

ASSEMBLY, No. 4590

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Clarifies penalties for certain violations of pretrial release; directs prosecutor to provide written notice of release to victim.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/5/2021)

1 AN ACT concerning violations of pretrial release conditions and
2 amending N.J.S.2C:29-9 and 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. N.J.S.2C:29-9 is amended to read as follows:

8 2C:29-9. Contempt. a. (1) Except as provided in paragraph (2)
9 of this subsection, a [A] person is guilty of a crime of the fourth
10 degree if the person purposely or knowingly disobeys a judicial
11 order or protective order, pursuant to section 1 of P.L.1985, c.250
12 (C.2C:28-5.1), or hinders, obstructs, or impedes the effectuation of
13 a judicial order or the exercise of jurisdiction over any person,
14 thing, or controversy by a court, administrative body, or
15 investigative entity, or purposely or knowingly violates a condition
16 to avoid all contact with an alleged victim or a condition of home
17 detention with or without the use of an approved electronic
18 monitoring device, ordered pursuant to subparagraph (b) of
19 paragraph (1) or subparagraph (k) of paragraph (2) of subsection b.
20 of section 3 of P.L. 2014, c.31 (C.2A:162-17), when the conduct
21 which constitutes the violation could also constitute a crime or a
22 disorderly persons offense.

23 (2) In all other cases a person is guilty of a disorderly persons
24 offense if that person purposely or knowingly violates a condition
25 to avoid contact with an alleged victim or a condition of home
26 detention with or without the use of an approved electronic
27 monitoring device.

28 b. (1) Except as provided in paragraph (2) of this subsection, a
29 person is guilty of a crime of the fourth degree if that person
30 purposely or knowingly violates any provision in an order entered
31 under the provisions of the "Prevention of Domestic Violence Act
32 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered
33 under the provisions of a substantially similar statute under the laws
34 of another state or the United States when the conduct which
35 constitutes the violation could also constitute a crime or a
36 disorderly persons offense.

37 Orders entered pursuant to paragraphs (3), (4), (5), (8), and (9) of
38 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
39 substantially similar orders entered under the laws of another state
40 or the United States shall be excluded from the provisions of this
41 paragraph.

42 (2) In all other cases a person is guilty of a disorderly persons
43 offense if that person purposely or knowingly violates an order
44 entered under the provisions of the "Prevention of Domestic
45 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an

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 order entered under the provisions of a substantially similar statute
2 under the laws of another state or the United States.

3 Orders entered pursuant to paragraphs (3), (4), (5), (8), and (9) of
4 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
5 substantially similar orders entered under the laws of another state
6 or the United States shall be excluded from the provisions of this
7 paragraph.

8 c. A person is guilty of a crime of the third degree if that
9 person purposely or knowingly violates any provision in an order
10 entered under the provisions of section 3 of P.L.1996, c.39
11 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an
12 order entered under the provisions of a substantially similar statute
13 under the laws of another state or the United States when the
14 conduct which constitutes the violation could also constitute a
15 crime or a disorderly persons offense.

16 d. (1) Except as provided in paragraph (2) of this subsection, a
17 person is guilty of a crime of the fourth degree if that person
18 purposely or knowingly violates any provision in an order entered
19 under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an
20 order entered under the provisions of a substantially similar statute
21 under the laws of another state or the United States when the
22 conduct which constitutes the violation could also constitute a
23 crime or a disorderly persons offense.

24 (2) In all other cases a person is guilty of a disorderly persons
25 offense if that person purposely or knowingly violates an order
26 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
27 or an order entered under the provisions of a substantially similar
28 statute under the laws of another state or the United States.

29 e. A person is guilty of a crime of the fourth degree if the
30 person purposely or knowingly violates any provision of an order
31 entered under the provisions of the "Extreme Risk Protective Order
32 Act of 2018," P.L.2018, c.35 (C.2C:58-20 et al.) or an order entered
33 under the provisions of a substantially similar statute under the laws
34 of another state or the United States.

35 As used in this section, "state" means a state of the United States,
36 the District of Columbia, Puerto Rico, the United States Virgin
37 Islands, or any territory or insular possession subject to the
38 jurisdiction of the United States. The term includes an Indian tribe
39 or band, or Alaskan native village, which is recognized by a federal
40 law or formally acknowledged by a state.

