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(Domestic
violence)

LAWS OF: 1991

CHAPTER: 261

Bill No: S2230

Sponsor(s): Lipman

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Senate: Judiciary

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denoted by asterisks.

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Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

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See newspaper clippings--attached:

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[EIGHTH REPRINT]

SENATE, No. 2230

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator LIPMAN

1 AN ACT concerning the prevention of domestic violence and the
2 protection of victims and their ¹[families] families¹ and
3 revising various sections of the statutory law.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) This act shall be known and may be cited as
8 the "Prevention of Domestic Violence Act of 1990."

9 2. (New section) The Legislature finds and declares that
10 domestic violence is a serious crime against society; that there
11 are thousands of persons in this State who are regularly beaten,
12 tortured and in some cases even killed by their spouses or
13 cohabitants; that a significant number of women who are
14 assaulted are pregnant; that victims of domestic violence come
15 from all social and economic backgrounds and ethnic groups; that
16 there is a positive correlation between spousal abuse and child
17 abuse; and that children, even when they are not themselves
18 physically assaulted, suffer deep and lasting emotional effects
19 from exposure to domestic violence. It is therefore, the intent of
20 the Legislature to assure the victims of domestic violence the
21 maximum protection from abuse the law can provide.

22 The Legislature further finds and declares that the health and
23 welfare of some of its most vulnerable citizens, the elderly and
24 disabled, are at risk because of incidents of reported and
25 unreported domestic violence, abuse and neglect which are known
26 to include acts which victimize the elderly and disabled
27 emotionally, psychologically, physically and financially; because
28 of age, disabilities or infirmities, this group of citizens frequently
29 must rely on the aid and support of others; while the
30 institutionalized elderly are protected under P.L.1977, c.239
31 (C.52:27G-1 et seq.), elderly and disabled adults in
32 noninstitutionalized or community settings may find themselves
33 victimized by family members or others upon whom they feel
34 compelled to depend.

35 The Legislature further finds and declares that violence against

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.

Matter enclosed in superscript numerals has been adopted as follows:

- 1 Senate SJU committee amendments adopted May 14, 1990.
- 2 Assembly AJL committee amendments adopted February 21, 1991.
- 3 Senate floor amendments adopted March 25, 1991.
- 4 Senate floor amendments adopted March 25, 1991.
- 5 Senate floor amendments adopted March 25, 1991.
- 6 Senate floor amendments rescinded June 20, 1991.
- 7 Senate floor amendments adopted June 20, 1991.
- 8 Senate floor amendments adopted June 20, 1991.

1 the elderly and disabled, including criminal neglect of the elderly
 2 and disabled under section 1 of P.L.1989, c.23 (C.2C:24-8), must
 3 be recognized and addressed on an equal basis as violence against
 4 spouses and children in order to fulfill our responsibility as a
 5 society to protect those who are less able to protect themselves.

6 The Legislature further finds and declares that even though
 7 many of the existing criminal statutes are applicable to acts of
 8 domestic violence, previous societal attitudes concerning
 9 domestic violence have affected the response of our law
 10 enforcement and judicial systems, resulting in these acts
 11 receiving different treatment from similar crimes when they
 12 occur in a domestic context. The Legislature finds that battered
 13 adults presently experience substantial difficulty in gaining
 14 access to protection from the judicial system, particularly due to
 15 that system's inability to generate a prompt response in an
 16 emergency situation.

17 It is the intent of the Legislature to stress that the primary
 18 duty of a law enforcement officer when responding to a domestic
 19 violence call is to enforce the laws allegedly violated and to
 20 protect the victim. Further, it is the responsibility of the courts
 21 to protect victims of violence that occurs in a family or
 22 family-like setting by providing access to both emergent and
 23 long-term civil and criminal remedies and sanctions, and by
 24 ordering those remedies and sanctions that are available to assure
 25 the safety of the victims and the public. To that end, the
 26 Legislature encourages the training of all police and judicial
 27 personnel in the procedures and enforcement of this act, and
 28 about the social and psychological context in which domestic
 29 violence occurs; and it further encourages the broad application
 30 of the remedies available under this act in the civil and criminal
 31 courts of this State. It is further intended that the official
 32 response to domestic violence shall communicate the attitude
 33 that violent behavior will not be excused or tolerated, and shall
 34 make clear the fact that the existing criminal laws and civil
 35 remedies created under this act will be enforced without regard
 36 to the fact that the violence grows out of a domestic situation.

37 3. (New section) As used in this act:

38 a. "Domestic violence" means the ¹[occurrence] occurrence¹ of
 39 one or more of the following acts inflicted upon a person
 40 protected under this act ¹by an adult or ²[or]² an emancipated
 41 minor¹:

42 (1) Homicide	N.J.S.2C:11-1 et seq.
43 (2) Assault	N.J.S.2C:12-1
44 (3) Terroristic threats	N.J.S.2C:12-3
45 (4) Kidnapping	N.J.S.2C:13-1
46 (5) Criminal restraint	N.J.S.2C:13-2
47 (6) False imprisonment	N.J.S.2C:13-3
48 (7) Sexual assault	N.J.S.2C:14-2
49 (8) Criminal sexual contact	N.J.S.2C:14-3

1	(9) Lewdness	N.J.S.2C:14-4
2	(10) Criminal mischief	N.J.S.2C:17-3
3	(11) Burglary	N.J.S.2C:18-2
4	(12) Criminal trespass	N.J.S.2C:18-3
5	(13) Harassment	N.J.S.2C:33-4

6 ¹When one or more of these acts is inflicted by an
7 unemancipated minor upon a person protected under this act, the
8 occurrence shall not constitute "domestic violence," but may be
9 the basis for the filing of a petition or complaint pursuant to the
10 provisions of section 11 of P.L.1982, c.77 (C.2A:4A-30).¹

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

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

19 d. "Victim of domestic violence" means a person protected
20 under this act and shall include any person who is 18 years of age
21 or older or who is an emancipated minor and who has been
22 subjected to domestic violence by a spouse, former spouse, or any
23 other person ²[related by blood or marriage]² ⁶[⁵related by blood
24 or marriage⁵]⁶ ¹who is a present or former household member¹
25 ²[¹or a person of the opposite sex who is¹ a present or former
26 household member.]² ⁶[⁵or a person of the opposite sex who is a
27 present or former household member,⁵]⁶ or a person with whom
28 the victim has a child in common.

29 4. (New section) The ²[Police Training Commission in the]²
30 Division of Criminal Justice shall develop and approve a training
31 course and curriculum on the handling, investigation and response
32 procedures concerning reports of domestic violence and abuse and
33 neglect of the elderly and disabled. This training course and
34 ¹[curriculum] curriculum¹ shall be reviewed at least every two
35 years and modified by the ²[Police Training Commission] Division
36 of Criminal Justice² from time to time as need may require, and
37 shall be made available to all law enforcement personnel who are
38 likely to encounter situations of domestic violence. The ²[Police
39 Training Commission] Division of Criminal Justice² shall
40 distribute the curriculum to all local police agencies. The
41 Attorney General shall be responsible for ensuring that law
42 enforcement ¹[officer] officers¹ throughout the State receive
43 training concerning domestic violence.

44 The Administrative Office of the Courts shall develop and
45 approve a training course and a curriculum on the handling,
46 investigation and response procedures concerning allegations of
47 domestic violence. This training course shall be reviewed at least
48 ¹every¹ two years and modified by the Administrative Office of
49 the Courts from time to time as need may require, and shall be

1 made available to all judges and judicial personnel who are likely
2 to encounter situations of domestic violence. The Administrative
3 ¹[Direcotr] Director¹ of the Courts shall be responsible for
4 ensuring that judges and judicial personnel throughout the State
5 receive training concerning domestic violence.

6 The ²[Police Training Commission] Division of Criminal
7 Justice² and the Administrative Office of the Courts shall
8 provide that all training on the handling of domestic violence
9 complaints shall stress the enforcement of criminal laws in
10 domestic situations, the protection of the victim, and the use of
11 available community resources. Law enforcement agencies may
12 establish domestic crisis teams or individual officers may be
13 trained in methods of dealing with domestic violence and neglect
14 and abuse of the elderly and disabled. The teams may include
15 social workers, clergy or other persons trained in counseling,
16 crisis intervention or in the treatment of domestic violence and
17 neglect and abuse of the elderly and disabled victims.

18 5. (New section) a. ¹[A] When a person claims to be a victim
19 of domestic violence, and where a law enforcement officer
20 responding to the incident finds probable cause to believe that
21 domestic violence has occurred, the¹ law enforcement officer
22 shall arrest ¹[a person] the person who is alleged to be the person
23 who subjected the victim to domestic violence¹ and shall sign a
24 criminal complaint ¹if¹:

25 (1) ¹[the] The¹ victim exhibits signs of injury caused by an act
26 of domestic violence;

27 (2) ¹[a] A¹ warrant is in effect;

28 (3) ¹[there] There¹ is probable cause to believe that ¹[a] the¹
29 person has violated N.J.S.2C:29-9 ², and there is probable cause
30 to believe that the person has been served with the order alleged
31 to have been violated². If the victim does not have a copy of a
32 purported order, the officer may verify the existence of an order
33 with the appropriate law enforcement agency; or

34 (4) ¹[there] There¹ is probable cause to believe that a weapon
35 as defined in N.J.S. 2C:39-1 has been involved in the commission
36 of an act of domestic violence.

37 b. A law enforcement officer may arrest a person; or may sign
38 a criminal complaint against that person, or may do both, where
39 there is probable cause to believe that an act of domestic
40 violence has been committed, but where none of the conditions in
41 subsection a. of this section applies.

42 c. (1) As used in this section, the word "exhibits" is to be
43 liberally construed to mean any indication that a victim has
44 suffered bodily injury, which shall include physical pain or any
45 impairment of physical condition. Where the victim exhibits no
46 visible sign of injury, but states that an injury has occurred, the
47 officer should consider other relevant factors in determining
48 whether there is probable cause to make an arrest.

49 (2) In determining which party in a domestic violence incident

1 is the victim where both parties exhibit signs of injury, the
2 officer should consider the comparative extent of the injuries,
3 the history of domestic violence between the parties, if any, and
4 any other relevant factors.

5 (3) No victim shall be denied relief or arrested or charged
6 under this act with an offense because the victim used reasonable
7 force in self defense against domestic violence by an attacker.

8 ⁵[²d. (1) In addition to a law enforcement officer's authority
9 to seize any weapon that is contraband, evidence or an
10 instrumentality of crime, a law enforcement officer who has
11 probable cause to believe that an act of domestic violence has
12 been committed may:

13 (a) question persons present to determine whether there are
14 weapons on the premises and

15 (b) upon observing or learning that a weapon is present on the
16 premises, seize any weapon that the officer reasonably believes
17 would expose the victim to a risk of serious bodily injury.

18 (2) A law enforcement officer shall deliver all weapons seized
19 pursuant to this section to the county prosecutor and shall append
20 an inventory of all seized weapons to the domestic violence
21 report.

22 (3) No weapons seized in accordance with the above shall be
23 returned to the owner except upon order of the Superior Court.
24 The owner may, upon notice to the prosecutor who has possession
25 of the seized weapons, petition a judge of the Family Part of the
26 Superior Court, Chancery Division, to order the return of the
27 weapons. The prosecutor, upon notice to the owner, may apply to
28 the court to obtain title to the seized weapons, or to revoke any
29 and all permits, licenses and other authorizations for the use,
30 possession, or ownership of such weapons pursuant to the
31 lawgoverning such use, possession, or ownership, or may object to
32 the return of the weapons on such grounds as are provided for the
33 initial rejection or later revocation of the authorizations, or on
34 the grounds that the owner is unfit or that the owner poses a
35 threat to the public in general or a person or persons in particular.

36 A hearing shall be held and a record made thereof within 45
37 days of the notice provided above. No formal pleading and no
38 filing fee shall be required as a preliminary to such hearing. The
39 hearing shall be summary in nature. Appeals from the results of
40 the hearing shall be to the Superior Court, Appellate Division, in
41 accordance with the law.

42 After the hearing, the court may:

43 (a) Order the return of the firearms, weapons, and any
44 authorization papers relating to the seized weapons to the owner
45 ⁴if the complaint has been dismissed at the request of the
46 complainant and the prosecutor determines that there is
47 insufficient probable cause to indict, or if the defendant is proved
48 innocent of the charges; or if the court determines that the
49 domestic violence situation no longer exists⁴; or

1 (b) With respect to weapons other than firearms, order the
2 prosecutor to dispose of the weapons if the person does not
3 arrange for the transfer or sale of the weapons to an appropriate
4 person within 60 days; or

5 (c) Subject to the rights of owners and others holding interests
6 pursuant to N.J.S.2C:64-5, order the weapons forfeited to the
7 State, if it determines that the weapons are prima facie
8 contraband as defined in N.J.S.2C:64-1 et seq.; or

9 (d) Order the revocation of the owner's firearms purchaser
10 identification card or any permit, license or authorization, in
11 which case the court shall order the owner to surrender any
12 firearm seized and all other firearms possessed to the prosecutor
13 and shall order the prosecutor to dispose of the firearms if the
14 owner does not arrange for the sale of the firearms to a
15 registered dealer of firearms within 60 days; or

16 (e) Order such other relief as it may deem appropriate. When
17 the court orders the weapons forfeited to the State or the
18 prosecutor is required to dispose of the weapons, the prosecutor
19 shall dispose of the property as provided in N.J.S.2C:64-6.²⁵

20 ⁶d. (1) In addition to a law enforcement officer's authority to
21 seize any weapon that is contraband, evidence or an
22 instrumentality of crime, a law enforcement officer who has
23 probable cause to believe that an act of domestic violence has
24 been committed may:

25 (a) question persons present to determine whether there are
26 weapons on the premises ^{8,8} and

27 (b) upon observing or learning that a weapon is present on the
28 premises, seize any weapon that the officer reasonably believes
29 would expose the victim to a risk of serious bodily injury.

