

SENATE, No. 930

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:
Senator THOMAS H. KEAN, JR.
District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides for animal protection orders and assignment of pet custody in divorce or dissolution of civil unions.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the care and protection of domestic companion
2 animals, amending and supplementing Title 2A of the New
3 Jersey Statutes, and supplementing Title 4 of the Revised
4 Statutes.

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

8
9 1. N.J.S.2A:34-23 is amended to read as follows:
10 2A:34-23. Alimony, maintenance.

11 Pending any matrimonial action or action for dissolution of a
12 civil union brought in this State or elsewhere, or after judgment of
13 divorce or dissolution or maintenance, whether obtained in this
14 State or elsewhere, the court may make such order as to the alimony
15 or maintenance of the parties, as to the ownership for any domestic
16 companion animals, and also as to the care, custody, education and
17 maintenance of the children, or any of them, as the circumstances of
18 the parties and the nature of the case shall render fit, reasonable and
19 just, and require reasonable security for the due observance of such
20 orders, including, but not limited to, the creation of trusts or other
21 security devices, to assure payment of reasonably foreseeable
22 medical and educational expenses. Upon neglect or refusal to give
23 such reasonable security, as shall be required, or upon default in
24 complying with any such order, the court may award and issue
25 process for the immediate sequestration of the personal estate, and
26 the rents and profits of the real estate of the party so charged, and
27 appoint a receiver thereof, and cause such personal estate and the
28 rents and profits of such real estate, or so much thereof as shall be
29 necessary, to be applied toward such alimony and maintenance as to
30 the said court shall from time to time seem reasonable and just; or
31 the performance of the said orders may be enforced by other ways
32 according to the practice of the court. Orders so made may be
33 revised and altered by the court from time to time as circumstances
34 may require.

35 The court may order one party to pay a retainer on behalf of the
36 other for expert and legal services when the respective financial
37 circumstances of the parties make the award reasonable and just. In
38 considering an application, the court shall review the financial
39 capacity of each party to conduct the litigation and the criteria for
40 award of counsel fees that are then pertinent as set forth by court
41 rule. Whenever any other application is made to a court which
42 includes an application for pendente lite or final award of counsel
43 fees, the court shall determine the appropriate award for counsel
44 fees, if any, at the same time that a decision is rendered on the other
45 issue then before the court and shall consider the factors set forth in

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 the court rule on counsel fees, the financial circumstances of the
2 parties, and the good or bad faith of either party. The court may not
3 order a retainer or counsel fee of a party convicted of an attempt or
4 conspiracy to murder the other party to be paid by the party who
5 was the intended victim of the attempt or conspiracy.

6 a. In determining the amount to be paid by a parent for support
7 of the child and the period during which the duty of support is
8 owed, the court in those cases not governed by court rule shall
9 consider, but not be limited to, the following factors:

10 (1) Needs of the child;

11 (2) Standard of living and economic circumstances of each
12 parent;

13 (3) All sources of income and assets of each parent;

14 (4) Earning ability of each parent, including educational
15 background, training, employment skills, work experience,
16 custodial responsibility for children including the cost of providing
17 child care and the length of time and cost of each parent to obtain
18 training or experience for appropriate employment;

19 (5) Need and capacity of the child for education, including
20 higher education;

21 (6) Age and health of the child and each parent;

22 (7) Income, assets and earning ability of the child;

23 (8) Responsibility of the parents for the court-ordered support of
24 others;

25 (9) Reasonable debts and liabilities of each child and parent; and

26 (10) Any other factors the court may deem relevant.

27 The obligation to pay support for a child who has not been
28 emancipated by the court shall not terminate solely on the basis of
29 the child's age if the child suffers from a severe mental or physical
30 incapacity that causes the child to be financially dependent on a
31 parent. The obligation to pay support for that child shall continue
32 until the court finds that the child is relieved of the incapacity or is
33 no longer financially dependent on the parent. However, in
34 assessing the financial obligation of the parent, the court shall
35 consider, in addition to the factors enumerated in this section, the
36 child's eligibility for public benefits and services for people with
37 disabilities and may make such orders, including an order involving
38 the creation of a trust, as are necessary to promote the well-being of
39 the child.

40 As used in this section "severe mental or physical incapacity"
41 shall not include a child's abuse of, or addiction to, alcohol or
42 controlled substances.

43 b. In all actions brought for divorce, dissolution of a civil
44 union, divorce from bed and board, legal separation from a partner
45 in a civil union couple or nullity the court may award one or more
46 of the following types of alimony: open durational alimony;
47 rehabilitative alimony; limited duration alimony or reimbursement

1 alimony to either party. In so doing the court shall consider, but not
2 be limited to, the following factors:

- 3 (1) The actual need and ability of the parties to pay;
- 4 (2) The duration of the marriage or civil union;
- 5 (3) The age, physical and emotional health of the parties;
- 6 (4) The standard of living established in the marriage or civil
7 union and the likelihood that each party can maintain a reasonably
8 comparable standard of living, with neither party having a greater
9 entitlement to that standard of living than the other;
- 10 (5) The earning capacities, educational levels, vocational skills,
11 and employability of the parties;
- 12 (6) The length of absence from the job market of the party
13 seeking maintenance;
- 14 (7) The parental responsibilities for the children;
- 15 (8) The time and expense necessary to acquire sufficient
16 education or training to enable the party seeking maintenance to
17 find appropriate employment, the availability of the training and
18 employment, and the opportunity for future acquisitions of capital
19 assets and income;
- 20 (9) The history of the financial or non-financial contributions to
21 the marriage or civil union by each party including contributions to
22 the care and education of the children and interruption of personal
23 careers or educational opportunities;
- 24 (10) The equitable distribution of property ordered and any
25 payouts on equitable distribution, directly or indirectly, out of
26 current income, to the extent this consideration is reasonable, just
27 and fair;
- 28 (11) The income available to either party through investment of
29 any assets held by that party;
- 30 (12) The tax treatment and consequences to both parties of any
31 alimony award, including the designation of all or a portion of the
32 payment as a non-taxable payment;
- 33 (13) The nature, amount, and length of pendente lite support
34 paid, if any; and
- 35 (14) Any other factors which the court may deem relevant.

