

SENATE, No. 1635

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators CAFIERO, INVERSO, Palaia, Littell, Kyrillos and
Ewing

1 AN ACT concerning domestic violence, amending and supplementing
2 P.L.1991, c.261, amending N.J.S.2C:58-3 and making an
3 appropriation.
4

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

8 1. (New section) The Administrative Office of the Courts shall
9 establish and maintain a central registry of all persons who have had
10 domestic violence restraining orders entered against them, all persons
11 who have been charged with a crime or offense involving domestic
12 violence, and all persons who have been charged with a violation of a
13 court order involving domestic violence. All records made pursuant
14 to this section shall be kept confidential and shall be released only to:

15 a. A public or private agency authorized to investigate a report of
16 domestic violence;

17 b. A police or other law enforcement agency investigating a report
18 of domestic violence;

19 c. The chief of police of a local police department or force or the
20 Superintendent of State Police when reviewing an application for a
21 permit to purchase a handgun or a firearms purchaser identification
22 card in order to ascertain, for the purposes of paragraph (6) of
23 subsection c. of N.J.S.2C:58-3, whether the applicant is subject to a
24 court order issued pursuant to section 13 of P.L.1991, c.261
25 (C.2C:25-29); or

26 d. A court, upon its finding that access to such records may be
27 necessary for determination of an issue before the court.

28 Any individual, agency or court which receives from the
29 Administrative Office of Courts the records referred to in this section
30 shall keep such records and reports, or parts thereof, confidential and
31 shall not disseminate or disclose such records and reports, or parts
32 thereof; provided that nothing in this section shall prohibit a receiving
33 individual, agency or court from disclosing records and reports, or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 parts thereof, in a manner consistent with and in furtherance of the
2 purpose for which the records and reports or parts thereof were
3 received.

4
5 2. Section 10 of P.L.1991, c.261 (C.2C:25-26) is amended to read
6 as follows:

7 10. a. When a defendant charged with a crime or offense involving
8 domestic violence is released from custody before trial on bail or
9 personal recognizance, the court authorizing the release may as a
10 condition of release issue an order prohibiting the defendant from
11 having any contact with the victim including, but not limited to,
12 restraining the defendant from entering the victim's residence, place of
13 employment or business, or school, and from harassing or stalking the
14 victim or victim's relatives in any way. The court may enter an order
15 prohibiting the defendant from possessing any firearm or other weapon
16 enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search
17 for and seizure of any such weapon at any location where the judge
18 has reasonable cause to believe the weapon is located. The judge shall
19 state with specificity the reasons for and scope of the search and
20 seizure authorized by the order.

21 b. The written court order releasing the defendant shall contain the
22 court's directives specifically restricting the defendant's ability to have
23 contact with the victim or the victim's friends, co-workers or relatives.
24 The clerk of the court or other person designated by the court shall
25 provide a copy of this order to the victim forthwith.

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

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

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

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

42 (cf: P.L.1994, c.94, s.3)

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

46 12. a. A victim may file a complaint alleging the commission of an

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

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

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

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

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

29 d. Summons and complaint forms shall be readily available at the
30 clerk's office, at the municipal courts and at municipal and State police
31 stations.

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

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

40 g. If it appears that the plaintiff is in danger of domestic violence,
41 the judge shall, upon consideration of the plaintiff's domestic violence
42 complaint, order emergency ex parte relief, in the nature of a
43 temporary restraining order. A decision shall be made by the judge
44 regarding the emergency relief forthwith.

45 h. A judge may issue a temporary restraining order upon sworn
46 testimony or complaint of an applicant who is not physically present,

1 pursuant to court rules, or by a person who represents a person who
2 is physically or mentally incapable of filing personally. A temporary
3 restraining order may be issued if the judge is satisfied that exigent
4 circumstances exist sufficient to excuse the failure of the applicant to
5 appear personally and that sufficient grounds for granting the
6 application have been shown.