30 (2) A law enforcement officer shall deliver all weapons seized
31 pursuant to this section to the county prosecutor and shall append
32 an inventory of all seized weapons to the domestic violence
33 report.

34 (3) ⁸[No weapons] Weapons⁸ seized in accordance with the
35 above shall be returned to the owner except upon order of the
36 Superior Court. The ⁸[owner may, upon notice to the]⁸
37 prosecutor who has possession of the seized weapons ⁸may, upon
38 notice to the owner⁸, petition a judge of the Family Part of the
39 Superior Court, Chancery Division, ⁸[to order the return of the
40 weapons. The prosecutor, upon notice to the owner, may apply to
41 the court] within 45 days of seizure,⁸ to obtain title to the seized
42 weapons, or to revoke any and all permits, licenses and other
43 authorizations for the use, possession, or ownership of such
44 weapons pursuant to the law governing such use, possession, or
45 ownership, or may object to the return of the weapons on such
46 grounds as are provided for the initial rejection or later
47 revocation of the authorizations, or on the grounds that the
48 owner is unfit or that the owner poses a threat to the public in
49 general or a person or persons in particular.

1 A hearing shall be held and a record made thereof within ⁸[45]
2 15⁸ days of the notice provided above. No formal pleading and no
3 filing fee shall be required as a preliminary to such hearing. The
4 hearing shall be summary in nature. Appeals from the results of
5 the hearing shall be to the Superior Court, Appellate Division, in
6 accordance with the law.

7 ⁸If the prosecutor does not institute an action within 45 days of
8 seizure, the seized weapons shall be returned to the owner.⁸

9 ⁸[After the hearing, the court may:

10 (a) Order the return of the firearms, weapons, and any
11 authorization papers relating to the seized weapons to the owner;
12 or

13 (b) With respect to weapons other than firearms, order the
14 prosecutor to dispose of the weapons if the person does not
15 arrange for the transfer or sale of the weapons to an appropriate
16 person within 60 days; or

17 (c) Subject to the rights of owners and others holding interests
18 pursuant to N.J.S.2C:64-5, order the weapons forfeited to the
19 State, if it determines that the weapons are prima facie
20 contraband as defined in N.J.S.2C:64-1 et seq.; or

21 (d) Order the revocation of the owner's firearms purchaser
22 identification card or any permit, license or authorization, in
23 which case the court shall order the owner to surrender any
24 firearm seized and all other firearms possessed to the prosecutor
25 and shall order the prosecutor to dispose of the firearms if the
26 owner does not arrange for the sale of the firearms to a
27 registered dealer of firearms within 60 days; or

28 (e) Order such other relief as it may deem appropriate. When
29 the court orders the weapons forfeited to the State or the
30 prosecutor is required to dispose of the weapons, the prosecutor
31 shall dispose of the property as provided in N.J.S.2C:64-6.^{6]}

32 After the hearing the court shall order the return of the
33 firearms, weapons and any authorization papers relating to the
34 seized weapons to the owner if the complaint has been dismissed
35 at the request of the complainant and the prosecutor determines
36 that there is insufficient probable cause to indict; or if the
37 defendant is found not guilty of the charges; or if the court
38 determines that the domestic violence situation no longer exists.

39 Nothing in this act shall impair the right of the State to retain
40 evidence pending a criminal prosecution. Nor shall any provision
41 of this act be construed to limit the authority of the State or a
42 law enforcement officer to seize, retain or forfeit property
43 pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

44 If, after the hearing, the court determines that the weapons
45 are not to be returned to the owner, the court may:

46 (a) With respect to weapons other than firearms, order the
47 prosecutor to dispose of the weapons if the owner does not
48 arrange for the transfer or sale of the weapons to an appropriate
49 person within 60 days; or

1 **(b) Order the revocation of the owner's firearms purchaser**
2 **identification card or any permit, license or authorization, in**
3 **which case the court shall order the owner to surrender any**
4 **firearm seized and all other firearms possessed to the prosecutor**
5 **and shall order the prosecutor to dispose of the firearms if the**
6 **owner does not arrange for the sale of the firearms to a**
7 **registered dealer of the firearms within 60 days; or**

8 **(c) Order such other relief as it may deem appropriate. When**
9 **the court orders the weapons forfeited to the State or the**
10 **prosecutor is required to dispose of the weapons, the prosecutor**
11 **shall dispose of the property as provided in N.J.S. 2C:64-6.**

12 **(4) A civil suit may be brought to enjoin a wrongful failure to**
13 **return a seized firearm where the prosecutor refuses to return**
14 **the weapon after receiving a written request to do so and notice**
15 **of the owner's intent to bring a civil action pursuant to this**
16 **section. Failure of the prosecutor to comply with the provisions**
17 **of this act shall entitle the prevailing party in the civil suit to**
18 **reasonable costs, including attorney's fees, provided that the**
19 **court finds that the prosecutor failed to act in good faith in**
20 **retaining the seized weapon.**

21 **(5) No law enforcement officer or agency shall be held liable in**
22 **any civil action brought by any person for failing to learn of,**
23 **locate or seize a weapon pursuant to this act, or for returning a**
24 **seized weapon to its owner.⁸**

25 6. (New section) A law enforcement officer or a member of a
26 domestic crisis team shall not be held liable in any civil action
27 brought by any party for an arrest based on probable cause,
28 enforcement in good faith of a court order, or any other act or
29 omission in good faith under this act.

30 7. (New section) A law enforcement officer shall disseminate
31 ¹and explain¹ to the victim the following notice, which shall be
32 written in both English and Spanish:

33 ¹[a.]¹ "You have the right to go to court to get an order called
34 a temporary restraining order, also called a TRO, which may
35 protect you from more abuse by your attacker ¹[and that the].
36 The¹ officer who handed you this card can tell you how to get a
37 TRO.

38 ¹[b.]¹ The kinds of things a judge can order in a TRO may
39 include:

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

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

44 (3) That your attacker is temporarily forbidden from bothering
45 you at work;

46 (4) That ¹[you] your¹ attacker has to pay temporary child
47 support or support for you;

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

49 (6) That your attacker pay you back any money you have to

1 spend for medical treatment or repairs because of the violence¹;
2 and

3 (7)]¹ There are other things the court can order, and ¹[that]¹
4 the court clerk will explain the procedure to you and will help you
5 fill out the papers for a TRO.

6 ¹[c. That you] You¹ also have the right to file a criminal
7 complaint against your attacker ¹[and that the]. The¹ police
8 officer who gave you this paper will tell you how to file a
9 criminal complaint.

10 ¹[d. That on] On¹ weekends, holidays and other times when the
11 courts are closed, you still have a right to get a TRO ¹[and that
12 the]. The¹ police officer who gave you this paper can help you
13 get in touch with a judge who can give you a TRO.¹¹

14 8. (New section) a. It shall be the duty of a law enforcement
15 officer who responds to a domestic violence call to complete a
16 domestic violence offense report. All information contained in
17 the domestic violence offense report shall be forwarded to the
18 appropriate county bureau of identification and to the State
19 bureau of records and identification in the Division of State
20 Police in the Department of Law and Public Safety. A copy of the
21 domestic violence offense report shall be forwarded to the
22 municipal court where the offense was committed unless the case
23 has been transferred to the Superior Court.

24 b. The domestic violence offense report shall be on a form
25 prescribed by the supervisor of the State bureau of records and
26 identification which shall include, but not be limited to, the
27 following information:

- 28 (1) The relationship of the parties;
29 (2) The sex of the parties;
30 (3) The time and date of the incident;
31 (4) The number of domestic violence calls investigated;
32 (5) Whether children were involved, or whether the alleged act
33 of domestic violence had been committed in the presence of
34 children;
35 (6) The type and extent of abuse;
36 (7) The number and type of weapons involved;
37 (8) The action taken by the law enforcement officer;
38 (9) The existence of any prior court orders issued pursuant to
39 this act concerning the parties; and
40 (10) Any other data that may be necessary for a complete
41 analysis of all circumstances leading to the alleged incident of
42 domestic violence.

43 c. It shall be the duty of the Superintendent of the State
44 Police with the assistance of the Division of Systems and
45 Communications in the Department of Law and Public Safety to
46 compile and report annually to the Governor, the Legislature and
47 the Advisory Council on Domestic Violence on the tabulated data
48 from the domestic violence offense reports.

49 9. (New section) The court in a criminal ¹[complain]

1 complaint¹ arising from a domestic violence incident:

2 a. Shall not dismiss any charge or delay disposition of a case
3 because of concurrent dissolution of a marriage, other civil
4 proceedings, or because the victim has left the residence to avoid
5 further incidents of domestic violence;

6 b. Shall not ¹[not]¹ require proof that either party is seeking a
7 dissolution of a marriage prior to institution of criminal
8 proceedings;

9 c. Shall waive any requirement that the victim's location be
10 disclosed to any person.

11 10. (New section) ¹a.¹ When a defendant charged with a
12 crime or offense involving domestic violence is released from
13 custody before trial on bail or personal recognizance, the court
14 authorizing the release may as a condition of release issue an
15 order prohibiting the defendant from having any contact with the
16 victim including, but not limited to, restraining the defendant
17 from entering the victim's residence, place of employment or
18 business, or school, and from harassing the victim or victim's
19 relatives in any way. ⁵[²The court may enter an order prohibiting
20 the defendant from possessing any firearm or other weapon
21 enumerated in subsection r. of N.J.S.2C:39-1.²]⁵ ⁶The court may
22 enter an order prohibiting the defendant from possessing any
23 firearm or other weapon enumerated in subsection r. of
24 N.J.S.2C:39-1.⁶

25 b. The written court order releasing the defendant shall
26 contain the court's directives restricting the defendant's ability
27 to have contact with the victim or the victim's relatives. The
28 clerk of the court or other person designated by the court shall
29 provide a copy of this order to the victim forthwith.

30 c. The victim's location shall remain confidential and shall not
31 appear on any documents or ¹[record] records¹ to which the
32 defendant has access.

33 d. Before bail is set, the defendant's prior record shall be
34 considered by the court. Bail shall be set as soon as is feasible,
35 but in all cases within 24 hours of arrest.

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

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

46 11. (New section) When a defendant is found guilty of a crime
47 or offense involving domestic violence and a condition of
48 sentence restricts the defendant's ability to have contact with
49 the victim, that condition shall be recorded in an order of the

1 court and a written copy of that order shall be provided to the
2 victim by the clerk of the court or other person designated by the
3 court. In addition to restricting a defendant's ability to have
4 contact with the victim, the court may require the defendant to
5 receive professional counseling from either a private source or a
6 source appointed by the court, and the court may require the
7 defendant to provide documentation of attendance at the
8 professional counseling.

9 12. (New section) ¹a.¹ A victim may file a complaint alleging
10 the commission of an act of domestic violence with the Family
11 Part of the Chancery Division of the Superior Court in
12 conformity with the rules of court. The court shall not dismiss
13 any complaint or delay disposition of a case because the victim
14 has left the residence to avoid further incidents of domestic
15 violence. Filing a complaint pursuant to this section shall not
16 prevent the filing of a criminal complaint for the same act.

17 On weekends, holidays and other times when the court is
18 closed, a victim may file a complaint before a judge of the
19 Family Part of the Chancery Division of the Superior Court or a
20 municipal court judge who shall be assigned to accept complaints
21 and issue temporary restraining orders pursuant to this act.

22 A plaintiff may apply for relief ²under this section² in a court
23 having jurisdiction over the place where the alleged act of
24 domestic violence occurred, where the defendant resides, or
25 where the plaintiff resides or is sheltered, and the court shall
26 follow the same procedures applicable to other emergent
27 applications. ²Criminal complaints filed pursuant to this act
28 shall be investigated and prosecuted in the jurisdiction where the
29 offense is alleged to have occurred.² Contempt complaints filed
30 pursuant to N.J.S.2C:29-9 shall be prosecuted in the county
31 where the contempt is alleged to have been committed and a
32 copy of the ¹[contemp] contempt¹ complaint shall be forwarded
33 to the court that issued the order alleged to have been violated.

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

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

39 d. Summons and complaint forms shall be readily available at
40 the clerk's office, at the municipal courts and at municipal and
41 State police stations. ²[¹Each complaint shall contain the
42 following notice: "A person who files a complaint containing a
43 knowingly false statement of material fact is guilty of perjury, a
44 crime of the third degree."]² ⁶[⁵Each complaint shall contain
45 the following notice: "A person who files a complaint containing
46 a knowingly false statement of material fact is guilty of perjury,
47 a crime of the third degree."]⁵⁶

48 e. As soon as the domestic violence complaint is filed, both
49 the victim and the abuser shall be advised of any programs or

1 services available for advice and counseling.

2 f. A plaintiff may seek emergency, ex parte relief in the
3 nature of a temporary restraining order. The judge of the Family
4 Part ¹[Part]¹ of the Chancery Division of the Superior Court may
5 enter ex parte orders when necessary to protect the life, health
6 or well-being of a victim on whose behalf the relief is sought.

7 g. If it appears that the plaintiff is in danger of domestic
8 violence, the judge shall, upon consideration of the plaintiff's
9 domestic violence complaint, order emergency relief^{1,1} including
10 ex parte relief, in the nature of a temporary restraining order. A
11 decision shall be made by the judge regarding the emergency
12 relief forthwith. An order granting emergency relief, together
13 with all pleadings, process and other orders, shall immediately be
14 forwarded to the sheriff for immediate service of the order for
15 emergency relief upon the defendant.