36 In each case where the court is asked to make an award of
37 alimony, the court shall consider and assess evidence with respect
38 to all relevant statutory factors. If the court determines that certain
39 factors are more or less relevant than others, the court shall make
40 specific written findings of fact and conclusions of law on the
41 reasons why the court reached that conclusion. No factor shall be
42 elevated in importance over any other factor unless the court finds
43 otherwise, in which case the court shall make specific written
44 findings of fact and conclusions of law in that regard.

45 When a share of a retirement benefit is treated as an asset for
46 purposes of equitable distribution, the court shall not consider
47 income generated thereafter by that share for purposes of
48 determining alimony.

1 c. In any case in which there is a request for an award of
2 alimony, the court shall consider and make specific findings on the
3 evidence about all of the statutory factors set forth in subsection b.
4 of this section.

5 For any marriage or civil union less than 20 years in duration,
6 the total duration of alimony shall not, except in exceptional
7 circumstances, exceed the length of the marriage or civil union.
8 Determination of the length and amount of alimony shall be made
9 by the court pursuant to consideration of all of the statutory factors
10 set forth in subsection b. of this section. In addition to those
11 factors, the court shall also consider the practical impact of the
12 parties' need for separate residences and the attendant increase in
13 living expenses on the ability of both parties to maintain a standard
14 of living reasonably comparable to the standard of living
15 established in the marriage or civil union, to which both parties are
16 entitled, with neither party having a greater entitlement thereto.

17 Exceptional circumstances which may require an adjustment to
18 the duration of alimony include:

19 (1) The ages of the parties at the time of the marriage or civil
20 union and at the time of the alimony award;

21 (2) The degree and duration of the dependency of one party on
22 the other party during the marriage or civil union;

23 (3) Whether a spouse or partner has a chronic illness or unusual
24 health circumstance;

25 (4) Whether a spouse or partner has given up a career or a career
26 opportunity or otherwise supported the career of the other spouse or
27 partner;

28 (5) Whether a spouse or partner has received a disproportionate
29 share of equitable distribution;

30 (6) The impact of the marriage or civil union on either party's
31 ability to become self-supporting, including but not limited to either
32 party's responsibility as primary caretaker of a child;

33 (7) Tax considerations of either party;

34 (8) Any other factors or circumstances that the court deems
35 equitable, relevant and material.

36 An award of alimony for a limited duration may be modified
37 based either upon changed circumstances, or upon the
38 nonoccurrence of circumstances that the court found would occur at
39 the time of the award. The court may modify the amount of such an
40 award, but shall not modify the length of the term except in unusual
41 circumstances.

42 In determining the length of the term, the court shall consider the
43 length of time it would reasonably take for the recipient to improve
44 his or her earning capacity to a level where limited duration
45 alimony is no longer appropriate.

46 d. Rehabilitative alimony shall be awarded based upon a plan
47 in which the payee shows the scope of rehabilitation, the steps to be
48 taken, and the time frame, including a period of employment during

1 which rehabilitation will occur. An award of rehabilitative alimony
2 may be modified based either upon changed circumstances, or upon
3 the nonoccurrence of circumstances that the court found would
4 occur at the time of the rehabilitative award.

5 This section is not intended to preclude a court from modifying
6 alimony awards based upon the law.

7 e. Reimbursement alimony may be awarded under
8 circumstances in which one party supported the other through an
9 advanced education, anticipating participation in the fruits of the
10 earning capacity generated by that education. An award of
11 reimbursement alimony shall not be modified for any reason.

12 f. Except as provided in subsection i., nothing in this section
13 shall be construed to limit the court's authority to award open
14 durational alimony, limited duration alimony, rehabilitative alimony
15 or reimbursement alimony, separately or in any combination, as
16 warranted by the circumstances of the parties and the nature of the
17 case.

18 g. In all actions for divorce or dissolution other than those
19 where judgment is granted solely on the ground of separation the
20 court may consider also the proofs made in establishing such
21 ground in determining an amount of alimony or maintenance that is
22 fit, reasonable and just. In all actions for divorce, dissolution of
23 civil union, divorce from bed and board, or legal separation from a
24 partner in a civil union couple where judgment is granted on the
25 ground of institutionalization for mental illness the court may
26 consider the possible burden upon the taxpayers of the State as well
27 as the ability of the party to pay in determining an amount of
28 maintenance to be awarded.

29 h. Except as provided in this subsection, in all actions where a
30 judgment of divorce, dissolution of civil union, divorce from bed
31 and board or legal separation from a partner in a civil union couple
32 is entered the court may make such award or awards to the parties,
33 in addition to alimony and maintenance, to effectuate an equitable
34 distribution of the property, both real and personal, which was
35 legally and beneficially acquired by them or either of them during
36 the marriage or civil union. However, all such property, real,
37 personal or otherwise, legally or beneficially acquired during the
38 marriage or civil union by either party by way of gift, devise, or
39 intestate succession shall not be subject to equitable distribution,
40 except that interspousal gifts or gifts between partners in a civil
41 union couple shall be subject to equitable distribution. The court
42 may not make an award concerning the equitable distribution of
43 property on behalf of a party convicted of an attempt or conspiracy
44 to murder the other party.

45 i. No person convicted of Murder, N.J.S.2C:11-3;
46 Manslaughter, N.J.S.2C:11-4; Criminal Homicide, N.J.S.2C:11-2;
47 Aggravated Assault, under subsection b. of N.J.S.2C:12-1; or a
48 substantially similar offense under the laws of another jurisdiction,

1 may receive alimony if: (1) the crime results in death or serious
2 bodily injury, as defined in subsection b. of N.J.S.2C:11-1, to a
3 family member of a divorcing party; and (2) the crime was
4 committed after the marriage or civil union. A person convicted of
5 an attempt or conspiracy to commit murder may not receive
6 alimony from the person who was the intended victim of the
7 attempt or conspiracy. Nothing in this subsection shall be
8 construed to limit the authority of the court to deny alimony for
9 other bad acts.

10 As used in this subsection:

11 "Family member" means a spouse, child, parent, sibling, aunt,
12 uncle, niece, nephew, first cousin, grandparent, grandchild, father-
13 in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,
14 stepchild, stepbrother, stepsister, half brother, or half sister, whether
15 the individual is related by blood, marriage or civil union, or
16 adoption.

17 j. Alimony may be modified or terminated upon the
18 prospective or actual retirement of the obligor.

19 (1) There shall be a rebuttable presumption that alimony shall
20 terminate upon the obligor spouse or partner attaining full
21 retirement age, except that any arrearages that have accrued prior to
22 the termination date shall not be vacated or annulled. The court may
23 set a different alimony termination date for good cause shown based
24 on specific written findings of fact and conclusions of law.