7 i. An order for emergency, ex parte relief shall be granted upon
8 good cause shown and shall remain in effect until a judge of the Family
9 Part issues a further order. Any temporary order hereunder is
10 immediately appealable for a plenary hearing de novo not on the
11 record before any judge of the Family Part of the county in which the
12 plaintiff resides or is sheltered if that judge issued the temporary order
13 or has access to the reasons for the issuance of the temporary order
14 and sets forth in the record the reasons for the modification or
15 dissolution. The denial of a temporary restraining order by a municipal
16 court judge and subsequent administrative dismissal of the complaint
17 shall not bar the victim from refileing a complaint in the Family Part
18 based on the same incident and receiving an emergency, ex parte
19 hearing de novo not on the record before a Family Part judge, and
20 every denial of relief by a municipal court judge shall so state.

21 j. Emergency relief may include forbidding the defendant from
22 returning to the scene of the domestic violence, forbidding the
23 defendant to possess any firearm or other weapon enumerated in
24 subsection r. of N.J.S.2C:39-1, ordering the search for and seizure of
25 any such weapon at any location where the judge has reasonable cause
26 to believe the weapon is located and any other appropriate relief. The
27 judge shall state with specificity the reasons for and scope of the
28 search and seizure authorized by the order.

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

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

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

45 n. Notice of temporary restraining orders issued pursuant to this
46 section shall be sent by the clerk of the court or other person

1 designated by the court to the appropriate chiefs of police, members
2 of the State Police and any other appropriate law enforcement agency
3 or court.

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

5 p. Any temporary or permanent restraining order issued pursuant
6 to this act shall be in effect throughout the State, and shall be enforced
7 by all law enforcement officers.

8 q. Prior to the issuance of any temporary or permanent restraining
9 order issued pursuant to this section, the court shall order that a
10 search be made of the domestic violence central registry with regard
11 to the defendant's record.

12 (cf: P.L.1994, c.94 s.4)

13

14 4. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read
15 as follows:

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

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

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

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

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

38 (5) In determining custody and visitation the protection of the
39 victim's safety; and

40 (6) The existence of a verifiable order of protection from another
41 jurisdiction.

42 An order issued under this act shall only restrain or provide
43 damages payable from a person against whom a complaint has been
44 filed under this act and only after a finding or an admission is made
45 that an act of domestic violence was committed by that person. The
46 issue of whether or not a violation of this act occurred, including an

1 act of contempt under this act, shall not be subject to mediation or
2 negotiation in any form. In addition, where a temporary or final order
3 has been issued pursuant to this act, no party shall be ordered to
4 participate in mediation on the issue of custody or visitation.

5 b. In proceedings in which complaints for restraining orders have
6 been filed, the court shall grant any relief necessary to prevent further
7 abuse. At the hearing the judge of the Family Part of the Chancery
8 Division of the Superior Court may issue an order granting any or all
9 of the following relief:

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

12 (2) An order granting exclusive possession to the plaintiff of the
13 residence or household regardless of whether the residence or
14 household is jointly or solely owned by the parties or jointly or solely
15 leased by the parties. This order shall not in any manner affect title or
16 interest to any real property held by either party or both jointly. If it
17 is not possible for the victim to remain in the residence, the court may
18 order the defendant to pay the victim's rent at a residence other than
19 the one previously shared by the parties if the defendant is found to
20 have a duty to support the victim and the victim requires alternative
21 housing.

22 (3) An order providing for visitation. The order shall protect the
23 safety and well-being of the plaintiff and minor children and shall
24 specify the place and frequency of visitation. Visitation arrangements
25 shall not compromise any other remedy provided by the court by
26 requiring or encouraging contact between the plaintiff and defendant.
27 Orders for visitation may include a designation of a place of visitation
28 away from the plaintiff, the participation of a third party, or supervised
29 visitation.

30 (a) The court shall consider a request by a custodial parent who
31 has been subjected to domestic violence by a person with visitation
32 rights to a child in the parent's custody for an investigation or
33 evaluation by the appropriate agency to assess the risk of harm to the
34 child prior to the entry of a visitation order. Any denial of such a
35 request must be on the record and shall only be made if the judge finds
36 the request to be arbitrary or capricious.

37 (b) The court shall consider suspension of the visitation order and
38 hold an emergency hearing upon an application made by the plaintiff
39 certifying under oath that the defendant's access to the child pursuant
40 to the visitation order has threatened the safety and well-being of the
41 child.

