

[First Reprint]

ASSEMBLY, No. 1772

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

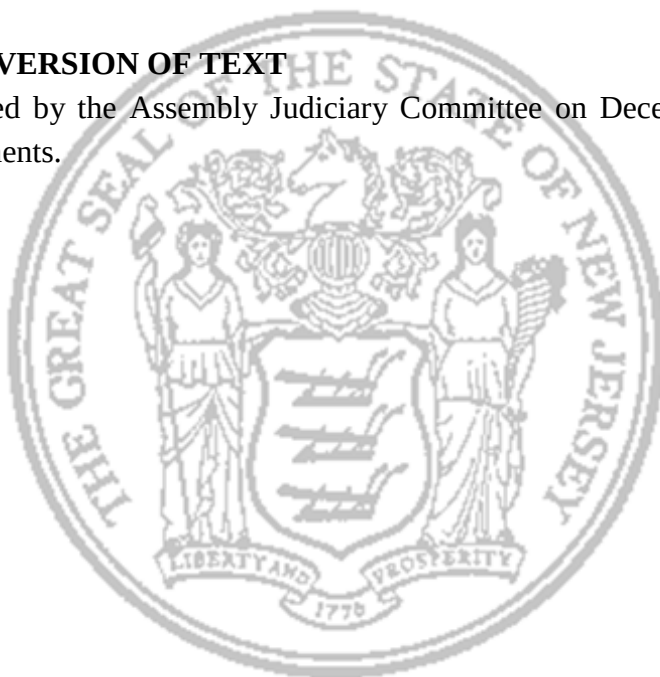
Assemblywomen McKnight and Murphy

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on December 9, 2021, with amendments.



(Sponsorship Updated As Of: 12/9/2021)

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

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:

¹Assembly AJU committee amendments adopted December 9, 2021.

1 negotiation in any form. In addition, where a temporary or final
2 order has been issued pursuant to this act, no party shall be ordered
3 to participate in mediation on the issue of custody or parenting time.

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

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

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

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

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

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

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

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

38 (5) An order requiring the defendant to receive professional
39 domestic violence counseling '[, including but not limited to a
40 Batterers' Intervention Program]'¹ as set forth in section 2 of
41 P.L. , c. (C.) (pending before the Legislature as this bill),
42 from either a private source or a source appointed by the court and,
43 in that event, requiring the defendant to provide the court at
44 specified intervals with documentation of attendance at the
45 professional counseling. The court may order the defendant to pay
46 for the professional counseling. No application by the defendant to
47 dissolve a final order which contains a requirement for attendance
48 at professional counseling pursuant to this paragraph shall be

1 granted by the court unless, in addition to any other provisions
2 required by law or conditions ordered by the court, the defendant
3 has completed all required attendance at such counseling.

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

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

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

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

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

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

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

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

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

46 (15) An order that requires that the defendant report to the
47 intake unit of the Family Part of the Chancery Division of the
48 Superior Court 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
3 may also issue an order prohibiting the defendant from possessing
4 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
5 ordering the search for and seizure of any firearm or other weapon
6 at any location where the judge has reasonable cause to believe the
7 weapon is located. The judge shall state with specificity the reasons
8 for and scope of the 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
12 that, taken in the context of past actions of the defendant, would put
13 the complainant in reasonable fear that the defendant would cause
14 the death or injury of the complainant or any other person.
15 Behavior prohibited under this act includes, but is not limited to,
16 behavior prohibited under the provisions of P.L.1992,
17 c.209 (C.2C:12-10).

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

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

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

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

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

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

40
41 2. (New section) Any ¹**['Batterers' Intervention Program]**
42 domestic violence counseling¹ in which a defendant participates
43 based on a court order issued pursuant to paragraph (5) of
44 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) shall
45 contain the following components:

46 a. ¹**['Periodic, ongoing risk'] Risk**¹ assessments ¹**['to protect the**
47 **safety of the victim and any children']** that identify dynamics of

1 domestic violence and escalating risk factors, and includes
2 information provided by the courts¹;

3 b. '[Offender] Working collaboratively with the courts to
4 support offender¹ accountability '[for their acts of domestic
5 violence as a central component of the program]¹, requiring that
6 offenders be held accountable for their behavior, and 'that offenders
7 are¹ provided with services geared towards behavioral change;

8 c. Information and education concerning the tactics of power
9 and control and the understanding of domestic violence as a
10 domination and control issue;

11 d. A '[swift and certain compliance]¹ protocol '[, including]
12 to demonstrate the defendant's attendance in programming, and
13 additional reporting as requested by the court to support¹ a prompt
14 and effective review by the court for noncompliance; and

15 e. Regular reviews of the program and compliance '[audits]¹
16 by the '[courts and designated domestic violence advocacy groups]
17 New Jersey Advisory Council on Domestic Violence or the
18 Department of Children and Families for Batterers' Intervention
19 Programs funded by the Department of Children and Families¹.

20
21 ¹3. (New section) a. There is created, within the Department of
22 Children and Families, the "Abuse Intervention Program Advisory
23 Committee." Committee membership shall consist of members
24 with recognizable expertise in the field of domestic violence
25 offenders.

26 The advisory committee shall include representatives from the
27 following: Administrative Office of the Courts, with representation
28 from Municipal Court and the Family and Criminal Divisions of
29 Superior Court; Department of Corrections; Department of Human
30 Services, Division of Mental Health and Addiction Services;
31 Department of Law and Public Safety; domestic violence advocates
32 who represent underserved communities in rural and urban settings;
33 practicing licensed mental health professional; community
34 providers with experience providing treatment to domestic violence
35 perpetrators; an individual with lived experience as a recipient of
36 abuse intervention services; Department of Education; community
37 organizers providing restorative justice practices; and faith
38 community leaders.

39 b. In consultation with the committee, the Department of
40 Children and Families shall select an existing evidence-based,
41 evidence-supported or promising Batterers' Intervention Program
42 model.

43 c. Based on strategic priorities and subject to the availability of
44 funds, the Department of Children and Families will fund the
45 selected abuse intervention programs.

- 1 d. The Department of Children and Families shall access
2 consultation and technical assistance from selected model
3 developers or other field experts.
- 4 e. The Department of Children and Families shall support the
5 development, refinement, and maintenance of the necessary
6 implementation infrastructure including, but not limited to, model
7 refinement, training, quality improvement, and evaluation.
- 8 f. The Department of Children and Families shall provide
9 periodic progress updates to the committee on the selected
10 Batterers' Intervention Program model.¹
11
- 12 ¹**[3.] 4.** This act shall take effect immediately.