25 The rebuttable presumption may be overcome if, upon
26 consideration of the following factors and for good cause shown,
27 the court determines that alimony should continue:

28 (a) The ages of the parties at the time of the application for
29 retirement;

30 (b) The ages of the parties at the time of the marriage or civil
31 union and their ages at the time of entry of the alimony award;

32 (c) The degree and duration of the economic dependency of the
33 recipient upon the payor during the marriage or civil union;

34 (d) Whether the recipient has foregone or relinquished or
35 otherwise sacrificed claims, rights or property in exchange for a
36 more substantial or longer alimony award;

37 (e) The duration or amount of alimony already paid;

38 (f) The health of the parties at the time of the retirement
39 application;

40 (g) Assets of the parties at the time of the retirement
41 application;

42 (h) Whether the recipient has reached full retirement age as
43 defined in this section;

44 (i) Sources of income, both earned and unearned, of the parties;

45 (j) The ability of the recipient to have saved adequately for
46 retirement; and

47 (k) Any other factors that the court may deem relevant.

1 If the court determines, for good cause shown based on specific
2 written findings of fact and conclusions of law, that the
3 presumption has been overcome, then the court shall apply the
4 alimony factors as set forth in subsection b. of this section to the
5 parties' current circumstances in order to determine whether
6 modification or termination of alimony is appropriate. If the obligor
7 intends to retire but has not yet retired, the court shall establish the
8 conditions under which the modification or termination of alimony
9 will be effective.

10 (2) Where the obligor seeks to retire prior to attaining the full
11 retirement age as defined in this section, the obligor shall have the
12 burden of demonstrating by a preponderance of the evidence that
13 the prospective or actual retirement is reasonable and made in good
14 faith. Both the obligor's application to the court for modification or
15 termination of alimony and the obligee's response to the application
16 shall be accompanied by current Case Information Statements or
17 other relevant documents as required by the Rules of Court, as well
18 as the Case Information Statements or other documents from the
19 date of entry of the original alimony award and from the date of any
20 subsequent modification.

21 In order to determine whether the obligor has met the burden of
22 demonstrating that the obligor's prospective or actual retirement is
23 reasonable and made in good faith, the court shall consider the
24 following factors:

25 (a) The age and health of the parties at the time of the
26 application;

27 (b) The obligor's field of employment and the generally
28 accepted age of retirement for those in that field;

29 (c) The age when the obligor becomes eligible for retirement at
30 the obligor's place of employment, including mandatory retirement
31 dates or the dates upon which continued employment would no
32 longer increase retirement benefits;

33 (d) The obligor's motives in retiring, including any pressures to
34 retire applied by the obligor's employer or incentive plans offered
35 by the obligor's employer;

36 (e) The reasonable expectations of the parties regarding
37 retirement during the marriage or civil union and at the time of the
38 divorce or dissolution;

39 (f) The ability of the obligor to maintain support payments
40 following retirement, including whether the obligor will continue to
41 be employed part-time or work reduced hours;

42 (g) The obligee's level of financial independence and the
43 financial impact of the obligor's retirement upon the obligee; and

44 (h) Any other relevant factors affecting the obligor's decision to
45 retire and the parties' respective financial positions.

46 If the obligor intends to retire but has not yet retired, the court
47 shall establish the conditions under which the modification or
48 termination of alimony will be effective.

1 (3) When a retirement application is filed in cases in which
2 there is an existing final alimony order or enforceable written
3 agreement established prior to the effective date of this act, the
4 obligor's reaching full retirement age as defined in this section shall
5 be deemed a good faith retirement age. Upon application by the
6 obligor to modify or terminate alimony, both the obligor's
7 application to the court for modification or termination of alimony
8 and the obligee's response to the application shall be accompanied
9 by current Case Information Statements or other relevant documents
10 as required by the Rules of Court, as well as the Case Information
11 Statements or other documents from the date of entry of the original
12 alimony award and from the date of any subsequent modification.
13 In making its determination, the court shall consider the ability of
14 the obligee to have saved adequately for retirement as well as the
15 following factors in order to determine whether the obligor, by a
16 preponderance of the evidence, has demonstrated that modification
17 or termination of alimony is appropriate:

18 (a) The age and health of the parties at the time of the
19 application;

20 (b) The obligor's field of employment and the generally
21 accepted age of retirement for those in that field;

22 (c) The age when the obligor becomes eligible for retirement at
23 the obligor's place of employment, including mandatory retirement
24 dates or the dates upon which continued employment would no
25 longer increase retirement benefits;

26 (d) The obligor's motives in retiring, including any pressures to
27 retire applied by the obligor's employer or incentive plans offered
28 by the obligor's employer;

29 (e) The reasonable expectations of the parties regarding
30 retirement during the marriage or civil union and at the time of the
31 divorce or dissolution;

32 (f) The ability of the obligor to maintain support payments
33 following retirement, including whether the obligor will continue to
34 be employed part-time or work reduced hours;

35 (g) The obligee's level of financial independence and the
36 financial impact of the obligor's retirement upon the obligee; and

37 (h) Any other relevant factors affecting the parties' respective
38 financial positions.

39 (4) The assets distributed between the parties at the time of the
40 entry of a final order of divorce or dissolution of a civil union shall
41 not be considered by the court for purposes of determining the
42 obligor's ability to pay alimony following retirement.

43 k. When a non-self-employed party seeks modification of
44 alimony, the court shall consider the following factors:

45 (1) The reasons for any loss of income;

46 (2) Under circumstances where there has been a loss of
47 employment, the obligor's documented efforts to obtain replacement
48 employment or to pursue an alternative occupation;

1 (3) Under circumstances where there has been a loss of
2 employment, whether the obligor is making a good faith effort to
3 find remunerative employment at any level and in any field;

4 (4) The income of the obligee; the obligee's circumstances; and
5 the obligee's reasonable efforts to obtain employment in view of
6 those circumstances and existing opportunities;

7 (5) The impact of the parties' health on their ability to obtain
8 employment;

9 (6) Any severance compensation or award made in connection
10 with any loss of employment;

11 (7) Any changes in the respective financial circumstances of the
12 parties that have occurred since the date of the order from which
13 modification is sought;

14 (8) The reasons for any change in either party's financial
15 circumstances since the date of the order from which modification
16 is sought, including, but not limited to, assessment of the extent to
17 which either party's financial circumstances at the time of the
18 application are attributable to enhanced earnings or financial
19 benefits received from any source since the date of the order;

20 (9) Whether a temporary remedy should be fashioned to provide
21 adjustment of the support award from which modification is sought,
22 and the terms of any such adjustment, pending continuing
23 employment investigations by the unemployed spouse or partner;
24 and

25 (10) Any other factor the court deems relevant to fairly and
26 equitably decide the application.