42 (4) An order requiring the defendant to pay to the victim monetary
43 compensation for losses suffered as a direct result of the act of
44 domestic violence. The order may require the defendant to pay the
45 victim directly, to reimburse the Violent Crimes Compensation Board
46 for any and all compensation paid by the Violent Crime Compensation

1 Board directly to or on behalf of the victim, and may require that the
2 defendant reimburse any parties that may have compensated the
3 victim, as the court may determine. Compensatory losses shall
4 include, but not be limited to, loss of earnings or other support,
5 including child or spousal support, out-of-pocket losses for injuries
6 sustained, cost of repair or replacement of real or personal property
7 damaged or destroyed or taken by the defendant, cost of counseling
8 for the victim, moving or other travel expenses, reasonable attorney's
9 fees, court costs, and compensation for pain and suffering. Where
10 appropriate, punitive damages may be awarded in addition to
11 compensatory damages.

12 (5) An order requiring the defendant to receive professional
13 domestic violence counseling from either a private source or a source
14 appointed by the court and, in that event, at the court's discretion
15 requiring the defendant to provide the court at specified intervals with
16 documentation of attendance at the professional counseling. The court
17 may order the defendant to pay for the professional counseling.

18 (6) An order restraining the defendant from entering the residence,
19 property, school, or place of employment of the victim or of other
20 family or household members of the victim and requiring the defendant
21 to stay away from any specified place that is named in the order and
22 is frequented regularly by the victim or other family or household
23 members.

24 (7) An order restraining the defendant from making contact with
25 the plaintiff or others, including an order forbidding the defendant
26 from personally or through an agent initiating any communication
27 likely to cause annoyance or alarm including, but not limited to,
28 personal, written, or telephone contact with the victim or other family
29 members, or their employers, employees, or fellow workers, or others
30 with whom communication would be likely to cause annoyance or
31 alarm to the victim.

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

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

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

46 (11) An order awarding temporary custody of a minor child. The

1 court shall presume that the best interests of the child are served by an
2 award of custody to the non-abusive parent.

3 (12) An order requiring that a law enforcement officer accompany
4 either party to the residence or any shared business premises to
5 supervise the removal of personal belongings in order to ensure the
6 personal safety of the plaintiff when a restraining order has issued.
7 This order shall be restricted in duration.

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

9 (14) An order granting any other appropriate relief for the plaintiff
10 and dependent children, provided that the plaintiff consents to such
11 relief, including relief requested by the plaintiff at the final hearing,
12 whether or not the plaintiff requested such relief at the time of the
13 granting of the initial emergency order.

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

17 (16) An order prohibiting the defendant from possessing any
18 firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1
19 and ordering the search for and seizure of any such weapon at any
20 location where the judge has reasonable cause to believe the weapon
21 is located. The judge shall state with specificity the reasons for and
22 scope of the search and seizure authorized by the order.

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

31 (18) An order requiring the defendant to undergo a psychiatric
32 evaluation.

33 c. Notice of orders issued pursuant to this section shall be sent by
34 the clerk of the Family Part of the Chancery Division of the Superior
35 Court or other person designated by the court to the appropriate chiefs
36 of police, members of the State Police and any other appropriate law
37 enforcement agency.

38 d. Upon good cause shown, any final order may be dissolved or
39 modified upon application to the Family Part of the Chancery Division
40 of the Superior Court, but only if the judge who dissolves or modifies
41 the order is the same judge who entered the order, or has available a
42 complete record of the hearing or hearings on which the order was
43 based.

44 e. Prior to the issuance of any order pursuant to this section, the

1 court shall order that a search be made of the domestic violence
2 central registry.

3 (cf: P.L.1995, c.242, s.1)

4

5 5. Section 15 of P.L.1991, c.261 (C.2C:25-31) is amended to read
6 as follows:

7 15. Where a law enforcement officer finds that there is probable
8 cause that a defendant has committed contempt of an order entered
9 pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or
10 P.L.1991, c.261 (C.2C:25-17 et seq.), the defendant shall be arrested
11 and taken into custody by a law enforcement officer. The law
12 enforcement officer shall follow these procedures:

13 The law enforcement officer shall transport the defendant to the
14 police station or such other place as the law enforcement officer shall
15 determine is proper. The law enforcement officer shall:

16 a. Conduct a search of the domestic violence registry.

