

ASSEMBLY, No. 2524

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Authorizes issuance of restraining orders for situations in which domestic violence statutes do not apply.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/1/2021)

1 AN ACT concerning restraining order protections, supplementing
2 Title 2C of the New Jersey Statutes and repealing section 2 of
3 P.L.1999, c.47.

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

7
8 1. a. A plaintiff may file a complaint with the Superior Court
9 in conformity with the Rules of Court alleging that he is a victim of
10 any of the offenses set forth in subsection b. of this section and
11 requesting that the court issue a temporary restraining order against
12 the defendant which limits the contact of the defendant and the
13 plaintiff.

14 b. A temporary restraining order may be issued by the court
15 upon an allegation that the defendant committed any of the
16 following offenses:

- 17 (1) Assault N.J.S.2C:12-1
18 (2) Terroristic threats N.J.S.2C:12-3
19 (3) Kidnapping N.J.S.2C:13-1
20 (4) Criminal restraint N.J.S.2C:13-2
21 (5) False imprisonment N.J.S.2C:13-3
22 (6) Sexual assault N.J.S.2C:14-2
23 (7) Criminal sexual contact N.J.S.2C:14-3
24 (8) Lewdness N.J.S.2C:14-4
25 (9) Criminal mischief N.J.S.2C:17-3
26 (10) Burglary N.J.S.2C:18-2
27 (11) Criminal trespass N.J.S.2C:18-3
28 (12) Harassment N.J.S.2C:33-4
29 (13) Stalking P.L.1992, c.209 (C.2C:12-10)
30 (14) Criminal coercion N.J.S.2C:13-5
31 (15) Robbery N.J.S.2C:15-1
32 (16) Any other crime involving risk of death or serious bodily
33 injury to a person protected under the provisions of P.L. ,
34 c. (C.) (pending before the Legislature as this bill)
35 (17) Cyber-harassment P.L.2013, c.272 (C.2C:33-4.1)

36 c. In any case in which the alleged victim is a child under the
37 age of 18 years or has a developmental disability as defined in
38 section 3 of P.L.1977, c.200 (C.5:5-44.4), or the alleged victim is
39 18 years of age or older and has a mental disease or defect which
40 renders the victim temporarily or permanently incapable of
41 understanding the nature of the victim's conduct, including, but not
42 limited to, being incapable of providing consent, the complaint may
43 be filed by the alleged victim's parent or guardian on behalf of the
44 alleged victim.

45 d. A complaint seeking a temporary restraining order may be
46 filed with the Superior Court in conformity with the Rules of Court.
47 The plaintiff may seek emergency, ex parte relief. A decision shall
48 be made by the judge regarding the emergency relief forthwith. If it

1 appears that the plaintiff is in danger of the defendant committing
2 any of the offenses listed in subsection b. of this section, the judge
3 shall issue a temporary restraining order pursuant to subsection f. of
4 this section.

5 e. A conviction of an offense shall not be a prerequisite for the
6 grant of a temporary or permanent restraining order under this act.

7 f. A temporary restraining order issued under this act shall
8 limit the contact of the defendant and the plaintiff and in addition
9 may grant all of the relief specified in section 2 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11 g. A hearing shall be held in the Superior Court within 10 days
12 of the issuance of any temporary restraining order which was issued
13 on an emergency, ex parte basis. A copy of the complaint shall be
14 served on the defendant in conformity with the Rules of Court. At
15 the hearing the standard for issuing a permanent restraining order
16 shall be by a preponderance of the evidence.

17 h. If the court rules that a permanent restraining order shall be
18 issued, the order shall remain in effect until the plaintiff, or the
19 parent or guardian of the plaintiff in the case of a plaintiff who is a
20 child, is developmentally disabled or has mental disease or defect
21 pursuant as described in subsection c. of this section, requests that
22 the restraining order be dismissed and the court finds just cause to
23 do so.

24 i. The provisions of this act are in addition to, and not in lieu
25 of, the provisions of section 3 of P.L.1996, c.39 (C.2C:12-10.1)
26 which provide that a judgment of conviction for stalking shall
27 operate as an application for a permanent restraining order limiting
28 the contact of the defendant and the victim.

29

30 2. a. A permanent restraining order issued pursuant to
31 subsections g. and h. of section 1 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) may grant
33 the following specific relief:

34 (1) An order restraining the defendant from entering the
35 residence, property, school, or place of employment of the plaintiff
36 and requiring the defendant to stay away from any specified place
37 that is named in the order and is frequented regularly by the
38 plaintiff.

39 (2) An order restraining the defendant from making contact with
40 the plaintiff, including an order forbidding the defendant from
41 personally or through an agent initiating any communication likely
42 to cause annoyance or alarm including, but not limited to, personal,
43 written, or telephone contact with the plaintiff, the plaintiff's
44 employers, employees, or fellow workers, or others with whom
45 communication would be likely to cause annoyance or alarm to the
46 plaintiff.

47 b. Notice of permanent restraining orders issued pursuant to this
48 act shall be sent by the clerk of the court or other person designated

1 by the court to the appropriate chiefs of police, members of the
2 State Police and any other appropriate law enforcement agency or
3 court.

4 c. Any permanent restraining order issued pursuant to this act
5 shall be in effect throughout the State, and shall be enforced by all
6 law enforcement officers.

