

ASSEMBLY, No. 1078

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Co-Sponsored by:

**Assemblywoman Downey, Assemblyman Houghtaling, Assemblywomen
Timberlake, Jimenez, Vainieri Huttle and Lopez**

SYNOPSIS

Requires domestic violence orders to be issued in other languages in addition to English under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning certain domestic violence orders and amending
2 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 7 of P.L.1991, c.261 (C.2C:25-23) is amended to
8 read as follows:

9 7. A law enforcement officer shall disseminate and explain to
10 the victim the following notice, which shall be written **[in both**
11 **English and Spanish]** , by the Administrative Office of the Courts,
12 in English, Spanish, and up to 10 additional languages commonly
13 spoken in the State:

14 "You have the right to go to court to get an order called a
15 temporary restraining order, also called a TRO, which may protect
16 you from more abuse by your attacker. The officer who handed you
17 this card can tell you how to get a TRO.

18 The kinds of things a judge can order in a TRO may include:

19 (1) That your attacker is temporarily forbidden from entering
20 the home you live in;

21 (2) That your attacker is temporarily forbidden from having
22 contact with you or your relatives;

23 (3) That your attacker is temporarily forbidden from bothering
24 you at work;

25 (4) That your attacker has to pay temporary child support or
26 support for you;

27 (5) That you be given temporary custody of your children;

28 (6) That your attacker pay you back any money you have to
29 spend for medical treatment or repairs because of the violence.
30 There are other things the court can order, and the court clerk will
31 explain the procedure to you and will help you fill out the papers
32 for a TRO.

33 You also have the right to file a criminal complaint against your
34 attacker. The police officer who gave you this paper will tell you
35 how to file a criminal complaint.

36 On weekends, holidays and other times when the courts are
37 closed, you still have a right to get a TRO. The police officer who
38 gave you this paper can help you get in touch with a judge who can
39 give you a TRO."

40 (cf: P.L.1991, c.261, s.7)

41

42 2. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to read
43 as follows:

44 12. a. A victim may file a complaint alleging the commission of
45 an act of domestic violence with the Family Part of the Chancery

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 Division of the Superior Court in conformity with the Rules of Court.
2 The court shall not dismiss any complaint or delay disposition of a
3 case because the victim has left the residence to avoid further incidents
4 of domestic violence. Filing a complaint pursuant to this section shall
5 not prevent the filing of a criminal complaint for the same act.

6 On weekends, holidays and other times when the court is closed, a
7 victim may file a complaint before a judge of the Family Part of the
8 Chancery Division of the Superior Court or a municipal court judge
9 who shall be assigned to accept complaints and issue emergency, ex
10 parte relief in the form of temporary restraining orders pursuant to this
11 act.

12 A plaintiff may apply for relief under this section in a court having
13 jurisdiction over the place where the alleged act of domestic violence
14 occurred, where the defendant resides, or where the plaintiff resides or
15 is sheltered, and the court shall follow the same procedures applicable
16 to other emergency applications. Criminal complaints filed pursuant
17 to this act shall be investigated and prosecuted in the jurisdiction
18 where the offense is alleged to have occurred. Contempt complaints
19 filed pursuant to N.J.S.2C:29-9 shall be prosecuted in the county
20 where the contempt is alleged to have been committed and a copy of
21 the contempt complaint shall be forwarded to the court that issued the
22 order alleged to have been violated.

23 b. The court shall waive any requirement that the petitioner's
24 place of residence appear on the complaint.

25 c. (1) The clerk of the court, or other person designated by the
26 court, shall assist the parties in completing any forms necessary for the
27 filing of a summons, complaint, answer or other pleading.

28 (2) The plaintiff may provide information concerning firearms to
29 which the defendant has access, including the location of these
30 firearms, if known, on a form to be prescribed by the Administrative
31 Director of the Courts.