17 b. Sign a complaint concerning the incident which gave rise to the
18 contempt charge;

19 [b.] c. Telephone or communicate in person or by facsimile with
20 the appropriate judge assigned pursuant to this act and request bail be
21 set on the contempt charge;

22 [c.] d. If the defendant is unable to meet the bail set, take the
23 necessary steps to insure that the defendant shall be incarcerated at
24 police headquarters or at the county jail; and

25 [d.] e. During regular court hours, the defendant shall have bail
26 set by a Superior Court judge that day. On weekends, holidays and
27 other times when the court is closed, the officer shall arrange to have
28 the clerk of the Family Part notified on the next working day of the
29 new complaint, the amount of bail, the defendant's whereabouts and
30 all other necessary details. In addition, if a municipal court judge set
31 the bail, the arresting officer shall notify the clerk of that municipal
32 court of this information.

33 (cf: P.L.1994, c.94, s.7)

34

35 6. Section 17 of P.L.1991, c.261 (2C:25-33) is amended to read
36 as follows:

37 17. The Administrative Office of the Courts shall, with the
38 assistance of the Attorney General and the county prosecutors,
39 maintain a uniform record of all applications for relief pursuant to
40 sections 9, 10, 11, 12, and 13 of P.L.1991, c.261 (C.2C:25-25,
41 C.2C:25-26, C.2C:25-27, C.2C:25-28, and C.2C:25-29). The record
42 shall include the following information:

43 a. The number of criminal and civil complaints filed in all municipal
44 courts and the Superior Court;

45 b. The sex of the parties;

46 c. The relationship of the parties;

- 1 d. The relief sought or the offense charged, or both;
- 2 e. The nature of the relief granted or penalty imposed, or both,
- 3 including, but not limited to, custody and child support;
- 4 f. The effective date of each order issued; and
- 5 g. In the case of a civil action in which no permanent restraints are
- 6 entered, or in the case of a criminal matter that does not proceed to
- 7 trial, the reason or reasons for the disposition.

8 It shall be the duty of the Director of the Administrative Office of

9 the Courts to compile and report annually to the Governor, the

10 Legislature and the Advisory Council on Domestic Violence on the

11 data tabulated from the records of these orders.

12 All records maintained pursuant to this act shall be confidential and

13 shall not be made available to any individual or institution except as

14 otherwise provided by law.

15 (cf: P.L.1994, c.94, s.8)

16

17 7. N.J.S. 2C:58-3 is amended to read as follows:

18 2C:58-3. Purchase of Firearms.

19 a. Permit to purchase a handgun. No person shall sell, give,

20 transfer, assign or otherwise dispose of, nor receive, purchase, or

21 otherwise acquire a handgun unless the purchaser, assignee, donee,

22 receiver or holder is licensed as a dealer under this chapter or has first

23 secured a permit to purchase a handgun as provided by this section.

24 b. Firearms purchaser identification card. No person shall sell,

25 give, transfer, assign or otherwise dispose of nor receive, purchase or

26 otherwise acquire an antique cannon or a rifle or shotgun, other than

27 an antique rifle or shotgun, unless the purchaser, assignee, donee,

28 receiver or holder is licensed as a dealer under this chapter or

29 possesses a valid firearms purchaser identification card, and first

30 exhibits said card to the seller, donor, transferor or assignor, and

31 unless the purchaser, assignee, donee, receiver or holder signs a

32 written certification, on a form prescribed by the superintendent,

33 which shall indicate that he presently complies with the requirements

34 of subsection c. of this section and shall contain his name, address and

35 firearms purchaser identification card number or dealer's registration

36 number. The said certification shall be retained by the seller, as

37 provided in section 2C:58-2a., or, in the case of a person who is not

38 a dealer, it may be filed with the chief of police of the municipality in

39 which he resides or with the superintendent.