16 h. A judge may issue a temporary restraining order upon sworn
17 testimony or complaint of an applicant who is not physically
18 present, pursuant to court rules, or by a person who represents a
19 person who is physically or mentally ¹[incapable] incapable¹
20 of filing personally. A temporary restraining order may be issued if
21 the judge is satisfied that exigent circumstances exist sufficient
22 to excuse the failure of the applicant to appear personally and
23 that sufficient grounds for granting the application have been
24 shown.

25 i. An order for emergency relief shall be granted upon good
26 cause shown and shall remain in effect until a judge of the Family
27 Part issues a ²[final] further² order. The Family Part of the
28 Chancery Division of the Superior Court shall hold a hearing on
29 an emergency order within 10 days. Any temporary order
30 hereunder may be dissolved or modified on 24 hours' notice or
31 immediately appealable for a plenary hearing de novo not on the
32 record before ²[a] the² judge ²who issued the temporary order, or
33 before any judge² of the Family Part of the county in which the
34 plaintiff resides ²if that judge has access to the reasons for the
35 issuance of the temporary order and sets forth in the record the
36 reasons for the modification or dissolution ².

37 j. Emergency relief may include forbidding the defendant from
38 returning to the scene of the domestic violence [together with]
39 ⁵[², forbidding the defendant to possess any firearm or other
40 weapon enumerated in subsection r. of N.J.S.2C:39-1 and²]
41 ⁶[together with⁵], forbidding the defendant to possess any
42 firearm or other weapon enumerated in subsection r. of
43 N.J.S.2C:39-1 and⁶ any other appropriate relief.

44 k. The judge may permit the defendant to return to the scene
45 of the domestic violence to pick up personal belongings and
46 effects but shall by order restrict the time and duration and
47 provide for police supervision of such visit.

48 l. An order granting emergency relief shall immediately be
49 served upon the defendant by the police, except that an order

1 issued during regular court hours ¹[shall] may¹ be forwarded to
2 the sheriff for immediate service upon the defendant.

3 m. A temporary restraining order shall remain in effect until
4 further action by the court.

5 n. Notice of temporary restraining orders issued pursuant to
6 this section shall be sent by the clerk of the court or other person
7 designated by the court to the appropriate chiefs of police,
8 members of the State Police and any other appropriate law
9 enforcement agency or court.

10 o. All pleadings, process, and other orders filed pursuant to
11 this act shall be served upon the defendant in accordance with
12 the rules of court. If personal service cannot be effected upon
13 the defendant, the court may order other appropriate substituted
14 service. At no time shall the plaintiff be asked or required to
15 serve any order on the defendant.

16 p. Any temporary or permanent restraining order issued
17 pursuant to this act shall be ¹in¹ effect throughout the State, and
18 shall be enforced by all law enforcement officers.

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

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

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

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

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

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

44 (6) The existence of a verifiable order of protection from
45 another jurisdiction.

46 b. In proceedings in which complaints for restraining orders
47 have been filed, the court shall grant any relief necessary to
48 prevent further abuse. At the hearing the judge of the Family
49 Part of the Chancery Division of the Superior Court may issue an

1 order granting any or all of the following relief:

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

4 (2) An order granting exclusive possession to the plaintiff of
5 the residence or household regardless of whether the residence or
6 household is jointly or solely owned by the parties or jointly or
7 solely leased by the parties. This order shall not in any manner
8 affect title or interest to any real property held by either party
9 or both jointly. If it is not possible for the victim to remain in
10 the residence, ²[or if the victim chooses alternative housing,]²
11 the court may order the defendant to pay the victim's rent at a
12 residence other than the one previously shared by the parties if
13 the defendant is found to have a duty to support the victim and
14 the victim requires alternative housing ²[;].²

15 (3) An order providing for visitation. The order shall protect
16 the safety and well-being of the plaintiff and minor children and
17 shall specify the place and frequency of visitation. Visitation
18 arrangements shall not compromise any other remedy provided by
19 the court by requiring or encouraging contact between the
20 plaintiff and defendant. Orders for visitation may include a
21 designation of a place of visitation away from the plaintiff, the
22 participation of a third party, or supervised visitation.

23 (a) The court shall consider a request by the plaintiff for an
24 investigation or evaluation by the appropriate agency to assess
25 the risk of harm to the child prior to the entry of a visitation
26 order. Any denial of such a request must be on the record and
27 shall only be made if the judge finds the request to be arbitrary
28 or capricious.

29 (b) The court shall consider suspension of the visitation order
30 and hold an emergent hearing upon an application made by the
31 plaintiff certifying under oath that the defendant's access to the
32 child pursuant to the visitation order has threatened the safety
33 and well-being of the child²[;].²

34 (4) An order requiring the defendant to pay to the victim
35 monetary compensation for losses suffered as a direct result of
36 the act of domestic violence. ²The order may require the
37 defendant to pay the victim directly, to reimburse the Violent
38 Crimes Compensation Board for any and all compensation paid by
39 the Violent Crime Compensation Board directly to or on behalf of
40 the victim, and may require that the defendant reimburse any
41 parties that may have compensated the victim, as the court may
42 determine.² Compensatory losses shall include, but not be
43 limited to, loss of earnings or other support, out-of-pocket losses
44 for injuries sustained, cost of repair or replacement of real or
45 personal property damaged or destroyed or taken, cost of
46 counseling for the victim, moving or other travel expenses,
47 reasonable attorney's fees, court costs, and compensation for
48 pain and suffering. Where appropriate, punitive damages may be
49 awarded in addition to compensatory damages²[;].²

1 (5) An order requiring the defendant to receive professional
2 domestic violence counseling from either a private source or a
3 source appointed by the court and, in that event, at the court's
4 discretion requiring the defendant to provide the court at
5 specified intervals with documentation of attendance at the
6 professional counseling. The court may order the defendant to
7 pay for the professional counseling²[;].²

8 (6) An order restraining the defendant from entering the
9 residence, property, school, or place of employment of the victim
10 or ¹of¹ other family or household members of the victim and
11 requiring the defendant to stay away from any specified place
12 that is named in the order and is frequented regularly by the
13 victim or other family or household members²[;].²

14 (7) An order restraining the defendant from making any
15 communication likely to cause annoyance or alarm including, but
16 not limited to, personal, written, or telephone contact with the
17 victim or other family members, or their employers, employees,
18 or fellow workers, or others with whom communication would be
19 likely to cause annoyance or alarm to the victim²[;].²

20 (8) An order requiring that the defendant make or continue to
21 make rent or mortgage payments on the residence occupied by
22 the victim if the defendant is found to have a duty to support the
23 victim or other dependent household members; provided that this
24 issue has not been resolved or is not being litigated between the
25 parties in another action²[;].²

26 (9) An order granting either party temporary possession of
27 specified personal property, such as an automobile, checkbook,
28 documentation of health insurance, an identification document, a
29 key, and other personal effects²[;].²

30 (10) An order awarding emergent monetary relief to the victim
31 and other dependents, if any. An ongoing obligation of support
32 shall be determined at a later date pursuant to applicable law²[;].²

33 (11) An order awarding temporary custody of a minor child.
34 The court shall presume that the best interests of the child are
35 served by an award of custody to the non-abusive parent²[;].²

36 (12) An order requiring that a law enforcement officer
37 accompany either party to the residence to supervise the removal
38 of personal belongings in order to ensure the personal safety of
39 the plaintiff when a restraining order has issued. This order shall
40 be restricted in duration²[;].²

41 (13) An order which permits the victim and the defendant to
42 occupy the same premises but limits the defendant's use of that
43 premises, but only if it is documented by the judge granting the
44 order that:

45 (a) ¹[the] The¹ plaintiff specifically and voluntarily requests
46 such an order; and

47 (b) ¹[the] The¹ judge determines that the request is made
48 voluntarily and with the plaintiff's knowledge that the order may
49 not provide the same protection as an order excluding the

1 defendant from the premises and with the plaintiff's knowledge
2 that the order may be difficult to enforce; and

3 (c) ¹[any] Any¹ conditions placed upon the defendant in
4 connection with the continued access to the premises and any
5 penalties for noncompliance with those conditions shall be
6 explicitly set out in the order and shall be in addition to any other
7 remedies for noncompliance available to the victim¹[;] ¹.

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

13 (15) An order that requires that the defendant report to the
14 intake unit of the Family Part of the Chancery Division of the
15 Superior Court for monitoring of any other provision of the order
16 ¹[; or] ¹.

17 ⁵[²(16) An order prohibiting the defendant from possessing any
18 firearm or other weapon enumerated in subsection r. of
19 N.J.S.2C:39-1.²]⁵

20 ⁶(16) An order prohibiting the defendant from possessing any
21 firearm or other weapon enumerated in subsection r. of
22 N.J.S.2C:39-1.⁶

23 ¹[f] c¹. Notice of orders issued pursuant to this section shall
24 be sent by the clerk of the Family Part of the Chancery Division
25 of the Superior Court or other person designated by the court to
26 the appropriate chiefs of police, members of the State Police and
27 any other appropriate law enforcement agency.

28 ¹[g] d¹. Upon good cause shown, any final order may be
29 dissolved or modified upon application to the Family Part of the
30 Chancery Division of the Superior Court ¹but only if the judge
31 who dissolves or modifies the order has available a complete
32 record of the hearing or hearings on which the order was based¹.

33 14. (New section) Except as provided below, a violation by
34 ¹[he] the¹ defendant of an order issued pursuant to this act shall
35 constitute an offense under subsection b. of N.J.S.2C:29-9 and
36 each order shall so state. All contempt proceedings conducted
37 pursuant to N.J.S.2C:29-9 involving domestic violence orders,
38 other than those constituting indictable offenses, shall be heard
39 by the Family Part of the Chancery Division of the Superior
40 Court. Additionally, and notwithstanding the term of
41 imprisonment provided in 2C:43-8, any person convicted of a
42 second or subsequent nonindictable domestic violence contempt
43 offense shall serve a minimum term of not less than 30 days.
44 Orders entered pursuant to paragraphs ¹[b. (3), b. (4), b. (8), and
45 b. (9)] (3), (4), (8) and (9) of subsection b.¹ of section 13 of this
46 act shall be excluded from enforcement under subsection b. of
47 N.J.S.2C:29-9; however, violations of these orders may be
48 enforced in a civil ¹or criminal¹ action initiated by the plaintiff
49 ¹or by the court, on its own motion, pursuant to applicable court

1 rules¹.

2 15. (New section) ¹[A defendant who commits contempt
3 pursuant to this act] Where a law enforcement officer finds that
4 there is probable cause that a defendant has committed contempt
5 of an order entered pursuant to the provisions of P.L.1981, c.426
6 (C.2C:25-1 et seq.) or P.L. , c. (now pending before the
7 Legislature as this bill), the defendant¹ shall be arrested and
8 taken into custody by a law enforcement officer. The law
9 enforcement officer shall follow these procedures:

10 a. On weekends, holidays and other times when the court is
11 closed, the law enforcement officer shall transport the defendant
12 to either the police station or the municipal court or such other
13 place as the law enforcement officer shall determine is proper.
14 The law enforcement officer shall:

15 (1) Sign a complaint concerning the incident which gave rise to
16 the contempt charge;

17 (2) Telephone the appropriate judge assigned pursuant to this
18 act and request bail be set on the contempt charge;

19 (3) If the defendant is unable to meet the bail set, take the
20 necessary steps to insure that the defendant shall be incarcerated
21 at police headquarters or at the county jail; and

22 (4) On the next working day notify the clerk of the Family Part
23 of the new complaint, the amount of bail, defendant's
24 whereabouts and all other necessary details. In addition, if a
25 municipal court judge set the bail, notify the clerk of that
26 municipal court of this information.

27 b. During regular court hours, the law enforcement officer
28 shall transport the defendant to the Family Part of the Chancery
29 Division of the Superior Court or to such other place as the law
30 enforcement officer shall determine is proper. The law
31 enforcement officer shall complete and sign a complaint
32 concerning the incident which gave rise to the contempt charge,
33 and the defendant shall have bail set by a judge that day.

34 16. (New section) Where ¹a person alleges that a defendant
35 has committed contempt of an order entered pursuant to the
36 provisions of P.L.1981, c.426 (C.2C:25-1 et. seq) or P.L. , c.
37 (now pending before the Legislature as this bill), but where a law
38 enforcement officer has found that¹ there is not probable cause
39 sufficient to arrest the defendant, the law enforcement officer
40 shall advise the complainant of the procedure for completing and
41 signing a criminal complaint alleging a violation of ¹[N.J.S.A]
42 N.J.S.¹2C:29-9. During regular court hours, the assistance of the
43 clerk of the Family Part of the Chancery Division of the Superior
44 Court shall be made available to such complainants. Nothing in
45 this section shall be construed to prevent the court from granting
46 any other emergency relief it deems necessary.

47 17. (New section) The Administrative Office of the Courts
48 shall maintain a uniform record of all requests for orders issued
49 pursuant to ²[section] sections² 9, 10, 12, ¹[or] and¹ 13 of this

1 act. The record shall include the following information:

2 a. The number of complaints filed ²[by the parties] in all
3 municipal courts and the Superior Court²;

4 b. The sex of the parties;

5 c. The relationship of the parties;

6 d. ¹[(Deleted by amendment, P.L.1982, c.82.)

7 e.]¹ The relief sought;

8 ¹[f] ^e. The nature of the relief granted^{1,1} including^{1,1} but
9 not limited to, custody and child support; ²and²

10 ¹[g] ^f. The effective date ²[and terms]² of each order issued.

