

SENATE, No. 2215

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 12, 2006

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:

Senator Ciesla

SYNOPSIS

“Nicole’s Law”; permits victim of sex offense to obtain restraining order against offender.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning victims of crime and designated as Nicole's
2 Law, and supplementing chapter 14 of Title 2C of the New
3 Jersey Statutes.

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

7
8 1. (New section) a. As used in this section,
9 "Defendant" means a person indicted or charged with a sex
10 offense.

11 "Sex offense" means a "sex offense" as defined in subsection b.
12 of section 2 of P.L.1994, c.133 (C.2C:7-2).

13 "Victim" means a person who was physically or emotionally
14 harmed by the sex offense for which the defendant is accused.

15 b. In any case involving a sex offense, the victim may apply for
16 a temporary restraining order against the defendant at any time after
17 the defendant is indicted or charged with the sex offense. The
18 victim may seek emergency, ex parte relief. A decision shall be
19 made by the judge regarding the emergency relief forthwith.

20 c. A conviction of the sex offense shall not be a prerequisite for
21 the grant of a temporary restraining order under this section.

22 d. A temporary restraining order issued under this section shall
23 limit the contact of the defendant and the victim and in addition
24 may grant the following specific relief:

25 (1) An order restraining the defendant from entering the
26 residence, property, school, or place of employment of the victim
27 and requiring the defendant to stay away from any specified place
28 that is named in the order and is frequented regularly by the victim.

29 (2) An order restraining the defendant from making contact with
30 the victim, including an order forbidding the defendant from
31 personally or through an agent initiating any communication, email,
32 or computer generated correspondence likely to cause annoyance or
33 alarm including, but not limited to, personal, written, or telephone
34 contact with the victim, the victim's employers, employees, or
35 fellow workers, or others with whom communication would be
36 likely to cause annoyance or alarm to the victim.

37 e. A hearing shall be held in the Superior Court within 10 days
38 of the issuance of any temporary restraining order which was issued
39 on an emergency, ex parte basis. A copy of the complaint shall be
40 served on the defendant in conformity with the rules of court. At
41 the hearing the standard for continuing the temporary restraining
42 order shall be by a preponderance of the evidence.

43 f. If the court rules that the temporary restraining order shall be
44 continued, the order shall remain in effect until either:

45 (1) the defendant is convicted, adjudicated delinquent, or
46 acquitted by reason of insanity of the sex offense, in which case the
47 court shall hold a hearing on the issue of whether a permanent
48 restraining order shall be entered pursuant to section 2 of

1 P.L. , c. (C.) (pending before the Legislature as section 2 of
2 this bill); or

3 (2) the victim requests that the restraining order be dismissed
4 and the court finds just cause to do so.

5 g. If the victim is a child under the age of 18 or is
6 developmentally disabled as defined in section 3 of P.L.1977, c.200
7 (C.5:5-44.4) or where the victim is 18 years of age or older and is
8 mentally defective as defined in N.J.S.2C:14-1, the victim's parent
9 or guardian may apply to obtain, modify, or dissolve a temporary
10 restraining order issued pursuant to this section on behalf of the
11 victim. In the event of a disagreement between the parent or
12 guardian and the victim concerning the temporary restraining order,
13 the court shall decide the issue considering the best interest of the
14 victim.

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16 2. (New section) a. As used in this section,

17 "Offender" means a person who has been convicted, adjudicated
18 delinquent, or acquitted by reason of insanity of a sex offense.

19 "Sex offense" means a "sex offense" as defined in subsection b.
20 of section 2 of P.L.1994, c.133 (C.2C:7-2).

21 "Victim" means a person who was physically or emotionally
22 harmed by the offender's sex offense.

23 b. A judgment of conviction, adjudication of delinquency or
24 acquittal by reason of insanity for a sex offense shall operate as an
25 application for a permanent restraining order limiting the contact of
26 the offender and the victim.

27 c. A hearing shall be held on the application for a permanent
28 restraining order at the time of the conviction, adjudication of
29 delinquency or acquittal by reason of insanity for a sex offense
30 unless the victim requests otherwise. This hearing shall be in
31 Superior Court. A permanent restraining order may grant any relief
32 specified in section 1 of P.L. , c. (C.) (pending before the
33 Legislature as section 1 of this bill).

34 d. The permanent restraining order entered by the court as
35 provided in this section may be dissolved upon the application of
36 the victim to the court which granted the order.