40 c. Who may obtain. No person of good character and good repute

41 in the community in which he lives, and who is not subject to any of

42 the disabilities set forth in this section or other sections of this chapter,

43 shall be denied a permit to purchase a handgun or a firearms purchaser

44 identification card, except as hereinafter set forth. No handgun

45 purchase permit or firearms purchaser identification card shall be

46 issued:

- 1 (1) To any person who has been convicted of a crime, whether or
2 not armed with or possessing a weapon at the time of such offense;
- 3 (2) To any drug dependent person as defined in section 2 of
4 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
5 mental disorder to a hospital, mental institution or sanitarium, or to
6 any person who is presently an habitual drunkard;
- 7 (3) To any person who suffers from a physical defect or disease
8 which would make it unsafe for him to handle firearms, to any person
9 who has ever been confined for a mental disorder, or to any alcoholic
10 unless any of the foregoing persons produces a certificate of a medical
11 doctor or psychiatrist licensed in New Jersey, or other satisfactory
12 proof, that he is no longer suffering from that particular disability in
13 such a manner that would interfere with or handicap him in the
14 handling of firearms; to any person who knowingly falsifies any
15 information on the application form for a handgun purchase permit or
16 firearms purchaser identification card;
- 17 (4) To any person under the age of 18 years;
- 18 (5) To any person where the issuance would not be in the interest
19 of the public health, safety or welfare; or
- 20 (6) To any person who is subject to a court order issued pursuant
21 to section 13 of P.L.1991, c.261 (C.2C:25-29) prohibiting the person
22 from possessing any firearm. To ascertain whether the applicant is
23 subject to such an order, the chief of police of an organized full-time
24 police department of the municipality where the applicant resides or
25 the superintendent, in all other cases, shall conduct a search of the
26 domestic violence central registry established pursuant to section 1 of
27 P.L. , c. (C.)(now pending before the Legislature as this bill).
- 28 d. Issuance. The chief of police of an organized full-time police
29 department of the municipality where the applicant resides or the
30 superintendent, in all other cases, shall upon application, issue to any
31 person qualified under the provisions of subsection c. of this section
32 a permit to purchase a handgun or a firearms purchaser identification
33 card.
- 34 Any person aggrieved by the denial of a permit or identification
35 card may request a hearing in the Superior Court of the county in
36 which he resides if he is a resident of New Jersey or in the Superior
37 Court of the county in which his application was filed if he is a
38 nonresident. The request for a hearing shall be made in writing within
39 30 days of the denial of the application for a permit or identification
40 card. The applicant shall serve a copy of his request for a hearing
41 upon the chief of police of the municipality in which he resides, if he
42 is a resident of New Jersey, and upon the superintendent in all cases.
43 The hearing shall be held and a record made thereof within 30 days of
44 the receipt of the application for such hearing by the judge of the
45 Superior Court. No formal pleading and no filing fee shall be required
46 as a preliminary to such hearing. Appeals from the results of such

1 hearing shall be in accordance with law.

2 e. Applications. Applications for permits to purchase a handgun
3 and for firearms purchaser identification cards shall be in the form
4 prescribed by the superintendent and shall set forth the name,
5 residence, place of business, age, date of birth, occupation, sex and
6 physical description, including distinguishing physical characteristics,
7 if any, of the applicant, and shall state whether the applicant is a
8 citizen, whether he is an alcoholic, habitual drunkard, drug dependent
9 person as defined in section 2 of P.L.1970, c.226 (C.24:21-2),
10 whether he has ever been confined or committed to a mental institution
11 or hospital for treatment or observation of a mental or psychiatric
12 condition on a temporary, interim or permanent basis, giving the name
13 and location of the institution or hospital and the dates of such
14 confinement or commitment, whether he has been attended, treated or
15 observed by any doctor or psychiatrist or at any hospital or mental
16 institution on an inpatient or outpatient basis for any mental or
17 psychiatric condition, giving the name and location of the doctor,
18 psychiatrist, hospital or institution and the dates of such occurrence,
19 whether he presently or ever has been a member of any organization
20 which advocates or approves the commission of acts of force and
21 violence to overthrow the Government of the United States or of this
22 State, or which seeks to deny others their rights under the Constitution
23 of either the United States or the State of New Jersey, whether he has
24 ever been convicted of a crime or disorderly persons offense, whether
25 the person is subject to a court order issued pursuant to section 13 of
26 P.L.1991, c.261 (C.2C:25-29) prohibiting the person from possessing
27 any firearm, and such other information as the superintendent shall
28 deem necessary for the proper enforcement of this chapter. For the
29 purpose of complying with this subsection, the applicant shall waive
30 any statutory or other right of confidentiality relating to institutional
31 confinement. The application shall be signed by the applicant and shall
32 contain as references the names and addresses of two reputable
33 citizens personally acquainted with him.