27 Under circumstances where the changed circumstances arise
28 from the loss of employment, the length of time a party has been
29 involuntarily unemployed or has had an involuntary reduction in
30 income shall not be the only factor considered by the court when an
31 application is filed by a non-self-employed party to reduce alimony
32 because of involuntary loss of employment. The court shall
33 determine the application based upon all of the enumerated factors,
34 however, no application shall be filed until a party has been
35 unemployed, or has not been able to return to or attain employment
36 at prior income levels, or both, for a period of 90 days. The court
37 shall have discretion to make any relief granted retroactive to the
38 date of the loss of employment or reduction of income.

39 1. When a self-employed party seeks modification of alimony
40 because of an involuntary reduction in income since the date of the
41 order from which modification is sought, then that party's
42 application for relief must include an analysis that sets forth the
43 economic and non-economic benefits the party receives from the
44 business, and which compares these economic and non-economic
45 benefits to those that were in existence at the time of the entry of
46 the order.

47 m. When assessing a temporary remedy, the court may
48 temporarily suspend support, or reduce support on terms; direct that

1 support be paid in some amount from assets pending further
2 proceedings; direct a periodic review; or enter any other order the
3 court finds appropriate to assure fairness and equity to both parties.

4 n. Alimony may be suspended or terminated if the payee
5 cohabits with another person. Cohabitation involves a mutually
6 supportive, intimate personal relationship in which a couple has
7 undertaken duties and privileges that are commonly associated with
8 marriage or civil union but does not necessarily maintain a single
9 common household.

10 When assessing whether cohabitation is occurring, the court shall
11 consider the following:

12 (1) Intertwined finances such as joint bank accounts and other
13 joint holdings or liabilities;

14 (2) Sharing or joint responsibility for living expenses;

15 (3) Recognition of the relationship in the couple's social and
16 family circle;

17 (4) Living together, the frequency of contact, the duration of the
18 relationship, and other indicia of a mutually supportive intimate
19 personal relationship;

20 (5) Sharing household chores;

21 (6) Whether the recipient of alimony has received an
22 enforceable promise of support from another person within the
23 meaning of subsection h. of R.S.25:1-5; and

24 (7) All other relevant evidence.

25 In evaluating whether cohabitation is occurring and whether
26 alimony should be suspended or terminated, the court shall also
27 consider the length of the relationship. A court may not find an
28 absence of cohabitation solely on grounds that the couple does not
29 live together on a full-time basis.

30 As used in this section:

31 "Domestic companion animal" means any animal commonly
32 referred to as a pet or one that has been bought, bred, raised or
33 otherwise acquired, in accordance with local ordinances and State
34 and federal law for the primary purpose of providing
35 companionship to the owner, rather than for business or agricultural
36 purposes. "Full retirement age" **[shall mean]** means the age at

37 which a person is eligible to receive full retirement for full
38 retirement benefits under section 216 of the federal Social Security
39 Act (42 U.S.C. s.416).

40 (cf: P.L.2014, c.42, s.1)

41
42 2. (New section) a. Upon the request of a party in a pending
43 matrimonial action or action for dissolution of a civil union brought
44 in this State or elsewhere, or after a judgment of divorce or
45 dissolution or maintenance, whether obtained in this State or
46 elsewhere, the court may enter an order of joint or sole ownership
47 for a domestic companion animal taking into consideration the care
48 of the domestic companion animal.

1 b. Upon the request of a party, the court may enter a temporary
2 order directing one party to care for a domestic companion animal,
3 prior to the final determination of ownership. The existence of an
4 order providing for the care of a domestic companion animal shall
5 not have any impact on the court's final determination of
6 ownership.

7 c. Upon the request of a party, or at the discretion of the court,
8 the court may enter an animal protection order against either party,
9 or both, to ensure the health, safety, and welfare of the domestic
10 companion animal when there exists a threat, pertaining to the
11 domestic companion animal, of an animal cruelty violation pursuant
12 to chapter 22 of Title 4 of the Revised Statutes, Title 2C of the New
13 Jersey Statutes, or any other State animal cruelty law. The animal
14 protection order may require the person to refrain from interacting
15 with the domestic companion animal permanently or for a period of
16 time specified by the court. If determined necessary by the court,
17 the court may issue an animal protection order requiring placement
18 of the domestic companion animal in protective custody, as
19 provided in accordance with section 7 of P.L. , c. (C.)
20 (pending before the Legislature as this bill).

21 d. The court shall give primary consideration to the well-being
22 of the domestic companion animal when entering an order pursuant
23 to this section.

24 e. As used in this section:

25 “Domestic companion animal” means domestic companion
26 animal as defined in N.J.S.2A:34-2.

27 “Care” means the prevention of abuse and neglect and the
28 provision of food, water, veterinary care, and safe and protected
29 shelter. The term “care” shall include “necessary care” as the term
30 is defined in R.S.4:22-15.

31
32 3. Section 7 of P.L.1991, c.261 (C.2C:25-23) is amended to
33 read as follows:

34 7. A law enforcement officer shall disseminate and explain to
35 the victim the following notice, which shall be written in both
36 English and Spanish:

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

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

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

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

46 (3) That your attacker is temporarily forbidden from bothering
47 you at work;

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

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

4 (6) That your attacker pay you back any money you have to
5 spend for medical treatment or repairs because of the violence;

6 (7) That you be given temporary custody of any domestic
7 companion animal in your household;

8 (8) That your attacker pay you back any money you have to
9 spend for veterinary treatment or repairs because of any abuse of, or
10 violence against, a domestic companion animal in your household.

11 There are other things the court can order, and the court clerk will
12 explain the procedure to you and will help you fill out the papers
13 for a TRO.

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

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

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

22

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

25 3. As used in this act:

26 a. "Domestic violence" means the occurrence of one or more of
27 the following acts inflicted upon a person protected under this act
28 by an adult or an emancipated minor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 b. "Law enforcement agency" means a department, division,
11 bureau, commission, board or other authority of the State or of any
12 political subdivision thereof which employs law enforcement
13 officers.