32 (3) Information provided by the plaintiff concerning firearms to
33 which the defendant has access shall be kept confidential and shall not
34 be disseminated or disclosed, provided that nothing in this subsection
35 shall prohibit dissemination or disclosure of this information in a
36 manner consistent with and in furtherance of the purpose for which the
37 information was provided.

38 d. Summons and complaint forms shall be readily available at the
39 clerk's office, at the municipal courts and at municipal and State police
40 stations.

41 e. As soon as the domestic violence complaint is filed, both the
42 victim and the abuser shall be advised of any programs or services
43 available for advice and counseling.

44 f. A plaintiff may seek emergency, ex parte relief in the nature of
45 a temporary restraining order. A municipal court judge or a judge of
46 the Family Part of the Chancery Division of the Superior Court may
47 enter an ex parte order when necessary to protect the life, health or
48 well-being of a victim on whose behalf the relief is sought.

1 g. If it appears that the plaintiff is in danger of domestic violence,
2 the judge shall, upon consideration of the plaintiff's domestic violence
3 complaint, order emergency ex parte relief, in the nature of a
4 temporary restraining order. A decision shall be made by the judge
5 regarding the emergency relief forthwith.

6 h. (1) A judge may issue a temporary restraining order upon
7 sworn testimony or complaint of an applicant who is not physically
8 present, pursuant to court rules, or by a person who represents a person
9 who is physically or mentally incapable of filing personally. A
10 temporary restraining order may be issued if the judge is satisfied that
11 exigent circumstances exist sufficient to excuse the failure of the
12 applicant to appear personally and that sufficient grounds for granting
13 the application have been shown.

14 (2) Any temporary restraining order issued by a municipal court
15 judge shall be issued in the primary language or languages used by
16 both the plaintiff and the defendant. The Administrative Office of the
17 Courts shall prepare standard temporary restraining order forms in
18 English, Spanish, and up to 10 additional languages commonly spoken
19 in the State, for use by municipal court judges in complying with the
20 provisions of this paragraph.

21 i. An order for emergency, ex parte relief shall be granted upon
22 good cause shown and shall remain in effect until a judge of the
23 Family Part issues a further order. Any temporary order hereunder is
24 immediately appealable for a plenary hearing de novo not on the
25 record before any judge of the Family Part of the county in which the
26 plaintiff resides or is sheltered if that judge issued the temporary order
27 or has access to the reasons for the issuance of the temporary order and
28 sets forth in the record the reasons for the modification or dissolution.
29 The denial of a temporary restraining order by a municipal court judge
30 and subsequent administrative dismissal of the complaint shall not bar
31 the victim from refileing a complaint in the Family Part based on the
32 same incident and receiving an emergency, ex parte hearing de novo
33 not on the record before a Family Part judge, and every denial of relief
34 by a municipal court judge shall so state.

35 j. Emergency relief may include forbidding the defendant from
36 returning to the scene of the domestic violence, forbidding the
37 defendant from possessing any firearm or other weapon enumerated in
38 subsection r. of N.J.S.2C:39-1, ordering the search for and seizure of
39 any firearm or other weapon at any location where the judge has
40 reasonable cause to believe the weapon is located and the seizure of
41 any firearms purchaser identification card or permit to purchase a
42 handgun issued to the defendant and any other appropriate relief.

43 If the order requires the surrender of any firearm or other weapon,
44 a law enforcement officer shall accompany the defendant, or may
45 proceed without the defendant if necessary, to the scene of the
46 domestic violence or any other location where the judge has
47 reasonable cause to believe any firearm or other weapon belonging to
48 the defendant is located, to ensure that the defendant does not gain

1 access to any firearm or other weapon, and that the firearm or other
2 weapon is appropriately surrendered in accordance with the order. If
3 the order prohibits the defendant from returning to the scene of
4 domestic violence or any other location where the judge has
5 reasonable cause to believe any firearm or other weapon belonging to
6 the defendant is located, any firearm or other weapon located there
7 shall be seized by a law enforcement officer. The order shall include
8 notice to the defendant of the penalties for a violation of any provision
9 of the order, including but not limited to the penalties for contempt of
10 court and unlawful possession of a firearm or other weapon pursuant
11 to N.J.S.2C:39-5. Other appropriate relief may include but is not
12 limited to an order directing the possession of any animal owned,
13 possessed, leased, kept, or held by either party or a minor child
14 residing in the household and providing that the animal shall not be
15 disposed of prior to entry of a final order pursuant to section 13 of
16 P.L.1991, c.261 (C.2C:25-29).