34 Application blanks shall be obtainable from the superintendent,
35 from any other officer authorized to grant such permit or identification
36 card, and from licensed retail dealers.

37 The chief police officer or the superintendent shall obtain the
38 fingerprints of the applicant and shall have them compared with any
39 and all records of fingerprints in the municipality and county in which
40 the applicant resides and also the records of the State Bureau of
41 Identification and the Federal Bureau of Investigation, provided that
42 an applicant for a handgun purchase permit who possesses a valid
43 firearms purchaser identification card, or who has previously obtained
44 a handgun purchase permit from the same licensing authority for which
45 he was previously fingerprinted, and who provides other reasonably
46 satisfactory proof of his identity, need not be fingerprinted again;

1 however, the chief police officer or the superintendent shall proceed
2 to investigate the application to determine whether or not the applicant
3 has become subject to any of the disabilities set forth in this chapter.

4 f. Granting of permit or identification card; fee; term; renewal;
5 revocation. The application for the permit to purchase a handgun
6 together with a fee of \$2.00, or the application for the firearms
7 purchaser identification card together with a fee of \$5.00, shall be
8 delivered or forwarded to the licensing authority who shall investigate
9 the same and, unless good cause for the denial thereof appears, shall
10 grant the permit or the identification card, or both, if application has
11 been made therefor, within 30 days from the date of receipt of the
12 application for residents of this State and within 45 days for
13 nonresident applicants. A permit to purchase a handgun shall be valid
14 for a period of 90 days from the date of issuance and may be renewed
15 by the issuing authority for good cause for an additional 90 days. A
16 firearms purchaser identification card shall be valid until such time as
17 the holder becomes subject to any of the disabilities set forth in
18 subsection c. of this section, whereupon the card shall be void and
19 shall be returned within five days by the holder to the superintendent,
20 who shall then advise the licensing authority. Failure of the holder to
21 return the firearms purchaser identification card to the superintendent
22 within the said five days shall be an offense under section 2C:39-10a.
23 Any firearms purchaser identification card may be revoked by the
24 Superior Court of the county wherein the card was issued, after
25 hearing upon notice, upon a finding that the holder thereof no longer
26 qualifies for the issuance of such permit. The county prosecutor of
27 any county, the chief police officer of any municipality or any citizen
28 may apply to such court at any time for the revocation of such card.

29 There shall be no conditions or requirements added to the form or
30 content of the application, or required by the licensing authority for
31 the issuance of a permit or identification card, other than those that are
32 specifically set forth in this chapter.

33 g. Disposition of fees. All fees for permits shall be paid to the
34 State Treasury if the permit is issued by the superintendent, to the
35 municipality if issued by the chief of police, and to the county treasurer
36 if issued by the judge of the Superior Court.

37 h. Form of permit; quadruplicate; disposition of copies. The permit
38 shall be in the form prescribed by the superintendent and shall be
39 issued to the applicant in quadruplicate. Prior to the time he receives
40 the handgun from the seller, the applicant shall deliver to the seller the
41 permit in quadruplicate and the seller shall complete all of the
42 information required on the form. Within five days of the date of the
43 sale, the seller shall forward the original copy to the superintendent
44 and the second copy to the chief of police of the municipality in which
45 the purchaser resides, except that in a municipality having no chief of
46 police, such copy shall be forwarded to the superintendent. The third

1 copy shall then be returned to the purchaser with the pistol or revolver
2 and the fourth copy shall be kept by the seller as a permanent record.