11 It shall be the duty of the Director of the Administrative
12 Office of the Courts to compile and report annually to the
13 Governor, the Legislature and the Advisory Council on [Shelters
14 for Victims of] Domestic Violence on the data tabulated from the
15 records of these orders.

16 All records maintained pursuant to this act shall be
17 confidential and shall not be made available to any individual or
18 institution except as otherwise provided by law.

19 18. N.J.S.2C:29-9 is amended to read as follows:

20 ¹2C:29-9. Contempt.¹ a. A person is guilty of a crime of the
21 fourth degree ¹[is that person] if he¹ purposely or knowingly
22 disobeys a judicial order or hinders, obstructs or impedes the
23 effectuation of a judicial order or the exercise of jurisdiction
24 over any person, thing or controversy by a court, administrative
25 body or investigative entity.

26 b. Except as provided below, a person is guilty of a crime of
27 the fourth degree if that person purposely or knowingly violates
28 any provision in an order entered under the provisions of the
29 ¹["Prevention of Domestic Violence Act, P.L.1981, c.426
30 (C.2C:25-1 et seq.)]¹ "Prevention of Domestic Violence Act of
31 1990," P.L.¹[1989]___¹, c. (C.) (now pending before the
32 Legislature as this bill) when the conduct which constitutes the
33 ¹[vioaltion] violation¹ could also constitute a crime or a
34 disorderly persons offense. In all other cases a person is guilty of
35 a disorderly persons offense if that person knowingly violates an
36 order entered under the provisions of this act. Orders entered
37 pursuant to paragraphs ¹[(5), (6) and (7) of subsection b. of section
38 13 of P.L.1981, c.426 (C.2C:25-12)]¹ (3¹)¹, (4), (5), (8) and (9) of
39 subsection b. of section 13 of P.L.¹[1989]___¹, c. (C.)
40 (now pending before the Legislature as this bill) shall be excluded
41 from the provisions of this subsection.

42 (cf: P.L.1988, c.28, s.3)

43 ⁵[2]19. N.J.S.2C:58-3 is amended to read as follows:

44 2C:58-3. Purchase of Firearms.

45 a. Permit to purchase a handgun. No person shall sell, give,
46 transfer, assign or otherwise dispose of, nor receive, purchase, or
47 otherwise acquire a handgun unless the purchaser, assignee,
48 donee, receiver or holder is licensed as a dealer under this
49 chapter or has first secured a permit to purchase a handgun as

1 provided by this section.

2 b. Firearms purchaser identification card. No person shall
3 sell, give, transfer, assign or otherwise dispose of nor receive,
4 purchase or otherwise acquire an antique cannon or a rifle or
5 shotgun, other than an antique rifle or shotgun, unless the
6 purchaser, assignee, donee, receiver or holder is licensed as a
7 dealer under this chapter or possesses a valid firearms purchaser
8 identification card, and first exhibits said card to the seller,
9 donor, transferor or assignor, and unless the purchaser, assignee,
10 donee, receiver or holder signs a written certification, on a form
11 prescribed by the superintendent, which shall indicate that he
12 presently complies with the requirements of subsection c. of this
13 section and shall contain his name, address and firearms
14 purchaser identification card number or dealer's registration
15 number. The said certification shall be retained by the seller, as
16 provided in section 2C:58-2a., or, in the case of a person who is
17 not a dealer, it may be filed with the chief of police of the
18 municipality in which he resides or with the superintendent.

19 c. Who may obtain. No person of good character and good
20 repute in the community in which he lives, and who is not subject
21 to any of the disabilities set forth in this section or other sections
22 of this chapter, shall be denied a permit to purchase a handgun or
23 a firearms purchaser identification card, except as hereinafter
24 set forth. No handgun purchase permit or firearms purchaser
25 identification card shall be issued:

26 (1) To any person who has been convicted of a crime, whether
27 or not armed with or possessing a weapon at the time of such
28 offense;

29 (2) To any drug dependent person as defined in ³section 2 of³
30 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
31 mental disorder to a hospital, mental institution or sanitarium, or
32 to any person who is presently an habitual drunkard;

33 (3) To any person who suffers from a physical defect or disease
34 which would make it unsafe for him to handle firearms, to any
35 person who has ever been confined for a mental disorder, or to
36 any alcoholic unless any of the foregoing persons produces a
37 certificate of a medical doctor or psychiatrist licensed in New
38 Jersey, or other satisfactory proof, that he is no longer suffering
39 from that particular disability in such a manner that would
40 interfere with or handicap him in the handling of firearms; to any
41 person who knowingly falsifies any information on the application
42 form for a handgun purchase permit or firearms purchaser
43 identification card;

44 (4) To any person under the age of 18 years; ³[or]³

45 (5) To any person where the issuance would not be in the
46 interest of the public health, safety or welfare³; or³

47 (6) To any person who is subject to a court order issued
48 pursuant to section 13 of P.L. c. (C.)(now pending before the
49 Legislature as this bill) prohibiting the person from possessing any

1 firearm³[.]³.

2 d. Issuance. The chief of police of an organized full-time
3 police department of the municipality where the applicant resides
4 or the superintendent, in all other cases, shall upon application,
5 issue to any person qualified under the provisions of subsection c.
6 of this section a permit to purchase a handgun or a firearms
7 purchaser identification card.

8 Any person aggrieved by the denial of a permit or
9 identification card may request a hearing in the Superior Court of
10 the county in which he resides if he is a resident of New Jersey or
11 in the Superior Court of the county in which his application was
12 filed if he is a nonresident. The request for a hearing shall be
13 made in writing within 30 days of the denial of the application for
14 a permit or identification card. The applicant shall serve a copy
15 of his request for a hearing upon the chief of police of the
16 municipality in which he resides, if he is a resident of New
17 Jersey, and upon the superintendent in all cases. The hearing
18 shall be held and a record made thereof within 30 days of the
19 receipt of the application for such hearing by the judge of the
20 Superior Court. No formal pleading and no filing fee shall be
21 required as a preliminary to such hearing. Appeals from the
22 results of such hearing shall be in accordance with law.

23 e. Applications. Applications for permits to purchase a
24 handgun and for firearms purchaser identification cards shall be
25 in the form prescribed by the superintendent and shall set forth
26 the name, residence, place of business, age, date of birth,
27 occupation, sex and physical description, including distinguishing
28 physical characteristics, if any, of the applicant, and shall state
29 whether the applicant is a citizen, whether he is an alcoholic,
30 habitual drunkard, drug dependent person as defined in ³section 2
31 of³ P.L.1970, c.226 (C.24:21-2), whether he has ever been
32 confined or committed to a mental institution or hospital for
33 treatment or observation of a mental or psychiatric condition on
34 a temporary, interim or permanent basis, giving the name and
35 location of the institution or hospital and the dates of such
36 confinement or commitment, whether he has been attended,
37 treated or observed by any doctor or psychiatrist or at any
38 hospital or mental institution on an inpatient or outpatient basis
39 for any mental or psychiatric condition, giving the name and
40 location of the doctor, psychiatrist, hospital or institution and the
41 dates of such occurrence, whether he presently or ever has been a
42 member of any organization which advocates or approves the
43 commission of acts of force and violence to overthrow the
44 Government of the United States or of this State, or which seeks
45 to deny others their rights under the Constitution of either the
46 United States or the State of New Jersey, whether he has ever
47 been convicted of a crime or disorderly persons offense, ³whether
48 the person is subject to a court order issued pursuant to section
49 13 of P.L. , c. (C.)(now pending before the Legislature as

1 this bill) prohibiting the person from possessing any firearm,³ and
2 such other information as the superintendent shall deem
3 necessary for the proper enforcement of this chapter. For the
4 purpose of complying with this subsection, the applicant shall
5 waive any statutory or other right of confidentiality relating to
6 institutional confinement. The application shall be signed by the
7 applicant and shall contain as references the names and addresses
8 of two reputable citizens personally acquainted with him.

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

12 The chief police officer or the superintendent shall obtain the
13 fingerprints of the applicant and shall have them compared with
14 any and all records of fingerprints in the municipality and county
15 in which the applicant resides and also the records of the State
16 Bureau of Identification and the Federal Bureau of Investigation,
17 provided that an applicant for a handgun purchase permit who
18 possesses a valid firearms purchaser identification card, or who
19 has previously obtained a handgun purchase permit from the same
20 licensing authority for which he was previously fingerprinted, and
21 who provides other reasonably satisfactory proof of his identity,
22 need not be fingerprinted again; however, the chief police officer
23 or the superintendent shall proceed to investigate the application
24 to determine whether or not the applicant has become subject to
25 any of the disabilities set forth in this chapter.

26 f. Granting of permit or identification card; fee; term;
27 renewal; revocation. The application for the permit to purchase
28 a handgun together with a fee of \$2.00, or the application for the
29 firearms purchaser identification card together with a fee of
30 \$5.00, shall be delivered or forwarded to the licensing authority
31 who shall investigate the same and, unless good cause for the
32 denial thereof appears, shall grant the permit or the
33 identification card, or both, if application has been made
34 therefor, within 30 days from the date of receipt of the
35 application for residents of this State and within 45 days for
36 nonresident applicants. A permit to purchase a handgun shall [be
37 valid] ³[authorize purchase of a handgun] be valid³ for a period of
38 90 days from the date of issuance and may be renewed by the
39 issuing authority for good cause for an additional 90 days ³[and
40 shall be valid only until such time as the holder becomes subject
41 to any of the disabilities set forth in subsection c. of this section,
42 whereupon the permit shall be void and shall be returned,
43 together with the handgun purchased under the authority of the
44 permit, within 5 days by the holder to the licensing authority,
45 who shall advise the superintendent]³. A firearms purchaser
46 identification card shall be valid until such time as the holder
47 becomes subject to any of the disabilities set forth in subsection
48 c. of this section, whereupon the card shall be void and shall be
49 returned ³[, together with any firearms purchased under the

1 authority of the card,]³ within five days by the holder to the
2 [superintendent] ³[licensing authority] superintendent³, who shall
3 then advise the [licensing authority] ³[superintendent] licensing
4 authority³. Failure of the holder to return the ³[permit to
5 purchase a handgun or the]³ firearms purchaser identification
6 card ³[and all handguns or firearms purchased]³ to the
7 [superintendent] ³[licensing authority] superintendent³ within the
8 said five days shall be an offense under section 2C:39-10a. Any
9 firearms purchaser identification card ³[or permit to purchase a
10 handgun]³ may be revoked by the Superior Court of the county
11 wherein the card was issued, after hearing upon notice, upon a
12 finding that the holder thereof no longer qualifies for the
13 issuance of such permit ³[or card]³. The county prosecutor of
14 any county, the chief police officer of any municipality or any
15 citizen may apply to such court at any time for the revocation of
16 such ³[permit or]³ card. ³[Upon the revocation of a permit to
17 purchase a handgun or the revocation of a firearms purchaser
18 identification card, the holder shall surrender any handgun or
19 firearm purchased under the authority of the permit or card to
20 the licensing authority. Failure of the holder to return any such
21 handgun or firearm purchased within 5 days of revocation shall be
22 an offense under section 2C:39-10a. The licensing authority shall
23 allow a person surrendering firearms or handguns pursuant to this
24 section 60 days to arrange for the sale of the weapons to a
25 registered firearms dealer. If no sale is arranged within 60 days,
26 the licensing authority shall transfer the weapons to the county
27 prosecutor for disposition pursuant to the provisions of
28 N.J.S.2C:64-6.]³

29 There shall be no conditions or requirements added to the form
30 or content of the application, or required by the licensing
31 authority for the issuance of a permit or identification card,
32 other than those that are 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
35 the municipality if issued by the chief of police, and to the
36 county treasurer if issued by the judge of the Superior Court.

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

1 permanent record.

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

9 j. Firearms passing to heirs or legatees. Notwithstanding any
10 other provision of this section concerning the transfer, receipt or
11 acquisition of a firearm, a permit to purchase or a firearms
12 purchaser identification card shall not be required for the passing
13 of a firearm upon the death of an owner thereof to his heir or
14 legatee, whether the same be by testamentary bequest or by the
15 laws of intestacy. The person who shall so receive³[.]³ or acquire
16 said firearm shall, however, be subject to all other provisions of
17 this chapter. If the heir or legatee of such firearm does not
18 qualify to possess or carry it, he may retain ownership of the
19 firearm for the purpose of sale for a period not exceeding 180
20 days, or for such further limited period as may be approved by
21 the chief law enforcement officer of the municipality in which
22 the heir or legatee resides or the superintendent, provided that
23 such firearm is in the custody of the chief law enforcement
24 officer of the municipality or the superintendent during such
25 period.

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

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

36 (cf: P.L.1983, c.479, s.4)]⁵

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

38 2C:58-3. Purchase of Firearms.

39 a. Permit to purchase a handgun. No person shall sell, give,
40 transfer, assign or otherwise dispose of, nor receive, purchase, or
41 otherwise acquire a handgun unless the purchaser, assignee,
42 donee, receiver or holder is licensed as a dealer under this
43 chapter or has first secured a permit to purchase a handgun as
44 provided by this section.