37 e. Notice of permanent restraining orders issued pursuant to this
38 section shall be sent by the clerk of the court or other person
39 designated by the court to the appropriate chiefs of police, members
40 of the State Police and any other appropriate law enforcement
41 agency or court.

42 f. Any permanent restraining order issued pursuant to this
43 section shall be in effect throughout the State, and shall be enforced
44 by all law enforcement officers.

45 g. A violation by the offender of an order issued pursuant to this
46 section shall constitute an offense under subsection a. of
47 N.J.S.2C:29-9 and each order shall so state. Violations of these
48 orders may be enforced in a civil or criminal action initiated by the

1 victim or by the court, on its own motion, pursuant to applicable
2 court rules.

3 h. If the victim is a child under the age of 18 or is
4 developmentally disabled as defined in section 3 of P.L.1977, c.200
5 (C.5:5-44.4) or where the victim is 18 years of age or older and is
6 mentally defective as defined in N.J.S.2C:14-1, the victim's parent
7 or guardian may apply to obtain, modify, or dissolve the permanent
8 restraining order on behalf of the victim. In the event of a
9 disagreement between the parent or guardian and the victim
10 concerning the permanent restraining order, the court shall decide
11 the issue considering the best interest of the victim.

12
13 3. Section 1 of this act shall take effect immediately. Section 2
14 shall take effect immediately, but shall only apply to persons who
15 commit sex offenses after the effective date of this act.

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18 STATEMENT

19
20 This bill permits victims of sex offenses to obtain temporary and
21 permanent restraining orders against their offenders. A "sex
22 offense," as that term is used in the bill, is any offense for which a
23 person is required to register under Megan's Law, P.L.1994, c.133
24 (C.2C:7-1 et seq.).

25 Under the provisions of section 1 of the bill, in any case
26 involving a sex offense the victim could obtain a temporary
27 restraining order against the defendant at any time after the
28 defendant is indicted or charged with the sex offense. The court
29 would be permitted to grant the following specific relief against the
30 defendant:

- 31
- 32 • An order restraining the defendant from entering the
33 residence, property, school, or place of employment of the
34 victim and requiring the defendant to stay away from any
35 specified place that is named in the order and is frequented
36 regularly by the victim.
 - 37 • An order restraining the defendant from making contact with
38 the victim, including an order forbidding the defendant from
39 personally or through an agent initiating any communication
40 likely to cause annoyance or alarm including, but not limited
41 to, personal, written, or telephone contact with the victim,
42 the victim's employers, employees, or fellow workers, or
43 others with whom communication would be likely to cause
44 annoyance or alarm to the victim.

45 Under the provisions of section 1 of the bill, the court could
46 issue emergency, ex parte temporary restraining orders. Within 10
47 days of the issuance of such an order, a hearing would be held in
48 Superior Court and notice would be provided to the defendant. At
the hearing, the standard for continuing the order would be by a

1 preponderance of the evidence. If the court rules that the order
2 should continue, it would remain in effect until either of the
3 following events occurs: (1) the defendant is convicted, adjudicated
4 delinquent, or acquitted by reason of insanity of the offense or (2)
5 the victim requests that the order be dissolved.

6 Section 2 of the bill provides that conviction or adjudication of
7 delinquency for a sex offense or a finding of not guilty of a sex
8 offense by reason of insanity would operate as an automatic
9 application for a permanent restraining order. Unless the victim
10 requests that the application for the restraining order not proceed, a
11 hearing in Superior Court would be held on the issue. The
12 restraining order would be enforceable throughout the State and
13 could be dissolved upon the application of the victim to the court
14 which granted the order. A violation of the order would be a
15 criminal offense.

16 Under the bill, if the victim of the sex offense is a child under the
17 age of 18 or is developmentally disabled as defined in section 3 of
18 P.L.1977, c.200 (C.5:5-44.4) or where the victim is 18 years of age
19 or older and is mentally defective as defined in N.J.S.2C:14-1, the
20 victim's parent or guardian may be permitted to make decisions
21 concerning the restraining order on behalf of the victim. In the
22 event of a disagreement between the parent or guardian and the
23 victim concerning the restraining order, the court would decide the
24 issue considering the best interest of the victim.

25 The bill is dedicated to Nicole Michele Norberto, a courageous
26 young woman.