

ASSEMBLY, No. 3753

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

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SYNOPSIS

Addresses elder abuse in domestic settings under “Prevention of Domestic Violence Act of 1991.”

CURRENT VERSION OF TEXT

As introduced.



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

1 AN ACT concerning domestic violence against the elderly, and
2 amending 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 2 of P.L.1991, c.261 (C.2C:25-18) is amended to
8 read as follows:

9 2. The Legislature finds and declares that domestic violence is
10 a serious crime against society; that there are thousands of persons
11 in this State who are regularly beaten, tortured and in some cases
12 even killed by their spouses or cohabitants; that a significant
13 number of women who are assaulted are pregnant; that victims of
14 domestic violence come from all social and economic backgrounds
15 and ethnic groups; that there is a positive correlation between
16 spousal abuse and child abuse; and that children, even when they
17 are not themselves physically assaulted, suffer deep and lasting
18 emotional effects from exposure to domestic violence. It is
19 therefore, the intent of the Legislature to assure the victims of
20 domestic violence the maximum protection from abuse the law can
21 provide.

22 The Legislature further finds and declares that the health and
23 welfare of some of its most vulnerable citizens, the elderly and
24 disabled, are at risk because of incidents of reported and unreported
25 domestic violence, abuse and neglect which are known to include
26 acts which victimize the elderly and disabled emotionally,
27 psychologically, physically and financially; because of age,
28 disabilities or infirmities, this group of citizens frequently must rely
29 on the aid and support of others; while the institutionalized elderly
30 are protected under P.L.1977, c.239 (C.52:27G-1 et seq.), elderly
31 and disabled adults in noninstitutionalized, or private residential or
32 other community settings may find themselves victimized by family
33 members or others, upon whom in many cases they feel compelled
34 to depend.

35 The Legislature further finds and declares that emotional,
36 psychological, and physical violence against the elderly and
37 disabled, including criminal neglect of the elderly and disabled
38 under section 1 of P.L.1989, c.23 (C.2C:24-8), must be recognized
39 and addressed on an equal basis as violence against spouses and
40 children in order to fulfill our responsibility as a society to protect
41 those who are less able to protect themselves.

42 The Legislature further finds and declares that even though many
43 of the existing criminal statutes are applicable to acts of domestic
44 violence, previous societal attitudes concerning domestic violence
45 have affected the response of our law enforcement and judicial

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 systems, resulting in these acts receiving different treatment from
2 similar crimes when they occur in a domestic context. The
3 Legislature finds that battered adults presently experience
4 substantial difficulty in gaining access to protection from the
5 judicial system, particularly due to that system's inability to
6 generate a prompt response in an emergency situation.

7 It is the intent of the Legislature to stress that the primary duty of
8 a law enforcement officer when responding to a domestic violence
9 call is to enforce the laws allegedly violated and to protect the
10 victim. Further, it is the responsibility of the courts to protect
11 victims of violence that occurs in a family or family-like setting by
12 providing access to both emergent and long-term civil and criminal
13 remedies and sanctions, and by ordering those remedies and
14 sanctions that are available to assure the safety of the victims and
15 the public. To that end, the Legislature encourages the training of
16 all police and judicial personnel in the procedures and enforcement
17 of this act, and about the social and psychological context in which
18 domestic violence occurs; and it further encourages the broad
19 application of the remedies available under this act in the civil and
20 criminal courts of this State. It is further intended that the official
21 response to domestic violence shall communicate the attitude that
22 violent behavior will not be excused or tolerated, and shall make
23 clear the fact that the existing criminal laws and civil remedies
24 created under this act will be enforced without regard to the fact
25 that the violence grows out of a domestic situation.

26 (cf: P.L.1991, c.261, s.2)

27
28 2. Section 3 of P.L.1991, c.261 (C.2C:25-19) is amended to
29 read as follows:

30 3. As used in this act:

31 a. "Domestic violence" means the occurrence of one or more of
32 the following acts inflicted upon a person protected under this act
33 by an adult or an emancipated minor:

- 34 (1) Homicide N.J.S.2C:11-1 et seq.
- 35 (2) Assault N.J.S.2C:12-1
- 36 (3) Terroristic threats N.J.S.2C:12-3
- 37 (4) Kidnapping N.J.S.2C:13-1
- 38 (5) Criminal restraint N.J.S.2C:13-2
- 39 (6) False imprisonment N.J.S.2C:13-3
- 40 (7) Sexual assault N.J.S.2C:14-2
- 41 (8) Criminal sexual contact N.J.S.2C:14-3
- 42 (9) Lewdness N.J.S.2C:14-4
- 43 (10) Criminal mischief N.J.S.2C:17-3
- 44 (11) Burglary N.J.S.2C:18-2
- 45 (12) Criminal trespass N.J.S.2C:18-3
- 46 (13) Harassment N.J.S.2C:33-4
- 47 (14) Stalking P.L.1992, c.209 (C.2C:12-10)
- 48 (15) Criminal coercion N.J.S.2C:13-5
- 49 (16) Robbery N.J.S.2C:15-1

1 (17) Contempt of a domestic violence order pursuant to
2 subsection b. of N.J.S.2C:29-9 that constitutes a crime or disorderly
3 persons offense

4 (18) Any other crime involving risk of death or serious
5 bodily injury to a person protected under the "Prevention of
6 Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
7 al.)

8 (19) Cyber-harassment P.L.2013, c.272 (C.2C:33-4.1)

9 When one or more of these acts is inflicted by an unemancipated
10 minor upon a person protected under this act, the occurrence shall
11 not constitute "domestic violence," but may be the basis for the
12 filing of a petition or complaint pursuant to the provisions of
13 section 11 of P.L.1982, c.77 (C.2A:4A-30).

14 b. "Law enforcement agency" means a department, division,
15 bureau, commission, board or other authority of the State or of any
16 political subdivision thereof which employs law enforcement
17 officers.

18 c. "Law enforcement officer" means a person whose public
19 duties include the power to act as an officer for the detection,
20 apprehension, arrest and conviction of offenders against the laws of
21 this State.

22 d. "Victim of domestic violence" means a person protected
23 under this act and shall include any person who is 18 years of age or
24 older, including an elderly person in a noninstitutionalized, or
25 private residential or other community setting, or any person who is
26 an emancipated minor and who has been subjected to domestic
27 violence by a spouse, former spouse, or any other person who is a
28 present household member or was at any time a household member.
29 "Victim of domestic violence" also includes any person, regardless
30 of age, who has been subjected to domestic violence by a person
31 with whom the victim has a child in common, or with whom the
32 victim anticipates having a child in common, if one of the parties is
33 pregnant. "Victim of domestic violence" also includes any person
34 who has been subjected to domestic violence by a person with
35 whom the victim has had a dating relationship.

36 e. "Emancipated minor" means a person who is under 18 years
37 of age but who has been married, has entered military service, has a
38 child or is pregnant or has been previously declared by a court or an
39 administrative agency to be emancipated.

40 (cf: P.L.2016, c.77, s.1)

41
42 3. This act shall take effect immediately.
43

44 STATEMENT

45
46 This bill addresses elder abuse in domestic settings under the
47 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
48 (C.2C:25-17 et al.).

1 Although the existing findings and declarations to the act
2 reference the Legislature’s intention of addressing elder abuse (and
3 abuse against disabled persons) “on an equal basis as violence
4 against spouses and children,” the bill updates the findings and
5 declarations to expressly reference elder abuse by current or former
6 household members in its many possible forms; that is, all such
7 “emotional, psychological, and physical [domestic] violence”
8 against the elderly.

9 It also updates the existing definition of “victim of domestic
10 violence” under the act, which currently covers “any person who is
11 18 years of age or older,” to expressly include a reference to an
12 elderly person “in a noninstitutionalized, or private residential or
13 other community setting.” By specifically referencing these
14 domestic settings the bill intends to further clarify the act’s scope,
15 as mentioned in the act’s findings and declarations, of protecting
16 the elderly in such settings, as distinguished from the legal
17 protections afforded to the institutionalized elderly in public or
18 private facilities or institutions provided under P.L.1977, c.239
19 (C.52:27G-1 et seq.).

20 The bill is intended as a response to the court decision of J.C. v.
21 B.S., No. FV-15-352-16, 2015 N.J. Super. Unpub. LEXIS 2624
22 (Ch. Div. Sept. 14, 2015). The case “concern[ed] the interplay
23 between New Jersey’s Prevention of Domestic Violence Act and
24 elder abuse,” id. at *1, ultimately finding that an adult child’s
25 repeated verbal obscenities with some inappropriate physical
26 contact directed at a senior parent, in the parent’s own home where
27 both resided, warranted issuance of a final restraining order under
28 the act to remove the adult child from the home.