

SENATE, No. 1166

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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
17 years.

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

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

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

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

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

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

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

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

43 2. a. All civil penalties imposed pursuant to section 1 of
44 P.L.2001, c.195 (C.2C:25-29.1) shall be collected as provided by
45 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 of subsection a. of section 1 of P.L.2001, c.195 (C.2C:25-29.1)
2 shall be forwarded to the Domestic Violence Victims' Fund
3 established pursuant to section 3 of P.L.2001, c.195 (C.30:14-15).

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

14 (cf: P.L.2001, c.195, s.2)

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

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

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

37 (cf: P.L.2002, c.34, s.50)

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

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

1 subject to any rules or guidelines established by the Supreme Court
2 to guarantee the prompt disposition of criminal matters.
3 Additionally, and notwithstanding the term of imprisonment
4 provided in N.J.S.2C:43-8, any person convicted of a second or
5 subsequent nonindictable domestic violence contempt offense shall
6 serve a minimum term of not less than 30 days. Orders entered
7 pursuant to paragraphs (3), (4), (5), (8) and (9) of subsection b. of
8 section 13 of this act shall be excluded from enforcement under
9 subsection b. of N.J.S.2C:29-9; however, violations of these orders
10 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.

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

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

26

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

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

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

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

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

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

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

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

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

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

18

19 7. This act shall take effect immediately.

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STATEMENT

23

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

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

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

1 the installment plan; (2) order community service; (3) impose any
2 other alternative in lieu of payment; or (4) waive the penalties in
3 cases of extreme hardship.

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

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

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

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