17 The judge shall state with specificity the reasons for and scope of
18 any search and seizure authorized by the order. The provisions of this
19 subsection prohibiting a defendant from possessing a firearm or other
20 weapon shall not apply to any law enforcement officer while actually
21 on duty, or to any member of the Armed Forces of the United States or
22 member of the National Guard while actually on duty or traveling to or
23 from an authorized place of duty.

24 k. The judge may permit the defendant to return to the scene of
25 the domestic violence to pick up personal belongings and effects but
26 shall, in the order granting relief, restrict the time and duration of such
27 permission and provide for police supervision of such visit.

28 l. An order granting emergency relief, together with the
29 complaint or complaints, shall immediately be forwarded to the
30 appropriate law enforcement agency for service on the defendant, and
31 to the police of the municipality in which the plaintiff resides or is
32 sheltered, and shall immediately be served upon the defendant by the
33 police, except that an order issued during regular court hours may be
34 forwarded to the sheriff for immediate service upon the defendant in
35 accordance with the Rules of Court. If personal service cannot be
36 effected upon the defendant, the court may order other appropriate
37 substituted service. At no time shall the plaintiff be asked or required
38 to serve any order on the defendant.

39 m. (Deleted by amendment, P.L.1994, c.94.)

40 n. Notice of temporary restraining orders issued pursuant to this
41 section shall be sent by the clerk of the court or other person
42 designated by the court to the appropriate chiefs of police, members of
43 the State Police and any other appropriate law enforcement agency or
44 court.

45 o. (Deleted by amendment, P.L.1994, c.94.)

46 p. Any temporary or final restraining order issued pursuant to this
47 act shall be in effect throughout the State, and shall be enforced by all
48 law enforcement officers.

1 q. Prior to the issuance of any temporary or final restraining order
2 issued pursuant to this section, the court shall order that a search be
3 made of the domestic violence central registry with regard to the
4 defendant's record.

5 (cf: P.L.2016, c.91, s.2)

6
7 3. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read
8 as follows:

9 13. a. A hearing shall be held in the Family Part of the Chancery
10 Division of the Superior Court within 10 days of the filing of a
11 complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in
12 the county where the ex parte restraints were ordered, unless good
13 cause is shown for the hearing to be held elsewhere. A copy of the
14 complaint shall be served on the defendant in conformity with the
15 Rules of Court. If a criminal complaint arising out of the same incident
16 which is the subject matter of a complaint brought under P.L.1981,
17 c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has
18 been filed, testimony given by the plaintiff or defendant in the
19 domestic violence matter shall not be used in the simultaneous or
20 subsequent criminal proceeding against the defendant, other than
21 domestic violence contempt matters and where it would otherwise be
22 admissible hearsay under the rules of evidence that govern where a
23 party is unavailable. At the hearing the standard for proving the
24 allegations in the complaint shall be by a preponderance of the
25 evidence. The court shall consider but not be limited to the following
26 factors:

27 (1) The previous history of domestic violence between the plaintiff
28 and defendant, including threats, harassment and physical abuse;

29 (2) The existence of immediate danger to person or property;

30 (3) The financial circumstances of the plaintiff and defendant;

31 (4) The best interests of the victim and any child;

32 (5) In determining custody and parenting time the protection of the
33 victim's safety; and

34 (6) The existence of a verifiable order of protection from another
35 jurisdiction.