41 (cf: P.L.2018, c.35, s.12)

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43 2. Section 10 of P.L. 1991, c.261 (C.2C:25-26) is amended to
44 read as follows:

45 10. a. When a defendant charged with a crime or offense
46 involving domestic violence is released from custody before trial on
47 bail or personal recognizance, the court authorizing the release may
48 as a condition of release issue an order prohibiting the defendant

1 from having any contact with the victim including, but not limited
2 to, restraining the defendant from entering the victim's residence,
3 place of employment or business, or school, and from harassing or
4 stalking the victim or the victim's friends, co-workers, or relatives
5 in any way. The court may also enter an order prohibiting the
6 defendant from having any contact with any animal owned,
7 possessed, leased, kept, or held by either party or a minor child
8 residing in the household. In addition, the court may enter an order
9 directing the possession of the animal and providing that the animal
10 shall not be disposed of prior to the disposition of the crime or
11 offense. The court may enter an order prohibiting the defendant
12 from possessing any firearm or other weapon enumerated in
13 subsection r. of N.J.S.2C:39-1 and ordering the search for and
14 seizure of any such weapon at any location where the judge has
15 reasonable cause to believe the weapon is located. The judge shall
16 state with specificity the reasons for and scope of the search and
17 seizure authorized by the order.

18 b. The written court order releasing the defendant shall contain
19 the court's directives specifically restricting the defendant's ability
20 to have contact with the victim, the victim's friends, co-workers, or
21 relatives, or any animal owned, possessed, leased, kept, or held by
22 either party or a minor child residing in the household. The [clerk
23 of the court or other person designated by the court] prosecutor
24 shall provide a copy of this order to the victim forthwith.

25 c. The victim's location shall remain confidential and shall not
26 appear on any documents or records to which the defendant has
27 access.

28 d. Before bail is set, the defendant's prior record shall be
29 considered by the court. The court shall also conduct a search of
30 the domestic violence central registry. Bail shall be set as soon as
31 is feasible, but in all cases within 24 hours of arrest.

32 e. Once bail is set it shall not be reduced without prior notice
33 to the county prosecutor and the victim. Bail shall not be reduced
34 by a judge other than the judge who originally ordered bail, unless
35 the reasons for the amount of the original bail are available to the
36 judge who reduces the bail and are set forth in the record.

37 f. A victim shall not be prohibited from applying for, and a
38 court shall not be prohibited from issuing, temporary restraints
39 pursuant to this act because the victim has charged any person with
40 commission of a criminal act.

41 (cf: P.L.2011, c.213, s.1)

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43 3. This act shall take effect immediately.

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45 STATEMENT

46

47 This bill clarifies that a person is guilty of a crime of the fourth
48 degree who purposely or knowingly violates a condition of an order

1 entered pursuant to pretrial release requiring that the eligible
2 defendant shall avoid contact with an alleged victim of a crime, or,
3 be placed in a pretrial home supervision capacity, when the conduct
4 that constitutes the violation could also constitute a crime or a
5 disorderly persons offense. A crime of the fourth degree is
6 punishable by up to 18 months imprisonment, a fine of up to
7 \$10,000, or both. Otherwise a violation of a condition ordered
8 under the provision of the pretrial release law is a disorderly
9 persons offense. A disorderly persons offense is punishable by up
10 to six months imprisonment, a fine of up to \$1,000, or both.

11 The bill further amends N.J.S.2C:25-26, concerned with
12 conditions of pretrial release in domestic violence cases, to clarify
13 that it shall be the duty of the prosecutor to provide to the victim a
14 copy of the written court order releasing the defendant and
15 containing the court's directives specifically restricting the
16 defendant's ability to have contact with persons named in the order.
17 N.J.S.2C:25-26.1 currently provides that whenever a defendant
18 charged with a crime or an offense involving domestic violence is
19 released from custody the prosecuting agency shall notify the
20 victim. This bill ensures that the prosecutor is responsible for
21 notifying a victim at the time of release for present charges and any
22 other time of release.