45 b. Firearms purchaser identification card. No person shall
46 sell, give, transfer, assign or otherwise dispose of nor receive,
47 purchase or otherwise acquire an antique cannon or a rifle or
48 shotgun, other than an antique rifle or shotgun, unless the
49 purchaser, assignee, donee, receiver or holder is licensed as a

1 dealer under this chapter or possesses a valid firearms purchaser
2 identification card, and first exhibits said card to the seller,
3 donor, transferor or assignor, and unless the purchaser, assignee,
4 donee, receiver or holder signs a written certification, on a form
5 prescribed by the superintendent, which shall indicate that he
6 presently complies with the requirements of subsection c. of this
7 section and shall contain his name, address and firearms
8 purchaser identification card number or dealer's registration
9 number. The said certification shall be retained by the seller, as
10 provided in section 2C:58-2a., or, in the case of a person who is
11 not a dealer, it may be filed with the chief of police of the
12 municipality in which he resides or with the superintendent.

13 c. Who may obtain. No person of good character and good
14 repute in the community in which he lives, and who is not subject
15 to any of the disabilities set forth in this section or other sections
16 of this chapter, shall be denied a permit to purchase a handgun or
17 a firearms purchaser identification card, except as hereinafter
18 set forth. No handgun purchase permit or firearms purchaser
19 identification card shall be issued:

20 (1) To any person who has been convicted of a crime, whether
21 or not armed with or possessing a weapon at the time of such
22 offense;

23 (2) To any drug dependent person as defined in section 2 of
24 P.L.1970, c. 226 (C. 24:21-2), to any person who is confined for a
25 mental disorder to a hospital, mental institution or sanitarium, or
26 to any person who is presently an habitual drunkard;

27 (3) To any person who suffers from a physical defect or disease
28 which would make it unsafe for him to handle firearms, to any
29 person who has ever been confined for a mental disorder, or to
30 any alcoholic unless any of the foregoing persons produces a
31 certificate of a medical doctor or psychiatrist licensed in New
32 Jersey, or other satisfactory proof, that he is no longer suffering
33 from that particular disability in such a manner that would
34 interfere with or handicap him in the handling of firearms; to any
35 person who knowingly falsifies any information on the application
36 form for a handgun purchase permit or firearms purchaser
37 identification card;

38 (4) To any person under the age of 18 years; [or]

39 (5) To any person where the issuance would not be in the
40 interest of the public health, safety or welfare ; or

41 (6) To any person who is subject to a court order issued
42 pursuant to section 13 of P.L. c. (C.)(now pending before the
43 Legislature as this bill) prohibiting the person from possessing any
44 firearm[.].

45 d. Issuance. The chief of police of an organized full-time
46 police department of the municipality where the applicant resides
47 or the superintendent, in all other cases, shall upon application,
48 issue to any person qualified under the provisions of subsection c.
49 of this section a permit to purchase a handgun or a firearms

1 purchaser identification card.

2 Any person aggrieved by the denial of a permit or
3 identification card may request a hearing in the Superior Court of
4 the county in which he resides if he is a resident of New Jersey or
5 in the Superior Court of the county in which his application was
6 filed if he is a nonresident. The request for a hearing shall be
7 made in writing within 30 days of the denial of the application for
8 a permit or identification card. The applicant shall serve a copy
9 of his request for a hearing upon the chief of police of the
10 municipality in which he resides, if he is a resident of New
11 Jersey, and upon the superintendent in all cases. The hearing
12 shall be held and a record made thereof within 30 days of the
13 receipt of the application for such hearing by the judge of the
14 Superior Court. No formal pleading and no filing fee shall be
15 required as a preliminary to such hearing. Appeals from the
16 results of such hearing shall be in accordance with law.

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

1 shall contain as references the names and addresses of two
2 reputable citizens personally acquainted with him.

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

6 The chief police officer or the superintendent shall obtain the
7 fingerprints of the applicant and shall have them compared with
8 any and all records of fingerprints in the municipality and county
9 in which the applicant resides and also the records of the State
10 Bureau of Identification and the Federal Bureau of Investigation,
11 provided that an applicant for a handgun purchase permit who
12 possesses a valid firearms purchaser identification card, or who
13 has previously obtained a handgun purchase permit from the same
14 licensing authority for which he was previously fingerprinted, and
15 who provides other reasonably satisfactory proof of his identity,
16 need not be fingerprinted again; however, the chief police officer
17 or the superintendent shall proceed to investigate the application
18 to determine whether or not the applicant has become subject to
19 any of the disabilities set forth in this chapter.

20 f. Granting of permit or identification card; fee; term;
21 renewal; revocation. The application for the permit to purchase
22 a handgun together with a fee of \$2.00, or the application for the
23 firearms purchaser identification card together with a fee of
24 \$5.00, shall be delivered or forwarded to the licensing authority
25 who shall investigate the same and, unless good cause for the
26 denial thereof appears, shall grant the permit or the
27 identification card, or both, if application has been made
28 therefor, within 30 days from the date of receipt of the
29 application for residents of this State and within 45 days for
30 nonresident applicants. A permit to purchase a handgun shall [be
31 valid] ⁷[authorize purchase of a handgun] be valid⁷ for a period of
32 90 days from the date of issuance and may be renewed by the
33 issuing authority for good cause for an additional 90 days ⁷[and
34 shall be valid only until such time as the holder becomes subject
35 to any of the disabilities set forth in subsection c. of this section,
36 whereupon the permit shall be void and shall be returned,
37 together with the handgun purchased under the authority of the
38 permit, within 5 days by the holder to the licensing authority,
39 who shall advise the superintendent]⁷. A firearms purchaser
40 identification card shall be valid until such time as the holder
41 becomes subject to any of the disabilities set forth in subsection
42 c. of this section, whereupon the card shall be void and shall be
43 returned⁷[, together with any firearms purchased under the
44 authority of the card,]⁷ within five days by the holder to the
45 [superintendent] ⁷[licensing authority] superintendent⁷, who shall
46 then advise the [licensing authority] ⁷[superintendent] licensing
47 authority⁷. Failure of the holder to return the ⁷[permit to
48 purchase a handgun or the]⁷ firearms purchaser identification
49 card ⁷[and all handguns or firearms purchased]⁷ to the

1 [superintendent] ⁷[licensing authority] superintendent⁷ within the
2 said five days shall be an offense under section 2C:39-10a. Any
3 firearms purchaser identification card ⁷[or permit to purchase a
4 handgun]⁷ may be revoked by the Superior Court of the county
5 wherein the card was issued, after hearing upon notice, upon a
6 finding that the holder thereof no longer qualifies for the
7 issuance of such permit ⁷[or card]⁷. The county prosecutor of
8 any county, the chief police officer of any municipality or any
9 citizen may apply to such court at any time for the revocation of
10 such ⁷[permit or]⁷ card. ⁷[Upon the revocation of a permit to
11 purchase a handgun or the revocation of a firearms purchaser
12 identification card, the holder shall surrender any handgun or
13 firearm purchased under the authority of the permit or card to
14 the licensing authority. Failure of the holder to return any such
15 handgun or firearm purchased within 5 days of revocation shall be
16 an offense under section 2C:39-10a. The licensing authority shall
17 allow a person surrendering firearms or handguns pursuant to this
18 section 60 days to arrange for the sale of the weapons to a
19 registered firearms dealer. If no sale is arranged within 60 days,
20 the licensing authority shall transfer the weapons to the county
21 prosecutor for disposition pursuant to the provisions of
22 N.J.S.2C:64-6.]⁷

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

27 g. Disposition of fees. All fees for permits shall be paid to the
28 State Treasury if the permit is issued by the superintendent, to
29 the municipality if issued by the chief of police, and to the
30 county treasurer if issued by the judge of the Superior Court.

31 h. Form of permit; quadruplicate; disposition of copies. The
32 permit shall be in the form prescribed by the superintendent and
33 shall be issued to the applicant in quadruplicate. Prior to the
34 time he receives the handgun from the seller, the applicant shall
35 deliver to the seller the permit in quadruplicate and the seller
36 shall complete all of the information required on the form.
37 Within five days of the date of the sale, the seller shall forward
38 the original copy to the superintendent and the second copy to
39 the chief of police of the municipality in which the purchaser
40 resides, except that in a municipality having no chief of police,
41 such copy shall be forwarded to the superintendent. The third
42 copy shall then be returned to the purchaser with the pistol or
43 revolver and the fourth copy shall be kept by the seller as a
44 permanent record.

45 i. Restriction on number of firearms person may purchase.
46 Only one handgun shall be purchased or delivered on each permit,
47 but a person shall not be restricted as to the number of rifles or
48 shotguns he may purchase, provided he possesses a valid firearms
49 purchaser identification card and provided further that he signs

1 the certification required in subsection b. of this section for each
2 transaction.

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

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

23 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
24 the sale or purchase of a visual distress signalling device
25 approved by the United States Coast Guard, solely for possession
26 on a private or commercial aircraft or any boat; provided,
27 however, that no person under the age of 18 years shall purchase
28 nor shall any person sell to a person under the age of 18 years
29 such a visual distress signalling device.⁶

30 (cf: P.L.1983, c.479, s.4)

31 ²[19.] ⁵[20.2] ⁶[19.5] 20.⁶ P.L.1981, c.426 (C.¹2C:25-1
32 through¹ 2C:25-16) section 8 of P.L.1987, c.356 (C.2C:25-15.1)
33 and section 1 of P.L.1988¹, c.28¹ (C.2C:25-15a) are repealed.

34 ²[20.] ⁵[21.2] ⁶[20.5] 21.⁶ This act shall take effect on the 90th
35 day after enactment.

36

37

38

DOMESTIC RELATIONS

39

40 Proposes the "Prevention of Domestic Violence Act of 1990."

1 pursuant to paragraphs (3), (4), (5), (8) and (9) of subsection b. of
2 section 13 of P.L. 1989, c. (C.) now pending as this bill
3 shall be excluded from the provisions of this subsection.

4 19. P.L. 1981, c. 426 (C. 2C:25-16) section 8 of P.L. 1987, c.
5 356 (C. 2C:25-15.1) and section 1 of P.L. 1988 (C. 2C:25-15a) are
6 repealed.

7 20. This act shall take effect on the 90th day after enactment.
8
9

10 *SPONSOR'S* STATEMENT
11

12 This bill, which shall be known as the "Prevention of Domestic
13 Violence Act of 1990," revises the current law concerning
14 domestic violence. The following is a description of the
15 provisions of the bill.

16 Section 2 includes among the legislative findings and
17 declarations that training of police and judicial personnel
18 regarding the context in which domestic violence occurs and the
19 enforcement of the act should be encouraged.

20 Section 3 is the definitional section of the act.

21 Section 4 mandates arrest in a domestic violence situation if:
22 the victim exhibits signs of injury caused by an act of domestic
23 violence; a warrant is in effect; there is probable cause to believe
24 a violation of a contempt order or an order prohibiting contact
25 has occurred; or there is probable cause to believe a weapon has
26 been involved.

27 Section 5 protects against liability any law enforcement officer
28 or member of a domestic violence team in an civil action brought
29 by a party based on an arrest made in good faith under the act.

30 Section 6 requires the Police Training Commission in the
31 Division of Criminal Justice to develop a training course
32 concerning domestic violence complaints. The course shall stress
33 the enforcement of the criminal laws in domestic violence
34 situations, the protection of victim rights and the use of available
35 community resources.

36 Section 7 requires an officer to give the victim a notice which
37 informs the victim that a temporary restraining order (TRO) may
38 be obtained to protect the victim from further abuse. Included in
39 the notice are various orders which the court can include in the
40 TRO. Additionally, the notice states that the officer and clerk of
41 the court will assist the victim in obtaining the TRO or in filing a
42 criminal complaint.

43 Section 8 requires an officer to complete a domestic violence
44 offense report in homicide cases where domestic violence is
45 suspected. This section also requires that domestic violence
46 reports be entered into the National and State Crime Information
47 Centers computer systems.

48 Section 9 prevents a court in a criminal complaint arising from
49 a domestic violence incident from dismissing a charge or delay

1 disposition of a case pending dissolution of a marriage, other civil
2 proceedings, or because the victim has left the residence; nor
3 shall the court require proof that either party is seeking the
4 dissolution of the marriage.

5 Section 10 requires the court, when considering bail, to
6 consider the defendant's prior record. Bail must be set within 24
7 hours of arrest of the defendant and no reduction is permitted
8 without notice to the prosecutor and the victim. This section
9 also permits temporary restraints to issue even if the defendant
10 has been charged with a crime.

11 Section 11 requires that when a defendant is found guilty of a
12 crime or offense involving domestic violence, any condition
13 restricting the defendant's ability to have contact with the victim
14 shall be set forth in an order. This section further permits the
15 court to require the defendant to seek professional counseling.

16 Section 12 outlines where a domestic violence complaint may
17 be filed as: where the act of domestic violence occurred; where
18 the defendant resides; or where the plaintiff resides or is
19 sheltered. In contempt matters, however, the complaint is filed
20 where the act of contempt was committed.

21 Section 13 concerns the hearing on the domestic violence
22 complaint. The bill provides that any testimony given by the
23 parties cannot be used in a simultaneous or subsequent criminal
24 proceeding, other than a domestic violence contempt matter.

25 In proceedings where complaints for restraining orders have
26 been filed, the court may grant any relief necessary to prevent
27 further abuse. This section also provides the following additional
28 relief which the court may order in domestic violence matters:

29 - Exclusive possession of the residence to the plaintiff
30 regardless of whether jointly or solely owned or leased.

31 - Visitation, specifying place and frequency and any necessary
32 supervision.

33 - Monetary compensation for repair of real or personal
34 property, cost of victim counseling, travel expenses, or court
35 costs.

36 - That the defendant be restrained from certain
37 communications with the victim or family members.

38 - That the defendant pay rent or mortgage on the residence
39 occupied by the victim.

40 - Temporary possession of personal property to either party.

41 - Emergent monetary relief to the victim and dependents.

42 - Temporary custody of a minor child. The court will presume
43 that the best interests of the child are served by awarding
44 custody to the non-abusive parent.