36 An order issued under this act shall only restrain or provide
37 damages payable from a person against whom a complaint has been
38 filed under this act and only after a finding or an admission is made
39 that an act of domestic violence was committed by that person. The
40 issue of whether or not a violation of this act occurred, including an act
41 of contempt under this act, shall not be subject to mediation or
42 negotiation in any form. In addition, where a temporary or final order
43 has been issued pursuant to this act, no party shall be ordered to
44 participate in mediation on the issue of custody or parenting time.

45 An order issued under this section shall be issued in the primary
46 language or languages used by both the plaintiff and the defendant.
47 The Administrative Office of the Courts shall prepare standard forms
48 in English, Spanish, and up to 10 additional languages commonly

1 spoken in the State, for use by courts in complying with the provisions
2 of this subsection.

3 b. In proceedings in which complaints for restraining orders have
4 been filed, the court shall grant any relief necessary to prevent further
5 abuse. In addition to any other provisions, any restraining order issued
6 by the court shall bar the defendant from purchasing, owning,
7 possessing or controlling a firearm and from receiving or retaining a
8 firearms purchaser identification card or permit to purchase a handgun
9 pursuant to N.J.S.2C:58-3 during the period in which the restraining
10 order is in effect or two years, whichever is greater. The order shall
11 require the immediate surrender of any firearm or other weapon
12 belonging to the defendant. The order shall include notice to the
13 defendant of the penalties for a violation of any provision of the order,
14 including but not limited to the penalties for contempt of court and
15 unlawful possession of a firearm or other weapon pursuant to
16 N.J.S.2C:39-5.

17 A law enforcement officer shall accompany the defendant, or may
18 proceed without the defendant if necessary, to any place where any
19 firearm or other weapon belonging to the defendant is located to
20 ensure that the defendant does not gain access to any firearm or other
21 weapon, and a law enforcement officer shall take custody of any
22 firearm or other weapon belonging to the defendant. If the order
23 prohibits the defendant from returning to the scene of domestic
24 violence or other place where firearms or other weapons belonging to
25 the defendant are located, any firearm or other weapon located there
26 shall be seized by a law enforcement officer. The provisions of this
27 subsection requiring the surrender or removal of a firearm, card, or
28 permit shall not apply to any law enforcement officer while actually on
29 duty, or to any member of the Armed Forces of the United States or
30 member of the National Guard while actually on duty or traveling to or
31 from an authorized place of duty. At the hearing the judge of the
32 Family Part of the Chancery Division of the Superior Court may issue
33 an order granting any or all of the following relief:

34 (1) An order restraining the defendant from subjecting the victim
35 to domestic violence, as defined in this act.

36 (2) An order granting exclusive possession to the plaintiff of the
37 residence or household regardless of whether the residence or
38 household is jointly or solely owned by the parties or jointly or solely
39 leased by the parties. This order shall not in any manner affect title or
40 interest to any real property held by either party or both jointly. If it is
41 not possible for the victim to remain in the residence, the court may
42 order the defendant to pay the victim's rent at a residence other than
43 the one previously shared by the parties if the defendant is found to
44 have a duty to support the victim and the victim requires alternative
45 housing.

46 (3) An order providing for parenting time. The order shall protect
47 the safety and well-being of the plaintiff and minor children and shall
48 specify the place and frequency of parenting time. Parenting time

1 arrangements shall not compromise any other remedy provided by the
2 court by requiring or encouraging contact between the plaintiff and
3 defendant. Orders for parenting time may include a designation of a
4 place of parenting time away from the plaintiff, the participation of a
5 third party, or supervised parenting time.

6 (a) The court shall consider a request by a custodial parent who
7 has been subjected to domestic violence by a person with parenting
8 time rights to a child in the parent's custody for an investigation or
9 evaluation by the appropriate agency to assess the risk of harm to the
10 child prior to the entry of a parenting time order. Any denial of such a
11 request must be on the record and shall only be made if the judge finds
12 the request to be arbitrary or capricious.