7 d. A violation by the defendant of an order issued pursuant to
8 this act shall constitute an offense under subsection a. of
9 N.J.S.2C:29-9 and each order shall so state. Violations of these
10 orders may be enforced in a civil or criminal action initiated by the
11 plaintiff or by the court, on its own motion, pursuant to applicable
12 court rules. Nothing in this act shall preclude the filing of a
13 criminal complaint based on the same act which is the basis for the
14 violation of the restraining order.

15
16 3. The Supreme Court may adopt Rules of Court to implement
17 the purposes of this act.

18
19 4. Section 2 of P.L.1999, c.47 (C.2C:12-10.2) is repealed.

20
21 5. This act shall take effect on the first day of the third month
22 next following enactment.

23 24 25 STATEMENT

26
27 This bill would authorize the issuance of restraining orders in
28 situations for which the domestic violence statutes are inapplicable
29 because the victim lacks a prior or existing spousal, household, or
30 dating relationship with the offender.

31 Under the "Prevention of Domestic Violence Act of 1991,"
32 P.L.1991, c.261 (C.2C:25-17 et seq.), a court may issue restraining
33 orders to protect victims who have had particular specified
34 relationships with the defendant: the victim must either be a spouse,
35 former spouse, or present or former household member of the
36 defendant; have a child in common or anticipate, due to an existing
37 pregnancy, having a child in common with the defendant; or have
38 had a dating relationship with the defendant.

39 This bill would allow victims in other situations -- for example,
40 where the victim does not know the defendant, or where the
41 defendant is a casual acquaintance or co-worker -- to obtain
42 restraining orders as well.

43 Under the bill, a person could file a complaint (including a
44 complaint for ex parte relief) with the Superior Court alleging to be
45 a victim of any of the enumerated offenses listed in the bill, such as
46 assault, sexual assault, harassment or stalking, and request the
47 issuance of a temporary restraining order against the defendant.
48 The complaint could be filed by the alleged victim's parent or

1 guardian in any case in which the alleged victim was a child under
2 the age of 18 years or had a developmental disability, or was 18
3 years of age or older and had a mental disease or defect which
4 rendered the victim temporarily or permanently incapable of
5 understanding the nature of the victim's conduct, including, but not
6 limited to, being incapable of providing consent.

7 A decision on a filed complaint seeking a temporary restraining
8 order would be made by the judge regarding the emergency relief
9 forthwith. If it appeared that the alleged victim was in danger of
10 the defendant committing any of the offenses specified in the
11 complaint, the judge would issue a temporary restraining order.
12 The defendant's conviction for an offense would not be a
13 prerequisite for the grant of the temporary restraining order.

14 With respect to any temporary order issued on an ex parte basis,
15 a hearing would be held in the Superior Court within 10 days of the
16 issuance of that order. A copy of the complaint would be served on
17 the defendant in conformity with the Rules of Court. At the hearing
18 the standard for issuing a permanent restraining order would be by a
19 preponderance of the evidence.

20 If the court ruled that a permanent restraining order should be
21 issued, the order would remain in effect until the plaintiff, or the
22 parent or guardian of the plaintiff (in the case of a plaintiff who was
23 a child, had a developmental disability, or had a mental disease or
24 defect as described above) requested that the restraining order be
25 dismissed and the court found just cause to do so.

26 A permanent restraining order issued under the bill could grant
27 the following specific relief: an order restraining the defendant from
28 entering the residence, property, school, or place of employment of
29 the plaintiff and requiring the defendant to stay away from any
30 specified place that is named in the order and is frequented
31 regularly by the plaintiff; and an order restraining the defendant
32 from making contact with the plaintiff, including an order
33 forbidding the defendant from personally or through an agent
34 initiating any communication likely to cause annoyance or alarm
35 including, but not limited to, personal, written, or telephone contact
36 with the plaintiff, the plaintiff's employers, employees, or fellow
37 workers, or others with whom communication would be likely to
38 cause annoyance or alarm to the plaintiff.

39 The bill provides that notice of permanent restraining orders
40 would be sent by the court to the appropriate law enforcement
41 authorities and be enforceable by all law enforcement officers.

42 A defendant's violation of a restraining order would constitute a
43 fourth degree contempt offense under subsection a. of N.J.S.2C:29-
44 9. A crime of the fourth degree is ordinarily punishable by a term
45 of imprisonment of up to 18 months, a fine of up to \$10,000, or
46 both. Violations of orders could be enforced in a civil or criminal
47 action initiated by the victim or by the court, on its own motion,
48 pursuant to applicable court rules. The bill also specifies that the

1 bill would not preclude the filing of a criminal complaint based on
2 the same act which was the basis for the violation of the restraining
3 order.

4 Finally, the bill repeals section 2 of P.L.1999, c.47 (C.2C:12-
5 10.2), which would no longer be necessary. This statute currently
6 provides that in any case involving an allegation of stalking where
7 the victim is a child under the age of 18, a person who is
8 developmentally disabled, or a person 18 years of age or older with
9 a mental disease or defect which renders the victim temporarily or
10 permanently incapable of understanding the nature of his conduct, a
11 parent or guardian may apply for temporary and permanent
12 restraining orders. The provisions of this bill would encompass
13 such situations, obviating the need to maintain the separate statute.