

ASSEMBLY JOINT RESOLUTION

No. 30

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

Co-Sponsored by:

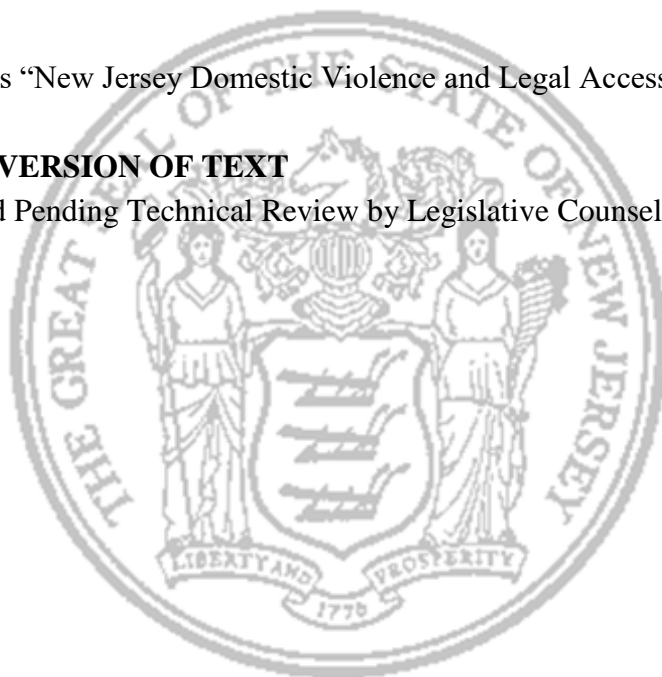
Assemblyman Johnson, Assemblywomen Vainieri Huttie, Timberlake, Lampitt, Assemblymen Chiaravalloti, Houghtaling, Assemblywoman McKnight, Assemblymen Benson, DePhillips and Assemblywoman Downey

SYNOPSIS

Establishes “New Jersey Domestic Violence and Legal Access Task Force.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/13/2020)

1 **A JOINT RESOLUTION** establishing the “New Jersey Domestic
2 Violence and Legal Access Task Force.”
3
4 **WHEREAS**, Every day, indigent *pro se* parties enter New Jersey courts
5 seeking relief from abuse. Often these people are unable to
6 advocate effectively for themselves or articulate a sufficient basis to
7 support the relief they are seeking from the court. Similarly, other
8 indigent parties must defend themselves against allegations of
9 domestic violence. In both instances, these litigants are often ill-
10 equipped to articulate the merits of their positions to the court
11 because of a language barrier, lack of understanding of the statutory
12 standard, or for some other reason; and
13 **WHEREAS**, Survivors of domestic violence rate the filing of an
14 application for a restraining order as one of their most effective
15 tools to stopping domestic violence, second only to leaving the
16 abuser. Studies confirm that access to counsel in restraining order
17 proceedings can make a substantial difference in the outcome; and
18 **WHEREAS**, According to one study, 83 percent of victims represented
19 by an attorney successfully obtained a restraining order, as
20 compared to just 32 percent of victims without an attorney; and
21 **WHEREAS**, Increasing a victim’s chance for obtaining a restraining
22 order is one of the most straightforward ways in which legal
23 assistance can reduce domestic violence. Cases involving domestic
24 violence are often difficult and complex, and survivors without
25 proper legal representation are frequently further victimized by
26 unfavorable outcomes; and
27 **WHEREAS**, New Jersey has long recognized a right to counsel for
28 impoverished defendants facing consequences of magnitude, even
29 in civil cases, such as loss of motor vehicle privileges or a
30 substantial fine in municipal court, child support enforcement
31 proceedings, involuntary commitment proceedings, Megan’s Law
32 tier classification hearings, proceedings regarding abuse, neglect or
33 termination of all parental rights, and loss of liberty, such as the
34 ability to own weapons or to move freely; and
35 **WHEREAS**, Inexplicably, a defendant who is prosecuted for an act of
36 domestic violence is not entitled to counsel even though facing a
37 host of consequences of magnitude, which may include immediate
38 loss of the right to occupy a residence without any relief from
39 financial obligations related to that residence; monetary payments
40 and penalties; seizure of firearms and the loss of the right to possess
41 same; and suspension of the right to see his or her children; and
42 **WHEREAS**, There is no principled reason why an indigent facing loss
43 of motor vehicle privileges or a substantial fine in municipal court
44 would be conferred the right to counsel, but an indigent involved in
45 a domestic violence matter would not have a similar right; and
46 **WHEREAS**, Domestic violence proceedings implicate fundamental
47 rights, effect consequences of sizable magnitude, and the provision
48 of counsel protects a core constitutional provision-the guarantee of