13 (b) The court shall consider suspension of the parenting time order
14 and hold an emergency hearing upon an application made by the
15 plaintiff certifying under oath that the defendant's access to the child
16 pursuant to the parenting time order has threatened the safety and well-
17 being of the child.

18 (4) An order requiring the defendant to pay to the victim monetary
19 compensation for losses suffered as a direct result of the act of
20 domestic violence. The order may require the defendant to pay the
21 victim directly, to reimburse the Victims of Crime Compensation
22 Office for any and all compensation paid by the Victims of Crime
23 Compensation Office directly to or on behalf of the victim, and may
24 require that the defendant reimburse any parties that may have
25 compensated the victim, as the court may determine. Compensatory
26 losses shall include, but not be limited to, loss of earnings or other
27 support, including child or spousal support, out-of-pocket losses for
28 injuries sustained, cost of repair or replacement of real or personal
29 property damaged or destroyed or taken by the defendant, cost of
30 counseling for the victim, moving or other travel expenses, reasonable
31 attorney's fees, court costs, and compensation for pain and suffering.
32 Where appropriate, punitive damages may be awarded in addition to
33 compensatory damages.

34 (5) An order requiring the defendant to receive professional
35 domestic violence counseling from either a private source or a source
36 appointed by the court and, in that event, requiring the defendant to
37 provide the court at specified intervals with documentation of
38 attendance at the professional counseling. The court may order the
39 defendant to pay for the professional counseling. No application by
40 the defendant to dissolve a final order which contains a requirement
41 for attendance at professional counseling pursuant to this paragraph
42 shall be granted by the court unless, in addition to any other provisions
43 required by law or conditions ordered by the court, the defendant has
44 completed all required attendance at such counseling.

45 (6) An order restraining the defendant from entering the residence,
46 property, school, or place of employment of the victim or of other
47 family or household members of the victim and requiring the
48 defendant to stay away from any specified place that is named in the

1 order and is frequented regularly by the victim or other family or
2 household members.

3 (7) An order restraining the defendant from making contact with
4 the plaintiff or others, including an order forbidding the defendant
5 from personally or through an agent initiating any communication
6 likely to cause annoyance or alarm including, but not limited to,
7 personal, written, or telephone contact with the victim or other family
8 members, or their employers, employees, or fellow workers, or others
9 with whom communication would be likely to cause annoyance or
10 alarm to the victim.

11 (8) An order requiring that the defendant make or continue to
12 make rent or mortgage payments on the residence occupied by the
13 victim if the defendant is found to have a duty to support the victim or
14 other dependent household members; provided that this issue has not
15 been resolved or is not being litigated between the parties in another
16 action.

17 (9) An order granting either party temporary possession of
18 specified personal property, such as an automobile, checkbook,
19 documentation of health insurance, an identification document, a key,
20 and other personal effects.

21 (10) An order awarding emergency monetary relief, including
22 emergency support for minor children, to the victim and other
23 dependents, if any. An ongoing obligation of support shall be
24 determined at a later date pursuant to applicable law.

25 (11) An order awarding temporary custody of a minor child. The
26 court shall presume that the best interests of the child are served by an
27 award of custody to the non-abusive parent.

28 (12) An order requiring that a law enforcement officer accompany
29 either party to the residence or any shared business premises to
30 supervise the removal of personal belongings in order to ensure the
31 personal safety of the plaintiff when a restraining order has been
32 issued. This order shall be restricted in duration.

33 (13) (Deleted by amendment, P.L.1995, c.242).

34 (14) An order granting any other appropriate relief for the plaintiff
35 and dependent children, provided that the plaintiff consents to such
36 relief, including relief requested by the plaintiff at the final hearing,
37 whether or not the plaintiff requested such relief at the time of the
38 granting of the initial emergency order.

39 (15) An order that requires that the defendant report to the intake
40 unit of the Family Part of the Chancery Division of the Superior Court
41 for monitoring of any other provision of the order.