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

18 d. "Victim of domestic violence" means a person protected
19 under this act and shall include any person who is 18 years of age or
20 older or who is an emancipated minor and who has been subjected
21 to domestic violence by a spouse, former spouse, or any other
22 person who is a present household member or was at any time a
23 household member. "Victim of domestic violence" also includes
24 any person, regardless of age, who has been subjected to domestic
25 violence by a person with whom the victim has a child in common,
26 or with whom the victim anticipates having a child in common, if
27 one of the parties is pregnant. "Victim of domestic violence" also
28 includes any person who has been subjected to domestic violence
29 by a person with whom the victim has had a dating relationship.

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

34 f. "Domestic companion animal" means any animal commonly
35 referred to as a pet or one that has been bought, bred, raised or
36 otherwise acquired, in accordance with local ordinances and State
37 and federal law for the primary purpose of providing
38 companionship to the owner, rather than for business or agricultural
39 purposes.

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

41
42 5. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to
43 read as follows:

44 13. a. A hearing shall be held in the Family Part of the
45 Chancery Division of the Superior Court within 10 days of the
46 filing of a complaint pursuant to section 12 of P.L.1991, c.261
47 (C.2C:25-28) in the county where the ex parte restraints were
48 ordered, unless good cause is shown for the hearing to be held

1 elsewhere. A copy of the complaint shall be served on the defendant
2 in conformity with the Rules of Court. If a criminal complaint
3 arising out of the same incident which is the subject matter of a
4 complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) or
5 P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed, testimony
6 given by the plaintiff or defendant in the domestic violence matter
7 shall not be used in the simultaneous or subsequent criminal
8 proceeding against the defendant, other than domestic violence
9 contempt matters and where it would otherwise be admissible
10 hearsay under the rules of evidence that govern where a party is
11 unavailable. At the hearing the standard for proving the allegations
12 in the complaint shall be by a preponderance of the evidence. The
13 court shall consider but not be limited to the following factors:

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

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

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

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

20 (5) In determining custody and parenting time the protection of
21 the victim's safety; **[and]**

22 (6) The existence of a verifiable order of protection from
23 another jurisdiction;

24 (7) The existence of a verifiable animal protection order in the
25 State or from another jurisdiction; and

26 (8) Evidence of a previous animal cruelty or abuse conviction or
27 finding of liability for animal cruelty or abuse.

28 An order issued under this act shall only restrain or provide
29 damages payable from a person against whom a complaint has been
30 filed under this act and only after a finding or an admission is made
31 that an act of domestic violence was committed by that person. The
32 issue of whether or not a violation of this act occurred, including an
33 act of contempt under this act, shall not be subject to mediation or
34 negotiation in any form. In addition, where a temporary or final
35 order has been issued pursuant to this act, no party shall be ordered
36 to participate in mediation on the issue of custody **[or]** of a child or
37 domestic companion animal, parenting time, or access to a domestic
38 companion animal.

39 b. In proceedings in which complaints for restraining orders
40 have been filed, the court shall grant any relief necessary to prevent
41 further abuse. In addition to any other provisions, any restraining
42 order issued by the court shall bar the defendant from purchasing,
43 owning, possessing or controlling a firearm and from receiving or
44 retaining a firearms purchaser identification card or permit to
45 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
46 which the restraining order is in effect or two years, whichever is
47 greater. The order shall require the immediate surrender of any
48 firearm or other weapon belonging to the defendant. The order

1 shall include notice to the defendant of the penalties for a violation
2 of any provision of the order, including but not limited to the
3 penalties for contempt of court and unlawful possession of a firearm
4 or other weapon pursuant to N.J.S.2C:39-5.

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

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

25 (2) An order granting exclusive possession to the plaintiff of the
26 residence or household regardless of whether the residence or
27 household is jointly or solely owned by the parties or jointly or
28 solely leased by the parties. This order shall not in any manner
29 affect title or interest to any real property held by either party or
30 both jointly. If it is not possible for the victim to remain in the
31 residence, the court may order the defendant to pay the victim's rent
32 at a residence other than the one previously shared by the parties if
33 the defendant is found to have a duty to support the victim and the
34 victim requires alternative housing.

35 (3) An order providing for parenting time. The order shall
36 protect the safety and well-being of the plaintiff and minor children
37 and shall specify the place and frequency of parenting time.
38 Parenting time arrangements shall not compromise any other
39 remedy provided by the court by requiring or encouraging contact
40 between the plaintiff and defendant. Orders for parenting time may
41 include a designation of a place of parenting time away from the
42 plaintiff, the participation of a third party, or supervised parenting
43 time.

44 (a) The court shall consider a request by a custodial parent who
45 has been subjected to domestic violence by a person with parenting
46 time rights to a child in the parent's custody for an investigation or
47 evaluation by the appropriate agency to assess the risk of harm to
48 the child prior to the entry of a parenting time order. Any denial of

1 such a request must be on the record and shall only be made if the
2 judge finds the request to be arbitrary or capricious.

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

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

24 (5) An order requiring the defendant to receive professional
25 domestic violence counseling from either a private source or a
26 source appointed by the court and, in that event, requiring the
27 defendant to provide the court at specified intervals with
28 documentation of attendance at the professional counseling. The
29 court may order the defendant to pay for the professional
30 counseling. No application by the defendant to dissolve a final
31 order which contains a requirement for attendance at professional
32 counseling pursuant to this paragraph shall be granted by the court
33 unless, in addition to any other provisions required by law or
34 conditions ordered by the court, the defendant has completed all
35 required attendance at such counseling.

36 (6) An order restraining the defendant from entering the
37 residence, property, school, or place of employment of the victim or
38 of other family or household members of the victim and requiring
39 the defendant to stay away from any specified place that is named
40 in the order and is frequented regularly by the victim or other
41 family or household members.

42 (7) An order restraining the defendant from making contact with
43 the plaintiff or others, including an order forbidding the defendant
44 from personally or through an agent initiating any communication
45 likely to cause annoyance or alarm including, but not limited to,
46 personal, written, or telephone contact with the victim or other
47 family members, or their employers, employees, or fellow workers,

1 or others with whom communication would be likely to cause
2 annoyance or alarm to the victim.

