

SENATE, No. 1215

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Clarifies the intent of the Legislature that the attempt or conspiracy to commit certain offenses may constitute acts of domestic violence.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning domestic violence and amending P.L.1991,
2 c.261.

3

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

6

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

9 3. As used in this act:

10 a. "Domestic violence" means the occurrence of one or more of
11 the following acts inflicted upon a person protected under this act
12 by an adult or an emancipated minor or the attempt or conspiracy to
13 commit any of the following acts:

14 (1) Homicide N.J.S.2C:11-1 et seq.

15 (2) Assault N.J.S.2C:12-1

16 (3) Terroristic threats N.J.S.2C:12-3

17 (4) Kidnapping N.J.S.2C:13-1

18 (5) Criminal restraint N.J.S.2C:13-2

19 (6) False imprisonment N.J.S.2C:13-3

20 (7) Sexual assault N.J.S.2C:14-2

21 (8) Criminal sexual contact N.J.S.2C:14-3

22 (9) Lewdness N.J.S.2C:14-4

23 (10) Criminal mischief N.J.S.2C:17-3

24 (11) Burglary N.J.S.2C:18-2

25 (12) Criminal trespass N.J.S.2C:18-3

26 (13) Harassment N.J.S.2C:33-4

27 (14) Stalking P.L.1992, c.209 (C.2C:12-10)

28 (15) Criminal coercion N.J.S.2C:13-5

29 (16) Robbery N.J.S.2C:15-1

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

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

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

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

42 b. "Law enforcement agency" means a department, division,
43 bureau, commission, board or other authority of the State or of any
44 political subdivision thereof which employs law enforcement
45 officers.

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

5 d. "Victim of domestic violence" means a person protected
6 under this act and shall include any person who is 18 years of age or
7 older or who is an emancipated minor and who has been subjected
8 to domestic violence by a spouse, former spouse, or any other
9 person who is a present household member or was at any time a
10 household member. "Victim of domestic violence" also includes
11 any person, regardless of age, who has been subjected to domestic
12 violence by a person with whom the victim has a child in common,
13 or with whom the victim anticipates having a child in common, if
14 one of the parties is pregnant. "Victim of domestic violence" also
15 includes any person who has been subjected to domestic violence
16 by a person with whom the victim has had a dating relationship.

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

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

22
23 2. This act shall take effect immediately.
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26 STATEMENT

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28 This bill would amend the definition of "domestic violence" to
29 include the attempt or conspiracy to commit an enumerated act.

30 N.J.S.A.2C:25-19 defines "domestic violence" as the occurrence
31 of one or more enumerated acts inflicted upon a person under
32 certain circumstances. The enumerated acts are: homicide, assault,
33 terroristic threats, kidnapping, criminal restraint, false
34 imprisonment, sexual assault, criminal sexual contact, lewdness,
35 criminal mischief, burglary, criminal trespass, harassment, stalking,
36 criminal coercion, robbery, contempt of a domestic violence order
37 that constitutes a crime or disorderly persons offense, or any other
38 crime involving risk of death or serious bodily injury to a person
39 protected under the domestic violence statutes. However, the
40 definition of "domestic violence" does not specifically include an
41 attempt or conspiracy to commit an enumerated act.

42 This bill is in response to an Appellate Division decision
43 vacating a domestic violence surcharge assessed against a defendant
44 who had been convicted of attempted murder. Under
45 N.J.S.A.2C:25-29.4, a person convicted of an act of domestic
46 violence is subject to a surcharge of \$100 payable to the State for
47 use by the Department of Human Services to fund grants for
48 domestic violence prevention, training and assessment. In State v.

1 Joseph Allen Lee, 411 N.J. Super.349 (App. Div.2010), the court
2 held that the defendant was not subject to the surcharge because
3 attempted murder is not included in the enumerated crimes and
4 offenses. The court noted that penal statutes, including those
5 statutes imposing penalties as part of a sentence, are to be strictly
6 construed, and therefore the Legislature’s decision to not include
7 attempted murder within the list of enumerated acts was dispositive.
8 The court noted that the Legislature can prospectively take action if
9 it desires to do so.

10 It is the aim of the sponsor to take such action to clarify the
11 Legislature’s intent. This bill would amend the definition of
12 “domestic violence” in N.J.S.A.2C:25-19 to include the attempt or
13 conspiracy to commit any of the enumerated acts that constitute
14 domestic violence.