42 (16) In addition to the order required by this subsection prohibiting
43 the defendant from possessing any firearm, the court may also issue an
44 order prohibiting the defendant from possessing any other weapon
45 enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search
46 for and seizure of any firearm or other weapon at any location where
47 the judge has reasonable cause to believe the weapon is located. The

1 judge shall state with specificity the reasons for and scope of the
2 search and seizure authorized by the order.

3 (17) An order prohibiting the defendant from stalking or following,
4 or threatening to harm, to stalk or to follow, the complainant or any
5 other person named in the order in a manner that, taken in the context
6 of past actions of the defendant, would put the complainant in
7 reasonable fear that the defendant would cause the death or injury of
8 the complainant or any other person. Behavior prohibited under this
9 act includes, but is not limited to, behavior prohibited under the
10 provisions of P.L.1992, c.209 (C.2C:12-10).

11 (18) An order requiring the defendant to undergo a psychiatric
12 evaluation.

13 (19) An order directing the possession of any animal owned,
14 possessed, leased, kept, or held by either party or a minor child
15 residing in the household. Where a person has abused or threatened to
16 abuse such animal, there shall be a presumption that possession of the
17 animal shall be awarded to the non-abusive party.

18 c. Notice of orders issued pursuant to this section shall be sent by
19 the clerk of the Family Part of the Chancery Division of the Superior
20 Court or other person designated by the court to the appropriate chiefs
21 of police, members of the State Police and any other appropriate law
22 enforcement agency.

23 d. Upon good cause shown, any final order may be dissolved or
24 modified upon application to the Family Part of the Chancery Division
25 of the Superior Court, but only if the judge who dissolves or modifies
26 the order is the same judge who entered the order, or has available a
27 complete record of the hearing or hearings on which the order was
28 based.

29 e. Prior to the issuance of any order pursuant to this section, the
30 court shall order that a search be made of the domestic violence central
31 registry.

32 (cf: P.L.2016, c.91, s.3)

33

34 4. This act shall take effect on the 120th day following
35 enactment.

36

37

38

STATEMENT

39

40 This bill requires that certain domestic violence restraining orders
41 and notices to domestic violence victims would be issued in other
42 languages in addition to English.

43 Currently, section 7 of P.L.1991, c.261 (C.2C:25-23) provides that
44 a law enforcement officer must provide a domestic violence victim
45 with a notice of the victim's rights, including the right to go to court to
46 obtain a temporary restraining order and the right to file criminal
47 charges. The statute currently provides that the notice must be written
48 in both English and Spanish. The bill provides that the notice would be

1 written by the Administrative Office of the Courts, in English,
2 Spanish, and up to 10 additional languages commonly spoken in the
3 State, including English.

4 Section 12 of P.L.1991, c.261 (C.2C:25-28) provides that a victim
5 may file a domestic violence complaint with the Family Part or, at
6 times when the Family Part is closed, with a judge of the Family Part
7 or a judge of the municipal court assigned to accept such complaints
8 and issue temporary restraining orders. This statute does not specify
9 whether the order must be issued in a language other than English.
10 The bill provides that any temporary restraining order would be issued
11 by a municipal court judge in the primary language or languages used
12 by both the plaintiff and the defendant. The Administrative Office of
13 the Courts would prepare standard temporary restraining order forms
14 in English, Spanish, and up to 10 additional languages commonly
15 spoken in the State, for use by municipal court judges in complying
16 with the law.

17 Section 13 of P.L.1991, c.261 (C.2C:25-29) provides that within
18 10 days of the filing of a complaint for a temporary restraining order,
19 the Family Part will conduct a hearing to determine whether to issue a
20 permanent restraining order. The bill provides that any permanent
21 restraining order would be issued in the primary language or languages
22 used by both the plaintiff and the defendant. The Administrative
23 Office of the Courts would prepare standard forms in English, Spanish,
24 and up to 10 additional languages commonly spoken in the State, for
25 use by courts in complying with the provisions of law.