45 - Assistance of a law enforcement officer in removing
46 belongings from the residence.

47 - Joint occupation of the residence, limiting defendant's use of
48 the premises.

1 - Any other appropriate relief providing plaintiff requested
2 that relief.

3 Finally, this section mandates that any temporary or
4 permanent restraining order be enforced throughout the State.
5 Orders may be modified or dissolved upon application to the court.

6 Sections 14 and 15 make provisions for contempt proceedings
7 for a violation of an order issued pursuant to this act by the
8 defendant.

9 Section 16 makes provisions for filing a criminal complaint
10 when there is not probable cause to arrest a defendant.

11 Section 17 requires the Administrative Office of the Courts to
12 maintain a uniform request for orders.

13 Section 18 amends N.J.S. 2C:29-9 to require that any person who
14 knowingly or willingly violates an order shall be guilty of a fourth
15 degree offense.

16 Section 20 repeals P.L. 1981, c. 426 (C.2C:25-16), section 8 of
17 P.L. 1987, c. 356 (C. 2C:25-15.1) and section 1 of P.L. 1988 (C.
18 2C:25-15a).

19 The bill will take effect on the 90th day after enactment.
20

21

22 DOMESTIC RELATIONS

23

24 Proposes the "Prevention of Domestic Violence Act of 1990."

(c) Order such other relief as it may deem appropriate. When the court orders the weapons forfeited to the State or the prosecutor is required to dispose of the weapons, the prosecutor shall dispose of the property as provided in N.J.S. 2C:64-6.

(4) A civil suit may be brought to enjoin a wrongful failure to return a seized firearm where the prosecutor refuses to return the weapon after receiving a written request to do so and notice of the owner's intent to bring a civil action pursuant to this section. Failure of the prosecutor to comply with the provisions of this act shall entitle the prevailing party in the civil suit to reasonable costs, including attorney's fees, provided that the court finds that the prosecutor failed to act in good faith in retaining the seized weapon.

(5) No law enforcement officer or agency shall be held liable in any civil action brought by any person for failing to learn of, locate or seize a weapon pursuant to this act, or for returning a seized weapon to its owner.

STATEMENT

SPONSORS

The Assembly added language to S-2230 permitting law enforcement officers to seize firearms and other weapons found at the scene of domestic violence incidents. These amendments would clarify that any weapon seized in connection with a domestic violence incident would be required to be returned to its owner unless the prosecutor institutes an action within 45 days of seizure.

These amendments would also authorize a civil suit to be brought to enjoin a wrongful failure to return a seized firearm. In addition, these amendments provide that no law enforcement officer or agency could be held civilly liable for failing to seize a weapon or for returning a seized weapon.

48 statutory or other right of confidentiality relating to institutional
49 confinement. The application shall be signed by the applicant and

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2230

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1990

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2230.

The bill, the "Prevention of Domestic Violence of 1990" revises the current law concerning domestic violence. Many of the provisions of the bill are identical to the provisions of the current Prevention of Domestic Violence Act enacted in 1988 which this bill would repeal. The changes in present law proposed in the bill are based on recommendations of the Commission on Sex Discrimination in the Statutes. A summary of the major provisions of the bill:

Section 2:

Section 2 is the findings section of the bill. Much of this section is a restatement of the present law. However, the scope of the findings section is expanded to include abuse of the elderly and the disabled and language is added encouraging the training of all police and judicial personnel with regard to domestic violence.

Section 3:

Section 3 is the definition section of the act. The bill expands the present definition of "domestic violence" to include all forms of criminal homicide (murder, manslaughter, death by auto), terroristic threats and criminal trespass.

Section 4:

Section 4 deals with the training of law enforcement and court personnel in the handling of domestic violence cases. Present law requires the Police Training Commission to develop a training course in domestic violence for law enforcement officers. Present law also authorizes the establishment and use of domestic violence crisis teams. In addition to these provisions, this bill would require the AOC to develop a training course for court personnel in the handling of domestic violence cases. The bill would also require the Police Training Commission and the AOC to review their training programs every two years.

Section 5:

Section 5 deals with when a law enforcement officer is required to make an arrest in domestic violence situations. Under present law, a law enforcement officer is required to make an arrest if a victim exhibits signs of injury. A law enforcement officer may make an arrest if there is probable cause to believe a protective order has been violated or if there is probable cause to believe an act of domestic violence has been committed.

Under the bill, a law enforcement officer would be required to make an arrest when the victim exhibits signs of injury; a warrant is in effect; or there is reasonable cause to believe that the person violated a protective order.

The bill also provides: (1) that the word "exhibit" as used in this section is to be liberally construed to mean any indication of bodily injury; (2) that in determining which party is the "victim" in a domestic violence situation, the officer should consider the comparative extent of the injuries and the history of domestic violence between the parties and (3) that no victim shall be denied relief or arrested because the victim used reasonable force in self-defense.

Section 6:

Section 6 provides civil immunity for law enforcement officers for acts performed in accordance with the bill's provisions. This section is identical to present law.

Section 7:

Section 7 deals with the information which law enforcement officers are required to provide to victims of domestic violence. Presently, a law enforcement is required to disseminate a notice, in English and Spanish, indicating to the victim that the victim has a right to seek a protective order and the right to file a criminal complaint.

The bill restates the present notice requirements and also requires that more detailed information describing what forms of relief can be included in a "temporary restraining order" be provided the victim. Included among the forms of relief listed are that the offender can be restrained from contact with the victim or the victim's family; that the offender can be forbidden access to the victim's house or place of employment and that the offender can be ordered to pay child support and medical costs.

Section 8:

Section 8 deals with the information contained in domestic violence reports and the procedures to be followed in filing these reports. Section 8 is a restatement of present law.

Section 9

Section 9 proscribes the duties of the court when a criminal complaint arising out of a domestic violence issue is filed. Section 9 is a restatement of present law.

Section 10

Section 10 describes the type of restraints which a court may impose in setting bail for a person charged with a criminal offense involving domestic violence. Subsections a. and b. of section 10 reflect present law. This bill also contains new provisions indicating that in setting bail the court shall consider the defendant's prior record and that the victim's location is to remain confidential and not appear in court documents. The bill additionally provides that once bail is set, bail cannot be reduced without prior notice to the victim and the prosecutor. A judge, other than the judge who

originally set bail, may not reduce bail unless the reasons for the amount of the original bail are available to that judge.

Section 11

Section 11 deals with restrictions which can be placed on a person after conviction for a criminal offense involving domestic violence. Section 11 is a restatement of existing law.

Section 12

Section 12 details the procedures for filing domestic violence complaints and the procedures to be followed when a victim of domestic violence seeks an "ex parte" emergency order. Much of section 12 is a restatement of existing procedures. Section 12 does contain a new provision permitting a temporary restraining order to be issued upon the sworn testimony of an applicant who is not physically present or upon testimony by a person who represents a victim who is incapable of appearing if the court determines that sufficient exigent circumstances exist.

Section 13

Section 13 deals with the procedures to be followed by the courts in hearing domestic violence complaints. Section 13 also lists the forms of relief which can be included in an order issued after such a hearing. Much of section 13 reflects present law. The bill would, however, expand and clarify some of the forms of relief contained in a protective order. For example, this bill establishes a presumption that temporary custody with the non-abusive parent is in the best interest of the child.

The bill also provides that an order providing for visitation may include designation of a place of visitation away from the victim; the participation of a third party or supervised visitation. This bill further provides that a plaintiff may also request an investigation by an appropriate agency prior to the court's awarding of visitation and that a court shall consider suspension of a visitation order upon allegation by the plaintiff that the defendant's right to visitation threatens the safety and well-being of the child.

This bill would permit the court to order temporary possession of personal property, such as automobiles and checkbooks, and to require the defendant to pay the plaintiff's rent in appropriate circumstances.

Under the bill, a plaintiff and defendant could be permitted to occupy the same premises only when the plaintiff specifically and voluntarily requests such an arrangement.

Section 14

Section 14 classifies certain violations of protective orders as criminal offense under N.J.S. 2C:29-9 (contempt). Section 14 is a restatement of present law.

Section 15

Section 15 deals with the procedures to be followed by law enforcement officers when arresting a person for contempt in connection with violation of a protective order. Section 15 is a restatement of present law.

Section 16

Section 16 provides that when there is no probable cause for arrest for violation of a protective order, the law enforcement officer shall advise the complainant of the procedure for filing a criminal contempt complaint. There is no similar procedure in the present domestic violence act.

Section 17

Section 17 requires the AOC to maintain certain records with regard to orders issued in domestic violence cases. This section reflects present law.

Section 18

Section 18 changes the cross-reference in N.J.S. 2C:29-9 (contempt) from the present domestic violence act to the new domestic violence act proposed in this bill.

Section 19

Section 19 repeals the existing domestic violence act.

Section 20

The bill takes effect 90 days after enactment.

AMENDMENTS:

The substantive provisions of the amendments adopted by the committee are as follows:

1. Presently the bill lists a series of crimes which constitute "domestic violence" if committed against a "victim of domestic violence". The amendments clarify that acts committed by juveniles would not constitute acts of "domestic violence". This type of conduct by juveniles would be treated as acts of delinquency.

2. Under the bill, police officers are required to disseminate a written notice concerning their rights to victims of domestic violence. The amendments would also require police officers to explain those rights.

3. These amendments would clarify that a final order issued pursuant to the bill's provisions may only be modified or dissolved if the complete record of the prior court proceedings is available to the court.

4. These amendments clarify that certain provisions of protective orders may be enforced in a civil or criminal action brought, pursuant to court rules by either the plaintiff or by the court on its own motion.

5. The amendments also change to the definition of "victim of domestic violence" limiting those covered to spouses and former spouses, those related by blood or marriage who are present or former household members; persons of the opposite sex who are present or former household members and any person with whom the victim has a child.

6. The amendments also add language clarifying the situations in which a law enforcement officer must make an arrest when responding to an incident in which domestic violence is alleged.

7. The amendments would require that domestic violence complaint forms include a warning that a person who makes a knowing false statement of material fact is guilty of perjury.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2230

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2230(1R).

The bill, the "Prevention of Domestic Violence of 1990" revises the current law concerning domestic violence. Many of the provisions of the bill are identical to the provisions of the current Prevention of Domestic Violence Act enacted in 1988 which this bill would repeal. The changes in present law proposed in the bill are based on recommendations of the Commission on Sex Discrimination in the Statutes. A summary of the major provisions of the bill:

Section 2:

Section 2 is the findings section of the bill. Much of this section is a restatement of the present law. However, the scope of the findings section is expanded to include abuse of the elderly and the disabled and language is added encouraging the training of all police and judicial personnel with regard to domestic violence.

Section 3:

Section 3 is the definition section of the act. The bill expands the present definition of "domestic violence" to include all forms of criminal homicide (murder, manslaughter, death by auto), terroristic threats and criminal trespass. Acts committed by juveniles would not constitute acts of "domestic violence". This type of conduct by juveniles would be treated as acts of delinquency. Section 3 is amended to change the definition of "victim of domestic violence" to remove the requirement that a present or former household member must be "related by blood or marriage" and to remove the requirement that a victim must be of the opposite sex.

Section 4:

Section 4 deals with the training of law enforcement and court personnel in the handling of domestic violence cases. Present law requires the Police Training Commission to develop a training course in domestic violence for law enforcement officers. Present law also authorizes the establishment and use of domestic violence crisis teams. In addition to these provisions, this bill would require the AOC to develop a training course for court personnel in the handling of domestic violence cases. The bill would also require the Division of Criminal Justice and the AOC to review their training programs every two years. Committee amendments changed the references to "Police Training Commission" to "Division of Criminal Justice".

Section 5:

Section 5 deals with when a law enforcement officer is required to make an arrest in domestic violence situations. Under present law, a law enforcement officer is required to make an arrest if a victim exhibits signs of injury. A law enforcement officer may make an arrest if there is probable cause to believe a protective order has been violated or if there is probable cause to believe an act of domestic violence has been committed.

Under the bill, a law enforcement officer would be required to make an arrest when the victim exhibits signs of injury; a warrant is in effect; or there is reasonable cause to believe that the person violated a protective order.

The bill also provides: (1) that the word "exhibit" as used in this section is to be liberally construed to mean any indication of bodily injury; (2) that in determining which party is the "victim" in a domestic violence situation, the officer should consider the comparative extent of the injuries and the history of domestic violence between the parties and (3) that no victim shall be denied relief or arrested because the victim used reasonable force in self-defense. Section 5 is amended to clarify the probable cause necessary under certain circumstances for a police officer to sign a complaint and to add a new subsection d. concerning the seizure of firearms or weapons at the scene of an act of domestic violence.

Section 6:

Section 6 provides civil immunity for law enforcement officers for acts performed in accordance with the bill's provisions. This section is identical to present law.

Section 7:

Section 7 deals with the information which law enforcement officers are required to provide to victims of domestic violence. Presently, a law enforcement is required to disseminate a notice, in English and Spanish, indicating to the victim that the victim has a right to seek a protective order and the right to file a criminal complaint.

The bill restates the present notice requirements and also requires that more detailed information describing what forms of relief can be included in a "temporary restraining order" be provided the victim. Included among the forms of relief listed are that the offender can be restrained from contact with the victim or the victim's family; that the offender can be forbidden access to the victim's house or place of employment and that the offender can be ordered to pay child support and medical costs.

Section 8:

Section 8 deals with the information contained in domestic violence reports and the procedures to be followed in filing these reports. Section 8 is a restatement of present law.

Section 9

Section 9 proscribes the duties of the court when a criminal complaint arising out of a domestic violence issue is filed. Section 9 is a restatement of present law.