AJR30 MURPHY, MOSQUERA

3

1 “fundamentally fair” adversarial proceedings. Absent such a
2 safeguard, domestic violence litigants are left impermissibly
3 vulnerable; and

4 **WHEREAS**, By expanding the right to counsel to include both sides in
5 a domestic violence restraining order action, this State can ensure
6 that indigent litigants will not suffer consequences of magnitude
7 without first receiving the protection of counsel; now, therefore,

8

9 **BE IT RESOLVED** *by the Senate and General Assembly of the*
10 *State of New Jersey:*

11

12 1. a. There is established the “New Jersey Domestic Violence
13 and Legal Access Task Force” to study the nature, extent and
14 consequences of unmet legal needs of State residents in domestic
15 violence matters.

16 b. The purpose of the task force is to examine, on a Statewide
17 basis, the impact that the lack of access to legal counsel in domestic
18 violence matters is having on the ability of State residents to be
19 protected from physical and emotional harm, and the impact on
20 other residents who have to defend themselves against allegations
21 of domestic abuse.

22

23 2. a. The task force shall be comprised of 16 members, as
24 follows:

25 (1) Two public members appointed by the Governor, one of
26 whom shall be a representative of a pro bono program organized by
27 a law firm located in the State, and one of whom shall be a State
28 resident who has been a pro se litigant who has appeared as a
29 plaintiff in a domestic violence matter in the New Jersey State
30 courts;

31 (2) Two public members appointed by the Governor upon
32 recommendation of the President of the Senate, one of whom shall
33 be the representative of a non-profit organization dedicated to the
34 services and assistance of victims of domestic violence and one of
35 whom shall be a State licensed and certified family law attorney;

36 (3) Two public members appointed by the Governor upon
37 recommendation of the Speaker of the General Assembly, one of
38 whom shall be a director of a legal clinic program of a law school
39 located in the State and one of whom shall be a State resident who
40 has been a pro se litigant who has appeared as a defendant in a
41 domestic violence matter in the New Jersey State courts;

42 (4) One member appointed by the Chief Justice, who is a retired
43 judge of the Superior Court who was previously assigned to the
44 Family Division;

45 (5) The Administrative Director of the Courts, or his designee;

46 (6) The Public Defender, or the Public Defender’s designee;

47 (7) The Attorney General, or the Attorney General’s designee;

AJR30 MURPHY, MOSQUERA

- 1 (8) The dean of Seton Hall University School of Law, or the
2 dean's designee;
- 3 (9) The co-dean of Rutgers Law School Newark Campus, or the
4 co-dean's designee;
- 5 (10) The co-dean of Rutgers Law School Camden Campus, or
6 the co-dean's designee;
- 7 (11) The executive director of New Jersey Legal Services, or the
8 executive director's designee;
- 9 (12) A representative of the New Jersey Coalition to End
10 Domestic Violence; and
- 11 (13) A representative of Partners for Women and Justice.
- 12 b. The task force may meet and hold hearings at the places it
13 designates during the sessions or recesses of the Legislature. The
14 task force shall meet at the call of the co-chairs, and the presence of
15 nine members of the task force shall constitute a quorum at any
16 meeting thereof.
- 17
- 18 3. The task force shall be co-chaired as follows: one co-chair
19 shall be the Attorney General, or the Attorney General's designee,
20 and the other shall be appointed by the Governor from among the
21 public members and shall serve at the pleasure of the Governor.
- 22
- 23 4. Vacancies in the membership of the task force shall be filled
24 in the same manner as the original appointments were made. The
25 members of the task force shall serve without compensation, but
26 shall be eligible for reimbursement for necessary and reasonable
27 expenses incurred in the performance of their official duties within
28 the limits of funds appropriated or otherwise made available of the
29 commission for its purposes.
- 30
- 31 5. The Attorney General's Office shall provide staff and related
32 support services as the task force requires to carry out its work.
- 33
- 34 6. The task force shall be entitled to call to its assistance and
35 avail itself of the services of the employees of any State, county, or
36 municipal department, board, bureau, commission, or agency as it
37 may require and as may be available to it for its purposes, and to
38 incur such traveling and other miscellaneous expenses as it may
39 deem necessary for the proper execution of its duties and as may be
40 within the limits of funds appropriated or otherwise made available
41 to it for these purposes.
- 42
- 43 7. The task force shall present a report of its findings and
44 recommendations to the Governor and, pursuant to section 2 of
45 P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than 18
46 months after the organization of the task force. Such
47 recommendations shall include suggested mechanisms to: (1) secure
48 access to justice and legal representation in domestic violence