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

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

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

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

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

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

26 (14) An order granting any other appropriate relief for the
27 plaintiff and dependent children, provided that the plaintiff consents
28 to such relief, including relief requested by the plaintiff at the final
29 hearing, whether or not the plaintiff requested such relief at the time
30 of the granting of the initial emergency order.

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

34 (16) In addition to the order required by this subsection
35 prohibiting the defendant from possessing any firearm, the court
36 may also issue an order prohibiting the defendant from possessing
37 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
38 ordering the search for and seizure of any firearm or other weapon
39 at any location where the judge has reasonable cause to believe the
40 weapon is located. The judge shall state with specificity the reasons
41 for and scope of the search and seizure authorized by the order.

42 (17) An order prohibiting the defendant from stalking or
43 following, or threatening to harm, to stalk or to follow, the
44 complainant or any other person named in the order in a manner
45 that, taken in the context of past actions of the defendant, would put
46 the complainant in reasonable fear that the defendant would cause
47 the death or injury of the complainant or any other person.
48 Behavior prohibited under this act includes, but is not limited to,

1 behavior prohibited under the provisions of P.L.1992, c.209
2 (C.2C:12-10).

3 (18) An order requiring the defendant to undergo a psychiatric
4 evaluation.

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

10 (20) An order prohibiting the defendant or the abusive party
11 from stalking or following, or threatening to harm, to stalk or to
12 follow, any domestic companion animal owned, possessed, leased,
13 kept, or held by either party or a minor child residing in the
14 household, or from removing, harming, or disposing of any
15 domestic companion animal owned or possessed by the victim of
16 domestic violence or any other person besides the defendant or
17 abusive party living in the victim's residence.

18 (21) An order placing the domestic companion animal in
19 protective custody until the person authorized by the court to
20 assume the care or ownership of the domestic companion animal is
21 able to do so.

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

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

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

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

37

38 6. (New section) a. In addition to the provisions of Title 4 of
39 the Revised Statutes concerning the confiscation and restrictions on
40 ownership of animals, the court, upon finding a person guilty of
41 abusing an animal or otherwise violating the State animal cruelty
42 laws, may issue an animal protection order against the person
43 adjudged guilty of the abuse or other violation, requiring the person
44 to refrain from interacting with an animal permanently or for a
45 period of time specified by the court. The animal protection order
46 may apply to a specific animal with which the adjudged person has
47 had contact, or any other animal, as determined to be appropriate by
48 the court.

1 b. Any person who knowingly violates a condition of an animal
2 protection order issued pursuant to this section, and, as a result,
3 causes injury to the animal that is the subject of the animal
4 protection order, shall be guilty of a disorderly persons offense in
5 addition to any other penalty that may be imposed for an animal
6 cruelty violation.

7 c. As used in this section, "State animal cruelty laws" mean the
8 provisions of chapter 22 of Title 4 of the Revised Statutes providing
9 for criminal and civil animal cruelty violations.

10
11 7. (New section) a. Any authorized officer may enter onto
12 private property and take an animal into protective custody:

13 (1) after obtaining a court order to do so pending disposition of
14 animal cruelty charges against the owner of the animal or the person
15 with custody or control of the animal involved in the commission of
16 an animal cruelty violation; or

17 (2) to implement an animal protection order issued by a court
18 pursuant to subsection c. of section 2 or subsection a. of section 6 of
19 P.L. , c. (C.) (pending before the Legislature as this bill) or
20 an order issued pursuant to subsection b. of section 13 of P.L.1991,
21 c.261 (C.2C:25-29).

22 b. If an authorized officer takes an animal and places the
23 animal into protective custody pursuant to paragraph (1) of
24 subsection a. of this section, the authorized officer shall request an
25 immediate examination of the animal by a licensed veterinarian to
26 determine if placement in protective custody is in the best interest
27 of the animal. If an immediate examination is not possible, the
28 authorized officer shall communicate with a licensed veterinarian as
29 to the condition of the animal and request a determination as to
30 whether protective custody is in the best interest of the animal. If
31 neither option is available to the authorized officer, the authorized
32 officer may determine that protective custody is in the best interest
33 of the animal and place it in protective custody.

34 If an examining veterinarian determines placement in protective
35 custody is not in the best interest of the animal, the veterinarian
36 shall decide the disposition of the animal that is in the best interest
37 of the animal.

38 c. Any animal taken into protective custody shall be placed in
39 the care of an animal care provider. The animal care provider may
40 not offer the animal for adoption or euthanize the animal until all
41 parties have complied with the requirements of this section and a
42 court has determined the final disposition of the animal.

43 After taking an animal and placing it into protective custody, an
44 authorized officer shall provide notice to the owner of the animal
45 within 24 hours after taking the animal that the animal has been
46 placed in protective custody. If the owner is not known or cannot
47 be identified, the notice shall be issued to the person last known to
48 have custody of the animal. The notice may be provided in person,

1 by telephone, or in writing by mailing the notice to, or posting the
2 notice at, the last known address of the owner of the animal, the
3 person with custody of the animal at the time the animal was taken,
4 or the person last known to have custody of the animal, as
5 appropriate.

6 d. Whenever an animal is taken into protective custody
7 pursuant to subsection a. of this section, the owner of the animal
8 shall be liable for the reasonable costs for necessary care of the
9 animal. The animal care provider with custody of the animal shall
10 petition the appropriate court:

11 (1) to require the owner of the animal to post a cost-of-care
12 security deposit, bond, or other financial instrument pursuant to
13 subsection g. of this section; and

14 (2) to issue an order to providing that, if the cost-of-care
15 security deposit, bond, or other financial instrument is not posted or
16 renewed in a timely manner, the animal shall be considered
17 abandoned property and the animal care provider is authorized to
18 assume ownership of the abandoned property, as defined and
19 provided for pursuant to P.L.1999, c.331 (C.46:30C-1 et seq.).

20 The petition filed pursuant to this subsection shall include an
21 estimate of the reasonable costs to the animal care provider of the
22 first 30 days of providing shelter and necessary care for the animal.

23 A process server shall serve upon the owner of the animal, in
24 person, by mail, or by posting it at the owner's last known address,
25 a written copy of the petition and a notice to the owner of the
26 animal that failure by the owner of the animal to post the cost-of-
27 care security deposit, bond, or other financial instrument as ordered
28 by the court may result in the animal being considered abandoned
29 property and the animal care provider assuming ownership of the
30 animal.