Section 10

Section 10 describes the type of restraints which a court may impose in setting bail for a person charged with a criminal offense involving domestic violence. This bill contains new provisions indicating that in setting bail the court shall consider the defendant's prior record and that the victim's location is to remain confidential and not appear in court documents. The bill additionally provides that once bail is set, bail cannot be reduced without prior notice to the victim and the prosecutor. A judge, other than the judge who originally set bail, may not reduce bail unless the reasons for the amount of the original bail are available to that judge. The committee amendments clarify that the prohibition against possessing certain weapons may also be a condition of a bail order.

Section 11

Section 11 deals with restrictions which can be placed on a person after conviction for a criminal offense involving domestic violence. Section 11 is a restatement of existing law.

Section 12

Section 12 details the procedures for filing domestic violence complaints and the procedures to be followed when a victim of domestic violence seeks an "ex parte" emergency order. Much of section 12 is a restatement of existing procedures. Section 12 does contain a new provision permitting a temporary restraining order to be issued upon the sworn testimony of an applicant who is not physically present or upon testimony by a person who represents a victim who is incapable of appearing if the court determines that sufficient exigent circumstances exist. Section 12 is amended to clarify jurisdiction. Criminal complaints shall be prosecuted and investigated where the offense is alleged to have occurred. The requirement that complaints shall contain a notice advising of the penalties for perjury is deleted by these amendments. The amendments also clarify that dissolution or modification of a temporary order, if not heard before the judge who issued the temporary order, shall contain in the record the reasons for the change.

Section 13

Section 13 deals with the procedures to be followed by the courts in hearing domestic violence complaints. Section 13 also lists the forms of relief which can be included in an order issued after such a hearing. Much of section 13 reflects present law. The bill would, however, expand and clarify some of the forms of relief contained in a protective order. For example, this bill establishes a presumption that temporary custody with the non-abusive parent is in the best interest of the child.

The bill also provides that an order providing for visitation may include designation of a place of visitation away from the victim; the participation of a third party or supervised visitation. This bill further provides that a plaintiff may also request an investigation by an appropriate agency prior to the court's awarding of visitation and that a court shall consider suspension of a visitation order upon

allegation by the plaintiff that the defendant's right to visitation threatens the safety and well-being of the child.

This bill would permit the court to order temporary possession of personal property, such as automobiles and checkbooks, and to require the defendant to pay the plaintiff's rent in appropriate circumstances.

Section 13 clarifies that offenders under the act may be required to pay restitution directly to the victim or to reimburse the Violent Crimes Compensation Board.

Section 14

Section 14 classifies certain violations of protective orders as criminal offense under N.J.S.2C:29-9 (contempt). Section 14 is a restatement of present law.

Section 15

Section 15 deals with the procedures to be followed by law enforcement officers when arresting a person for contempt in connection with violation of a protective order. Section 15 is a restatement of present law.

Section 16

Section 16 provides that when there is no probable cause for arrest for violation of a protective order, the law enforcement officer shall advise the complainant of the procedure for filing a criminal contempt complaint. There is no similar procedure in the present domestic violence act.

Section 17

Section 17 requires the AOC to maintain certain records with regard to orders issued in domestic violence cases. This section reflects present law. Section 17 was amended to clarify some of the Administrative Office of the Courts' recordkeeping responsibilities.

Section 18

Section 18 changes the cross-reference in N.J.S.2C:29-9 (contempt) from the present domestic violence act to the new domestic violence act proposed in this bill.

A new section 19 was added to the bill to amend N.J.S.A.2C:58-3 concerning the forfeited firearms that may be seized at the scene of domestic violence.

This bill, as amended, is identical to the Assembly Committee Substitute for Assembly Bill Nos. 4208/3205.

SENATE JUDICIARY COMMITTEE

ADOPTED

AMENDMENTS

1990

to

SENATE, No. 2230

(Sponsored by Senator Lipman)

ADOPTED
MAY 14 1990

CORRECT TITLE TO READ:

AN ACT concerning the prevention of domestic violence and the protection of victims and their ¹[faimiles] families¹ and revising various sections of the statutory law.

REPLACE SECTION 3 TO READ:

3. (New section) As used in this act:

a. "Domestic violence" means the ¹[occurence] occurrence¹ of one or more of the following acts inflicted upon a person protected under this act ¹by an adult or or an emancipated minor¹:

- (1) Homicide N.J.S.2C:11-1 et seq.
- (2) Assault N.J.S.2C:12-1
- (3) Terroristic threats N.J.S.2C:12-3
- (4) Kidnapping N.J.S.2C:13-1
- (5) Criminal restraint N.J.S.2C:13-2
- (6) ~~False imprisonment~~ N.J.S.2C:13-3
- (7) Sexual assault N.J.S.2C:14-2
- (8) Criminal sexual contact N.J.S.2C:14-3
- (9) Lewdness N.J.S.2C:14-4
- (10) ~~Criminal mischief~~ N.J.S.2C:17-3
- (11) Burglary N.J.S.2C:18-2
- (12) Criminal trespass N.J.S.2C:18-3
- (13) Harassment N.J.S.2C:33-4

¹When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute "domestic violence," but may be the basis for the filing of a petition or complaint pursuant to the provisions of Section 11 of P.L. 1982, c.77(C.2A:4A-30).¹

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

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

d. "Victim of domestic violence" means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any

other person related by blood or marriage ¹who is a present or former household member¹, ¹or a person of the opposite sex who ^{is}¹ a present or former household member, or a person with whom the victim has a child in common.

REPLACE SECTION 4 TO READ:

4. (New section) The Police Training Commission in the Division of Criminal Justice shall develop and approve a training course and curriculum on the handling, investigation and response procedures concerning reports of domestic violence and abuse and neglect of the elderly and disabled. This training course and ¹[curriculum] curriculum¹ shall be reviewed at least every two years and modified by the Police Training Commission from time to time as need may require, and shall be made available to all law enforcement personnel who are likely to encounter situations of domestic violence. The Police Training Commission shall distribute the curriculum to all local police agencies. The Attorney General shall be responsible for ensuring that law enforcement ¹[officer] officers¹ throughout the State receive training concerning domestic violence.

The Administrative Office of the Courts shall develop and approve a training course and a curriculum on the handling, investigation and response procedures concerning allegations of domestic violence. This training course shall be reviewed at least ¹every¹ two years and modified by the Administrative Office of the Courts from time to time as need may require, and shall be made available to all judges and judicial personnel who are likely to encounter situations of domestic violence. The Administrative ¹[Direcotr] Director¹ of the Courts shall be responsible for ensuring that judges and judicial personnel throughout the State receive training concerning domestic violence.

The Police Training Commission and the Administrative Office of the Courts shall provide that all training on the handling of domestic violence complaints shall stress the enforcement of criminal laws in domestic situations, the protection of the victim, and the use of available community resources. Law enforcement agencies may establish domestic crisis teams or individual officers may be trained in methods of dealing with domestic violence and neglect and abuse of the elderly and disabled. The teams may include social workers, clergy or other persons trained in counseling, crisis intervention or in the treatment of domestic violence and neglect and abuse of the elderly and disabled victims.

REPLACE SECTION 5 TO READ:

5. (New section) a. ¹[A] When a person claims to be a victim of domestic violence, and where a law enforcement officer responding to the incident finds probable cause to believe that domestic violence has occurred, the¹ law enforcement officer shall arrest ¹[a person] the person who is alleged to be the person who subjected the victim to domestic violence¹ and shall sign a criminal complaint ¹if¹:

(1) ¹[the] The¹ victim exhibits signs of injury caused by an act of domestic violence;

(2) ¹[a] A¹ warrant is in effect;

(3) ¹[there] There¹ is probable cause to believe that ¹[a] the¹ person has violated N.J.S. 2C:29-9. If the victim does not have a copy of a purported order, the officer may verify the existence of an order with the appropriate law enforcement agency; or

(4) ¹[there] There¹ is probable cause to believe that a weapon as defined in N.J.S. 2C:39-1 has been involved in the commission of an act of domestic violence.

b. A law enforcement officer may arrest a person; or may sign a criminal complaint against that person, or may do both, where there is probable cause to believe that an act of domestic violence has been committed, but where none of the conditions in ~~subsection a. of this section applies.~~

c. (1) As used in this section, the word "exhibits" is to be liberally construed to mean any indication that a victim has suffered ~~bodily injury, which shall include physical pain or any~~ impairment of physical condition. Where the victim exhibits no visible sign of injury, but states that an injury has occurred, the officer should consider other relevant factors in determining whether there is probable cause to make an arrest.

(2) In determining which party in a domestic violence incident is the victim where both parties exhibit signs of injury, the officer should consider the comparative extent of the injuries, the history of domestic violence between the parties, if any, and ~~any other relevant factors.~~

(3) No victim shall be denied relief or arrested or charged ~~under this act with an offense because the victim used reasonable force in self defense against domestic violence by an attacker.~~

REPLACE SECTION 7 TO READ:

7. (New section) A law enforcement officer shall disseminate ¹and explain¹ to the victim the following notice, which shall be written in both English and Spanish:

¹[a.]¹ "You have the right to go to court to get an order called a temporary restraining order, also called a TRO, which may protect you from more abuse by your attacker ¹[and that the]. The¹ officer who handed you this card can tell you how to get a TRO.

¹[b.]¹ The kinds of things a judge can order in a TRO may include:

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

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

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

(4) That ¹[you] your¹ attacker has to pay temporary child support or support for you;

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

(6) That your attacker pay you back any money you have to spend for medical treatment or repairs because of the violence¹; and

(7)] ¹There are other things the court can order, and ¹[that]¹ the court clerk will explain the procedure to you and will help you fill out the papers for a TRO.

¹[c. That you] You¹ also have the right to file a criminal complaint against your attacker ¹[and that the]. The¹ police officer who gave you this paper will tell you how to file a criminal complaint.

¹[d. That on] On¹ weekends, holidays and other times when the courts are closed, you still have a right to get a TRO ¹[and that the]. The¹ police officer who gave you this paper can help you get in touch with a judge who can give you a TRO.^{1"}¹

REPLACE SECTION 9 TO READ:

9. (New section) The court in a criminal ¹[complain] complaint¹ arising from a domestic violence incident:

a. Shall not dismiss any charge or delay disposition of a case because of concurrent dissolution of a marriage, other civil proceedings, or because the victim has left the residence to avoid further incidents of domestic violence;

b. Shall not ¹[not]¹ require proof that either party is seeking a dissolution of a marriage prior to institution of criminal proceedings;

c. ~~Shall waive any requirement that the victim's location be disclosed to any person.~~

REPLACE SECTION 10 TO READ:

10. (New section) ¹a.¹ When a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court ~~authorizing the release may as a condition of release issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing the victim or victim's relatives in any way.~~

b. The written court order releasing the defendant shall contain the court's directives restricting the defendant's ability to have contact with the victim or the victim's relatives. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

c. The victim's location shall remain confidential and shall not appear on any documents or ¹[record] records¹ to which the defendant has access.

d. Before bail is set, the defendant's prior record shall be considered by the court. Bail shall be set as soon as is feasible, but in all cases within 24 hours of arrest.

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

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

REPLACE SECTION 12 TO READ:

12. (New section) ^{1a} A victim may file a complaint alleging the commission of an act of domestic violence with the Family Part of the Chancery Division of the Superior Court in conformity with the rules of court. The court shall not dismiss any complaint or delay disposition of a case because the victim has left the residence to avoid further incidents of domestic violence. Filing a complaint pursuant to this section shall not prevent the filing of a criminal complaint for the same act.

On weekends, holidays and other times when the court is closed, a victim may file a complaint before a judge of the Family Part of the Chancery Division of the Superior Court or a municipal court judge who shall be assigned to accept complaints and issue temporary restraining orders pursuant to this act.

A plaintiff may apply for relief in a court having jurisdiction over the place where the alleged act of domestic violence occurred, where the defendant resides, or where the plaintiff resides or is sheltered, and the court shall follow the same procedures applicable to other emergent applications. Contempt complaints filed pursuant to N.J.S. 2C:29-9 shall be prosecuted in the county where the contempt is alleged to have been committed and a copy of the ¹[contemp] contempt¹ complaint shall be forwarded to the court that issued the order alleged to have been violated.

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

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

d. Summons and complaint forms shall be readily available at the clerk's office, at the municipal courts and at municipal and State police stations. Each complaint shall contain the following notice: "A person who files a complaint containing a knowingly false statement of material fact is guilty of perjury, a crime of the third degree."¹

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

f. A plaintiff may seek emergency, ex parte relief in the nature of a temporary restraining order. The judge of the Family Part ¹[Part]¹ of the Chancery Division of the Superior Court may enter ex parte orders when necessary to protect the life, health or well-being of a victim on whose behalf the relief is sought.

g. If it appears that the plaintiff is in danger of domestic violence, the judge shall, upon consideration of the plaintiff's domestic violence complaint, order emergency relief^{1,1} including ex parte relief, in the nature of a temporary restraining order. A decision shall be made by the judge regarding the emergency relief forthwith. An order granting emergency relief, together with all pleadings, process and other orders, shall immediately be forwarded to the sheriff for immediate service of the order for emergency relief upon the defendant.

h. A judge may issue a temporary restraining order upon sworn testimony or complaint of an applicant who is not physically present, pursuant to court rules, or by a person who represents a person who is physically or mentally ¹[incapable] incapable¹ of filing personally. A temporary restraining order may be issued if the judge is satisfied that exigent circumstances exist sufficient to excuse the failure of the applicant to appear personally and that sufficient grounds for granting the application have been shown.

i. An order for emergency relief shall be granted upon good cause shown and shall remain in effect until a judge of the Family Part issues a final order. The Family Part of the Chancery Division of the Superior Court shall hold a hearing on an emergency order within 10 days. Any temporary order hereunder may be dissolved or modified on 24 hours' notice or immediately appealable for a plenary hearing de novo not on the record before a judge of the Family Part of the county in which the plaintiff resides.

j. Emergency relief may include forbidding the defendant from returning to the scene of the domestic violence together with any other appropriate relief.

k. The judge may permit the defendant to return to the scene of the domestic violence to pick up personal belongings and effects but shall by order restrict the time and duration and provide for police supervision of such visit.

l. An order granting emergency relief shall immediately be served upon the defendant by the police, except that an order issued during regular court hours ¹[shall] may¹ be forwarded to the sheriff for immediate service upon the defendant.

m. A temporary restraining order shall remain in effect until further action by the court.