3 i. Restriction on number of firearms person may purchase. Only
4 one handgun shall be purchased or delivered on each permit, but a
5 person shall not be restricted as to the number of rifles or shotguns he
6 may purchase, provided he possesses a valid firearms purchaser
7 identification card and provided further that he signs the certification
8 required in subsection b. of this section for each transaction.

9 j. Firearms passing to heirs or legatees. Notwithstanding any other
10 provision of this section concerning the transfer, receipt or acquisition
11 of a firearm, a permit to purchase or a firearms purchaser identification
12 card shall not be required for the passing of a firearm upon the death
13 of an owner thereof to his heir or legatee, whether the same be by
14 testamentary bequest or by the laws of intestacy. The person who
15 shall so receive, or acquire said firearm shall, however, be subject to
16 all other provisions of this chapter. If the heir or legatee of such
17 firearm does not qualify to possess or carry it, he may retain ownership
18 of the firearm for the purpose of sale for a period not exceeding 180
19 days, or for such further limited period as may be approved by the
20 chief law enforcement officer of the municipality in which the heir or
21 legatee resides or the superintendent, provided that such firearm is in
22 the custody of the chief law enforcement officer of the municipality or
23 the superintendent during such period.

24 k. Sawed-off shotguns. Nothing in this section shall be construed
25 to authorize the purchase or possession of any sawed-off shotgun.

26 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the
27 sale or purchase of a visual distress signalling device approved by the
28 United States Coast Guard, solely for possession on a private or
29 commercial aircraft or any boat; provided, however, that no person
30 under the age of 18 years shall purchase nor shall any person sell to a
31 person under the age of 18 years such a visual distress signalling
32 device.

33 (cf: P.L.1991, c.261, s.19)

34
35 8. (New section) There is appropriated from the General Fund to
36 the Administrative Office of the Courts the sum of \$2,100,000 to
37 effectuate the purposes of this act.

38
39 9. (New section) The Supreme Court of New Jersey may adopt
40 Rules of Court appropriate or necessary to effectuate the purposes of
41 this act.

42
43 10. This act shall take effect immediately.

STATEMENT

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2
3 This bill supplements and amends the provisions of P.L.1991, c.261
4 (C.2C:25-17 et seq.) to direct the Administrative Office of the Courts
5 to establish and maintain a central registry of domestic violence cases.

6 The registry would contain records of all persons who have had
7 domestic violence restraining orders entered against them, all persons
8 who have been charged with a crime or offense involving domestic
9 violence, and all persons who have been charged with a violation of a
10 court order involving domestic violence. All the records would be
11 confidential, and released only to law enforcement agencies and the
12 courts. The bill specifies, however, that the receiving agency of court
13 may disclose the records and reports in a manner consistent with and
14 in furtherance of the purposes for which they were received and
15 collected in the central registry.

16 Under the provisions of the bill, a judge is required to conduct a
17 search of the registry prior to issuing any order in a domestic violence
18 case. The bill also provides that during those times when the court is
19 closed and a person is arrested for contempt or a domestic violence
20 order, the arresting officer is required to conduct a search of the
21 registry.

22 The bill also amends N.J.S.2C:58-3 to require that the registry be
23 utilized when an applicant is being reviewed for a permit to purchase
24 and handgun or a firearms purchaser identification card. Paragraph (6)
25 of subsection c. of N.J.S.2C:58-3 prohibits the issuance of either a
26 permit to purchase a handgun or a firearms purchaser identification
27 card to any individual who is subject to a court order issued pursuant
28 to section 13 of P.L.1991, c.261 (C.2C:25-29) which prohibits that
29 individual (i.e., the defendant) from possessing a firearm. While the
30 statutory prohibition is clear, it can be difficult at times for the issuing
31 authority (either the local chief of police or the Superintendent of
32 State Police) to ascertain readily whether an applicant for a permit to
33 purchase of handgun or a firearms purchaser identification card is
34 subject to any such order.

35 The bill appropriates \$2.1 million to the Administrative Office of
36 the Courts to carry out the purposes of the act.

37
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39
40
41 Establishes a domestic violence central registry; appropriates
42 \$2,100,000.