31 e. At any time after the animal is placed in protective custody,
32 the owner of the animal may relinquish ownership of the animal to
33 the animal care provider by notifying the animal care provider in
34 writing. If the animal care provider has filed a petition pursuant to
35 subsection d. of this section, it shall immediately notify the court
36 that the owner has relinquished ownership of the animal as provided
37 in this subsection.

38 f. Upon receipt of a petition filed pursuant to subsection d. of
39 this section, the court shall schedule a hearing for the posting of the
40 cost-of-care security deposit, bond, or other financial instrument. If
41 the animal is in protective custody pursuant to paragraph (1) of
42 subsection a. of this section, the court shall also determine whether
43 the owner of the animal has been charged with an animal cruelty
44 violation. If the owner has not been charged, the court shall order
45 the release of the animal to its owner and shall not proceed with the
46 hearing.

47 The hearing shall be conducted as soon as practicable, but no
48 later than 30 days after the date on which the petition is filed.

1 Failure to hold a hearing within 30 days after filing of the petition
2 shall not determine disposition of the animal or affect disposition of
3 the animal cruelty violation.

4 g. The hearing required pursuant to subsection f. of this section
5 shall not be used as a basis for a continuance or delay of a criminal
6 or civil animal cruelty case, disposition of the ownership of the
7 animal pending any matrimonial action or action for dissolution of a
8 civil union, or after judgment of divorce or dissolution or
9 maintenance, or the resolution of domestic violence charges, nor
10 shall proceedings in a criminal or civil animal cruelty case, other
11 than dismissal, be used as a basis to delay any decision or action by
12 the court pursuant to this section. If the court authorizes any
13 discovery in connection with the setting of cost-of-care security
14 deposit, bond, or other financial instrument, there shall be no
15 deposition of any party, witness, or representative, use of
16 interrogatories, or demand to inspect any records outside the
17 immediate reports and financial accountings concerning the animal
18 in question from the animal care provider, owner of the animal, or
19 person with custody or control of the animal at the time of the
20 alleged violation or when the animal was placed in protective
21 custody.

22 h. Based on the information and estimated costs presented to
23 the court by the petitioning animal care provider, the court shall
24 determine the amount sufficient to repay all reasonable costs
25 incurred, and reasonable costs anticipated to be incurred, for the
26 holding and care of the animal by the animal care provider for at
27 least 30 days, and the required amount of the cost-of-care security
28 deposit, bond, or other financial instrument to be posted as required
29 pursuant to an order issued after a hearing held pursuant to
30 subsection f. of this section.

31 The court may reduce the required amount of the cost-of-care
32 security deposit, bond, or other financial instrument only if the
33 court concludes, after consideration of evidence presented by the
34 owner of the animal, that the owner is unable to pay the full
35 amount. The court may determine a reasonable amount for
36 covering the costs of necessary care for the animal that the owner is
37 able to pay or may establish a reasonable payment schedule with the
38 owner. Notwithstanding the provisions of section 1 of P.L.2009,
39 c.317 (C.2B:12-23.1), or any other law, rule, or regulation, to the
40 contrary, in no case shall the court waive the requirement for the
41 owner to pay a cost-of-care security deposit, bond, or other
42 financial instrument.

43 i. After making the determination pursuant to subsection h. of
44 this section, the court shall order:

45 (1) the owner of the animal to post (a) the required amount of
46 the cost-of-care security deposit, bond, or other financial instrument
47 no later than five days after the date of issuance of the court order,
48 and (b) an additional cost-of-care security deposit, bond, or

1 financial instrument in the same amount every 30 days after the date
2 of the order until final disposition of the animal cruelty violation or
3 the animal involved;

4 (2) that failure to post any required cost-of-care security deposit,
5 bond, or other financial instrument in a timely manner may result in
6 the animal becoming abandoned property and the petitioning animal
7 care provider assuming ownership of the abandoned property as
8 provided pursuant to P.L.1999, c.331 (C.46:30C-1 et seq.); and

9 (3) the manner in which any cost-of-care security deposit, bond,
10 or other financial instrument shall be posted and made available for
11 disbursement to the animal care provider.

12 j. The animal care provider may draw from any cost-of-care
13 security deposit, bond, or other financial instrument posted pursuant
14 to this section any amount equal to the reasonable costs for the
15 holding and care of the animal from the date that the animal is
16 placed in the custody of the animal care provider to the date of final
17 disposition of the animal, in the manner ordered by the court
18 pursuant to paragraph (3) of subsection i. of this section.

19 k. There shall be a presumption against declaring the animal
20 abandoned unless the owner has been found guilty of, or liable for,
21 an animal cruelty violation involving the animal, or found by the
22 court to have willfully not complied with the cost-of-care
23 requirements ordered by the court pursuant to this section. Upon
24 either such finding, prior to final disposition of the animal, the court
25 may order, in response to a petition filed pursuant to paragraph (2)
26 of subsection d. of this section, that the animal is abandoned
27 property and authorize the animal care provider with custody of the
28 animal to assume ownership thereof pursuant to P.L.1999, c.331
29 (C.46:30C-1 et seq.).

30 The court shall not find that an animal is abandoned property and
31 authorize the animal care provider with custody of the animal to
32 assume ownership thereof pending any matrimonial action or action
33 for dissolution of a civil union, or after judgment of divorce or
34 dissolution or maintenance, or resolution of domestic violence
35 charges, until any other person with an ownership or custodial
36 interest in the animal who has not been charged with an animal
37 cruelty violation has been provided the opportunity to post the cost-
38 of-care security deposit, bond, or other financial instrument
39 required pursuant to an order issued after a hearing held pursuant to
40 subsection f. of this section. If the court determines the animal may
41 be released from protective custody into the custody of another
42 person with an ownership or custodial interest in the animal, the
43 animal may be released if the person satisfies any outstanding cost
44 of care owed to the animal care provider. If the court determines
45 the animal cannot be released from protective custody and the
46 person with an ownership or custodial interest in the animal posts
47 the cost-of-care security deposit, bond, or other financial
48 instrument, the court may assign ownership to that person and the

1 responsibility of paying for cost of care until final disposition of the
2 animal.

3 l. The court may adjust the amount of any additional cost-of-
4 care security deposit, bond, or other financial instrument upon a
5 motion by either party, provided that an animal care provider shall
6 not file more than one motion seeking an adjustment to a cost-of-
7 care security deposit, bond, or other financial instrument. The
8 owner of the animal may file additional motions as necessary to
9 make adjustments to a cost-of-care security deposit, bond, or other
10 financial instrument.

