participation of a  
10 third party, or supervised parenting time.

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

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

23 (4) An order requiring the defendant to pay to the victim monetary  
24 compensation for losses suffered as a direct result of the act of  
25 domestic violence. The order may require the defendant to pay the  
26 victim directly, to reimburse the Victims of Crime Compensation  
27 Office for any and all compensation paid by the Victims of Crime  
28 Compensation Office directly to or on behalf of the victim, and may  
29 require that the defendant reimburse any parties that may have  
30 compensated the victim, as the court may determine. Compensatory  
31 losses shall include, but not be limited to, loss of earnings or other  
32 support, including child or spousal support, out-of-pocket losses for  
33 injuries sustained, cost of repair or replacement of real or personal  
34 property damaged or destroyed or taken by the defendant, cost of  
35 counseling for the victim, moving or other travel expenses, reasonable  
36 attorney's fees, court costs, and compensation for pain and suffering.  
37 Where appropriate, punitive damages may be awarded in addition to  
38 compensatory damages.

39 (5) An order requiring the defendant to receive professional  
40 domestic violence counseling from either a private source or a source  
41 appointed by the court and, in that event, requiring the defendant to  
42 provide the court at specified intervals with documentation of  
43 attendance at the professional counseling. The court may order the  
44 defendant to pay for the professional counseling. No application by  
45 the defendant to dissolve a final order which contains a requirement  
46 for attendance at professional counseling pursuant to this paragraph  
47 shall be granted by the court unless, in addition to any other provisions



1 required by law or conditions ordered by the court, the defendant has  
2 completed all required attendance at such counseling.

3 (6) An order restraining the defendant from entering the residence,  
4 property, school, or place of employment of the victim or of other  
5 family or household members of the victim and requiring the  
6 defendant to stay away from any specified place that is named in the  
7 order and is frequented regularly by the victim or other family or  
8 household members.

9 (7) An order restraining the defendant from making contact with  
10 the plaintiff or others, including an order forbidding the defendant  
11 from personally or through an agent initiating any communication  
12 likely to cause annoyance or alarm including, but not limited to,  
13 personal, written, or telephone contact with the victim or other family  
14 members, or their employers, employees, or fellow workers, or others  
15 with whom communication would be likely to cause annoyance or  
16 alarm to the victim.

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

23 (9) An order granting either party temporary possession of  
24 specified personal property, such as an automobile, checkbook,  
25 documentation of health insurance, an identification document, a key,  
26 and other personal effects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39  
40 4. This act shall take effect on the 120th day following  
41 enactment.