1 matters by increasing the availability of legal assistance with
2 domestic violence matters throughout the State; (2) institute a
3 review of New Jersey's Rules of Professional Conduct and
4 Unauthorized Practice of Law rules with the purpose of identifying
5 revisions that expand the ability of law students to provide pro bono
6 assistance to persons of limited means; and (3) encourage increased
7 pro bono service by the State's legal community.

8
9 8. The task force shall dissolve three months after presenting
10 the report.

11
12 9. This joint resolution shall take effect immediately.

13
14
15 STATEMENT

16
17 This joint resolution establishes the "New Jersey Domestic
18 Violence and Legal Access Task Force" for the purpose of studying
19 the nature, extent and consequences of unmet legal needs of State
20 residents in domestic violence matters. The task force would have 16
21 members. The task force would submit a report of its findings and
22 recommendations to the Governor and the Legislature within 18
23 months of its organization.

24 The membership of the commission would be as follows:

25 (1) two public members appointed by the Governor, one of whom
26 is a representative of a pro bono program organized by a law firm
27 located in the State, and one of whom is a State resident who has been
28 a pro se litigant who has appeared as a plaintiff in a domestic violence
29 matter in the New Jersey State courts;

30 (2) two public members appointed by the Governor upon
31 recommendation of the President of the Senate, one of whom is the
32 representative of a non-profit organization dedicated to the services
33 and assistance of victims of domestic violence and one of whom is a
34 State licensed and certified family law attorney;

35 (3) two public members appointed by the Governor upon
36 recommendation of the Speaker of the General Assembly, one of
37 whom is a director of a legal clinic program of a law school located in
38 the State and one of whom is a State resident who has been a pro se
39 litigant who has appeared as a defendant in a domestic violence matter
40 in the New Jersey State court;

41 (4) one member appointed by the Chief Justice, who is a retired
42 judge of the Superior Court who had been previously assigned to the
43 Family Division;

44 (5) the Administrative Director of the Courts, or his designee;

45 (6) the Public Defender, or the Public Defender's designee;

46 (7) the Attorney General, or the Attorney General's designee;

47 (8) the dean of Seton Hall University School of Law, or the
48 dean's designee;

AJR30 MURPHY, MOSQUERA

6

1 (9) the co-dean of Rutgers Law School Newark Campus, or the
2 co-dean's designee;

3 (10) the co-dean of Rutgers Law School Camden Campus, or the
4 co-dean's designee;

5 (11) the executive director of New Jersey Legal Services, or the
6 executive director's designee;

7 (12) A representative of the New Jersey Coalition to End
8 Domestic Violence; and

9 (13) A representative of Partners for Women and Justice.

10 The task force would be co-chaired: one co-chair would be the
11 Attorney General, or the Attorney General's designee, and the other
12 co-chair would be appointed by the Governor from among the public
13 members and would serve at the pleasure of the Governor.

14 The task force may meet and hold hearings at the places it
15 designates during the sessions or recesses of the Legislature. The task
16 force would meet at the call of the co-chairs. The presence of nine
17 members of the task force would constitute a quorum at any meeting
18 thereof.