11 m. Upon final disposition of the animal, any remaining funds
12 from any cost-of-care security deposit, bond, or other financial
13 instrument which have not been expended for reasonable costs
14 incurred for the holding and care of the animal shall be remitted to
15 the owner of the animal or the person who posted the cost-of-care
16 security deposit, bond, or other financial instrument.

17 n. No provision of this section shall preclude a seized animal
18 from being held in protective custody as evidence. No animal held
19 as evidence may be returned to a person who is the subject of a
20 pending animal cruelty offense or any member of that person's
21 household while a criminal case is pending, without permission
22 from the prosecutor handling the case.

23 o. No animal care provider shall be held liable for any damages
24 related to the holding and care of the animal pursuant to this
25 section, except in the case of recklessness or intentional
26 misconduct.

27 p. As used in this section:

28 "Animal care provider" means any animal rescue organization or
29 animal rescue organization facility, foster home, shelter, pound, or
30 other facility authorized or otherwise used for holding and caring
31 for an animal pending disposition of an animal cruelty violation, or
32 disposition of the ownership of the animal pending any matrimonial
33 action or action for dissolution of a civil union, or after judgment of
34 divorce or dissolution or maintenance, or resolution of domestic
35 violence charges.

36 "Animal cruelty violation" means a criminal or civil violation of
37 an animal cruelty law in chapter 22 of Title 4 of the Revised
38 Statutes.

39 "Authorized officer" means any law enforcement officer,
40 municipal humane law enforcement officer, humane law
41 enforcement officer of a county for the prevention of cruelty to
42 animals, chief humane law enforcement officer, or certified animal
43 control officer.

44 "Necessary care" means the same as that term is defined in
45 R.S.4:22-15.

46 "Reasonable costs" mean costs incurred by an animal care
47 provider to provide an animal with necessary care, necessary and
48 proper and transportation of the animal, farrier services, and

1 euthanasia, while the animal is in the custody of the animal care
2 provider. Euthanasia shall be a “reasonable cost” only if it is
3 necessary to euthanize the animal for health reasons as certified by
4 a licensed veterinarian or for the health and safety of other animals
5 held by the animal care provider.

6
7 8. This act shall take effect immediately.
8
9

10 STATEMENT

11
12 This bill provides for court designation of ownership or custody
13 or court-ordered protective custody for a domestic companion
14 animal involved in an animal cruelty violation, domestic violence,
15 matrimonial action, action for dissolution of a civil union, or
16 judgment of divorce or dissolution or maintenance.

17 Specifically, the bill provides that a court may issue, upon
18 request of a party in a pending matrimonial action or action for
19 dissolution of a civil union, or after judgment of divorce or
20 dissolution or maintenance:

21 1) an order that provides for joint or sole ownership for a
22 domestic companion animal taking into consideration the care of
23 the domestic companion animal; or

24 2) a temporary order directing one party to care for a domestic
25 companion animal, prior to the final determination of ownership
26 and without impacting that final determination of ownership.

27 The court may also issue an animal protection order against
28 either party, or both, to ensure the health, safety, and welfare of the
29 domestic companion animal when there exists a threat of the
30 involvement of the domestic companion animal in an animal cruelty
31 violation pursuant to chapter 22 of Title 4 of the Revised Statutes,
32 Title 2C of the New Jersey Statutes, or any other State animal
33 cruelty law. The animal protection order may require the person to
34 refrain from interacting with the domestic companion animal
35 permanently or for a period of time specified by the court, or
36 require placement of the domestic companion animal in protective
37 custody as provided for in section 7 of the bill.

38 The bill also amends current State law concerning victims of
39 domestic violence to allow for similar court-ordered protections for
40 animals and notification to victims of domestic violence of their
41 rights to protect their animals.

42 Furthermore, the bill provides for an animal to be placed in
43 protective custody with an animal care provider when a court order
44 is issued pending disposition of animal cruelty charges and the
45 animal is involved in an animal cruelty violation or a court has
46 issued an animal protection order for the animal. After the animal
47 is in protective custody, the bill requires notice to the owner that the
48 animal is in protective custody and provides for the animal care

1 provider holding the animal to petition the court to require a cost-
2 of-care security deposit, bond or other financial instrument to
3 ensure the cost of care of the animal is paid for by the owner of the
4 animal. The bill specifies that:

5 1) there is a presumption against declaring the animal
6 abandoned unless the owner has been found guilty of, or liable for,
7 an animal cruelty violation involving the animal, or found to have
8 willfully not complied with the cost-of-care requirements; and

9 2) if another person has ownership or custody interests in the
10 animal, that person may pay any outstanding cost-of-care security
11 deposit, bond or other financial instrument and be assigned
12 ownership by the court before the court declares the animal to be
13 abandoned property.

14 Section 7 of the bill also provides that:

15 1) the cost-of-care security deposit, bond or other financial
16 instrument must be posted every 30 days that the animal is in
17 protective custody;

18 2) failure to post the original or subsequent cost-of-care
19 security deposit, bond or other financial instrument may result in
20 the animal being declared abandoned property;

21 3) the animal care provider may request one adjustment to the
22 amount of the cost-of-care security deposit, bond or other financial
23 instrument; and

24 4) the owner may request as many adjustments as necessary.

25 The bill specifies that the cost-of-care security deposit, bond or
26 other financial instrument shall be used for payment of reasonable
27 expenses while the animal is in protective custody. The bill defines
28 “reasonable expenses” as costs incurred by an animal care provider
29 to provide an animal with necessary care, necessary and proper and
30 transportation of the animal, farrier services, and euthanasia, while
31 the animal is in the custody of the animal care provider. The
32 definition specifies that euthanasia would be a “reasonable cost”
33 only if it is necessary to euthanize the animal for health reasons as
34 certified by a licensed veterinarian or for the health and safety of
35 other animals held by the animal care provider. Furthermore,
36 “necessary care” as defined under R.S.4:22-15 means care sufficient
37 to preserve the health and well-being of an animal, and includes,
38 but is not limited to: food of sufficient quantity and quality to allow
39 for normal growth or maintenance of body weight; adequate access
40 to water in sufficient quantity and quality to satisfy the animal's
41 needs; access to adequate protection from the weather; and
42 veterinary care to alleviate suffering and maintain health.