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

o. All pleadings, process, and other orders filed pursuant to this act shall be served upon the defendant in accordance with the rules of court. If personal service cannot be effected upon the defendant, the court may order other appropriate substituted service. At no time shall the plaintiff be asked or required to serve any order on the defendant.

p. Any temporary or permanent restraining order issued pursuant to this act shall be ¹in¹ effect throughout the State, and shall be enforced by all law enforcement officers.

REPLACE SECTION 13 TO READ:

13. (New section) ¹a.¹ A hearing shall be held in the Family Part of the Chancery Division of the Superior Court within 10 days of the filing of a complaint pursuant to section 12 of this act. A copy of the complaint shall be served on the defendant in conformity with the rules of court. If a criminal complaint arising out of the same incident which is the subject matter of a complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) ¹or P.L. , c. (now pending before the Legislature as this bill)¹ has been filed, testimony given by the plaintiff or defendant in the domestic violence matter shall not be used in the simultaneous or subsequent criminal proceeding against the defendant, other than domestic violence contempt matters and where it would otherwise be admissible hearsay under the rules of evidence that govern where a party is unavailable. At the hearing the standard for proving the allegations in the complaint shall be by a preponderance of the evidence. The court shall consider but not be limited to the following factors:

- (1) ~~The previous history of domestic violence between the plaintiff and defendant~~^{1,1} including threats, harassment and physical abuse;
- (2) The existence of immediate danger to person or property;
- (3) The financial circumstances of the plaintiff and defendant;
- (4) The best interests of the victim and any child;
- (5) In determining custody and visitation the protection of the victim's safety; and
- (6) The existence of a verifiable order of protection from another jurisdiction.

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

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

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

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

(a) The court shall consider a request by the plaintiff for an investigation or evaluation by the appropriate agency to assess the risk of harm to the child prior to the entry of a visitation order. Any denial of such a request must be on the record and shall only be made if the judge finds the request to be arbitrary or capricious.

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

(4) An order requiring the defendant to pay to the victim monetary compensation for losses suffered as a direct result of the act of domestic violence. Compensatory losses shall include, but not be limited to, loss of earnings or other support, out-of-pocket losses for injuries sustained, cost of repair or replacement of real or personal property damaged or destroyed or taken, cost of counseling for the victim, moving or other travel expenses, reasonable attorney's fees, court costs, and compensation for pain and suffering. Where appropriate, punitive damages may be awarded in addition to compensatory damages;

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

(6) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim or ¹of¹ other family or household members of the victim and requiring the defendant to stay away from any specified place that is named in the order and is frequented regularly by the victim or other family or household members;

(7) An order restraining the defendant from making any communication likely to cause annoyance or alarm including, but not limited to, personal, written, or telephone contact with the victim or other family members, or their employers, employees, or fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim;

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

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

(10) An order awarding emergent monetary relief to the victim and other dependents, if any. An ongoing obligation of support shall be determined at a later date pursuant to applicable law;

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

(12) An order requiring that a law enforcement officer accompany either party to the residence to supervise the removal of personal belongings in order to ensure the personal safety of the plaintiff when a restraining order has issued. This order shall be restricted in duration;

(13) An order which permits the victim and the defendant to occupy the same premises but limits the defendant's use of that premises, but only if it is documented by the judge granting the order that:

(a) ~~1[the] The¹ plaintiff specifically and voluntarily requests~~ such an order; and

(b) ~~1[the] The¹ judge determines that the request is made voluntarily and with the plaintiff's knowledge that the order may not provide the same protection as an order excluding the defendant from the premises and with the plaintiff's knowledge that the order may be difficult to enforce; and~~

(c) ~~1[any] Any¹ conditions placed upon the defendant in connection with the continued access to the premises and any penalties for noncompliance with those conditions shall be explicitly set out in the order and shall be in addition to any other remedies for noncompliance available to the victim^{1[;]}.¹~~

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

(15) An order that requires that the defendant report to the intake unit of the Family Part of the Chancery Division of the Superior Court for monitoring of any other provision of the order ¹[; or] ¹

¹[f] ¹. Notice of orders issued pursuant to this section shall be sent by the clerk of the Family Part of the Chancery Division of the Superior Court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

¹[g] ¹. Upon good cause shown, any final order may be dissolved or modified upon application to the Family Part of the Chancery Division of the Superior Court ¹but only if the judge who dissolves or modifies the order has available a complete record of the hearing or hearings on which the order was based¹.

REPLACE SECTION 14 TO READ:

14. (New section) Except as provided below, a violation by ¹[he] the¹ defendant of an order issued pursuant to this act shall constitute an offense under subsection b. of N.J.S. 2C:29-9 and each order shall so state. All contempt proceedings conducted pursuant to N.J.S. 2C:29-9 involving domestic violence orders, other than those constituting indictable offenses, shall be heard by the Family Part of the Chancery Division of the Superior Court. Additionally, and notwithstanding the term of imprisonment provided in 2C:43-8, any person convicted of a second or subsequent nonindictable domestic violence contempt offense shall serve a minimum term of not less than 30 days. Orders entered pursuant to paragraphs ¹[b. (3), b. (4), b. (8), and b. (9)] (3), (4), (8) and (9) of subsection b.¹ of section 13 of this act shall be excluded from enforcement under subsection b. of N.J.S. 2C:29-9; however, violations of these orders may be enforced in a civil ¹or criminal¹ action initiated by the plaintiff ¹or by the court, on its own motion, pursuant to applicable court rules¹.

REPLACE SECTION 15 TO READ:

15. (New section) ¹[A defendant who commits contempt pursuant to this act] Where a law enforcement officer finds that there is probable cause that a defendant has committed contempt of an order entered pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L. , c. (now pending before the Legislature as this bill), the defendant¹ shall be arrested and taken into custody by a law enforcement officer. The law enforcement officer shall follow these procedures:

a. On weekends, holidays and other times when the court is closed, the law enforcement officer shall transport the defendant to either the police station or the municipal court or such other place as the law enforcement officer shall determine is proper. The law enforcement officer shall:

(1) Sign a complaint concerning the incident which gave rise to the contempt charge;

(2) Telephone the appropriate judge assigned pursuant to this act and request bail be set on the contempt charge;

(3) If the defendant is unable to meet the bail set, take the necessary steps to insure that the defendant shall be incarcerated at police headquarters or at the county jail; and

(4) On the next working day notify the clerk of the Family Part of the new complaint, the amount of bail, defendant's whereabouts and all other necessary details. In addition, if a municipal court judge set the bail, notify the clerk of that municipal court of this information.

b. During regular court hours, the law enforcement officer shall transport the defendant to the Family Part of the Chancery Division of the Superior Court or to such other place as the law enforcement officer shall determine is proper. The law enforcement officer shall complete and sign a complaint concerning the incident which gave rise to the contempt charge, and the defendant shall have bail set by a judge that day.

REPLACE SECTION 16 TO READ:

16. (New section) Where ¹a person alleges that a defendant has committed contempt of an order entered pursuant to the provisions of P.L.1981, c.426(C.2C:25-1 et. seq) or P.L. , c. ~~(now pending before the Legislature as this bill)~~, but where a law enforcement officer has found that¹ there is not probable cause sufficient to arrest the defendant, the law enforcement officer shall advise the complainant of the procedure for completing and signing a criminal complaint alleging a violation of ¹[N.J.S.A] N.J.S.¹ 2C:29-9. During regular court hours, the assistance of the clerk of the Family Part of the Chancery Division of the Superior Court shall be made available to such complainants. Nothing in this section shall be construed to prevent the court from granting any other emergency relief it deems necessary.

REPLACE SECTION 17 TO READ:

17. (New section) The Administrative Office of the Courts shall maintain a uniform record of all requests for orders issued pursuant to section 9, 10, 12, ¹[or] and¹ 13 of this act. The record shall include the following information:

- a. The number of complaints filed by the parties;
- b. The sex of the parties;
- c. The relationship of the parties;
- d. ¹[(Deleted by amendment, P.L.1982, c. 82.)
- e.]¹ The relief sought;

¹[f] ^e¹. The nature of the relief granted^{1,1} including^{1,1} but not limited to, custody and child support;

¹[g] ^f¹. The effective date and terms of each order issued.

It shall be the duty of the Director of the Administrative Office of the Courts to compile and report annually to the Governor, the Legislature and the Advisory Council on [Shelters for Victims of] Domestic Violence on the data tabulated from the records of these orders.

All records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.

REPLACE SECTION 18 TO READ:

18. N.J.S. 2C:29-9 is amended to read as follows:

~~2C: 29-9. Contempt. ¹a. A person is guilty of a crime of the fourth degree ¹[is that person] if he¹ purposely or knowingly disobeys a judicial order or hinders, obstructs or impedes the effectuation of a judicial order or the exercise of jurisdiction over any person, thing or controversy by a court, administrative body or investigative entity.~~

b. Except as provided below, a person is guilty of a crime of the fourth degree if that person purposely or knowingly violates any provision in an order entered under the provisions of the ¹["Prevention of Domestic Violence Act, P.L. 1981, c. 426 (C. 2C:25-1 et seq.)]¹ "Prevention of Domestic Violence Act of 1990," P.L. ¹[1989] ¹, c. (C.) (now pending before the Legislature as this bill) when the conduct which constitutes the ¹[vioaltion] violation¹ could also constitute a crime or a disorderly persons offense. In all other cases a person is guilty of a disorderly persons offense if that person knowingly violates an order entered under the provisions of this act. Orders entered pursuant to paragraphs ¹[(5), (6) and (7) of subsection b. of section 13 of P.L. 1981, c. 426 (C.2C:25-12)]¹ (3¹)¹, (4), (5), (8) and (9) of subsection b. of section 13 of P.L. ¹[1989] ¹, c. (C.) (now pending before the Legislature as this bill) shall be excluded from the provisions of this subsection.

(cf: P.L. 1988, c. 28, s. 3)

REPLACE SECTION 19 TO READ:

19. P.L. 1981, c. 426 (C. ¹2C: 25-1 through¹ 2C:25-16) section 8 of P.L. 1987, c. 356 (C. 2C:25-15.1) and section 1 of P.L. 1988¹, c. 28¹ (C. 2C:25-15a) are repealed.

NOTE TO BPU:

Please insert:

"(New Section)" before the following sections:

1, 2, 6, 8, 11



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
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August 14, 1991

GOVERNOR FLORIO SIGNS DOMESTIC VIOLENCE PREVENTION ACT

New Jersey's domestic violence law will be strengthened and expanded to provide greater help to victims under legislation signed today by Governor Jim Florio, who said the law represents a promise of hope for all domestic violence victims.

"Today, we recognize domestic violence for what it is -- a very serious crime that demands our attention. It's a crime that hurts all of us -- especially children," said Governor Florio. "The wounds of this crime are deeper than the scars and bruises. Domestic violence is the most common crime in New Jersey and it cuts across every part of our society."

The Domestic Violence Prevention Act of 1991 was sponsored by Senator Wynona Lipman and Assemblywomen Marlene Lynch Ford and Ann Mullen. The bill replaces the existing domestic violence chapter in the criminal code with a new statute aimed at providing greater protections for victims of domestic violence and enabling more uniform enforcement.

The new law:

- **Broadens the definition of a victim.** The new definition will improve the law by applying it to situations such as the abuse of the elderly by a same-sex care-taker. Under the current law, if the abuser and victim were not related by blood, the abuser and victim must be of the opposite sex in order for the law's protections to apply.
- **Widens the scope of offenses which constitute domestic violence.** The new law will include homicide, terrorist threats and criminal trespass on the list of offenses which, if committed against a victim, constitute

domestic violence. The bill retains the other offenses on the current list: assault, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief, burglary and harassment.

- **Requires more training for police and court officials**
Current law requires the State Division of Criminal Justice to develop a training course for all law enforcement personnel who are likely to encounter domestic violence cases. Under the new law, this course must be reviewed every two years. Training will also be required by the Administrative Office to the Courts which must develop a training course for judicial personnel who are likely to encounter domestic violence cases.
- **Clarifies conditions for an arrest**
Currently an officer must arrest the abuser if the victim show signs of injury caused by an act of domestic violence. Under the new law, an officer must make an arrest and sign the criminal complaint when the officer finds probable cause to believe that domestic violence has occurred and there is evidence of an injury to the victim, a warrant, probable cause to believe that the abuser violated a court order or probable cause to believe that a weapon had been involved.

"Obviously the long-term solution to ending domestic violence is education. But for the short-term, the law is the best hope of protection for victims of domestic violence," said the Governor. "We've had too many cases where complaints were not taken seriously until someone ended up in the hospital or dead. We're sending a strong message today: we won't tolerate the ones who commit domestic violence and we will take quick and decisive steps to protect their victims."

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