

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/MM

P.L. 2023, CHAPTER 322, *approved January 16, 2024*
Assembly, No. 5285 (*Second Reprint*)

1 AN ACT concerning victims of domestic violence and
2 supplementing and amending P.L.1991, c.261.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) a. ¹**【Within】** In addition to any rights to access
8 records provided pursuant to the provisions of P.L.1963, c.73
9 (C.47:1A-1 et seq.), commonly known as the open public records act,
10 ²or the Rules of Court,² within¹ 10 calendar days of the request of a
11 victim of domestic violence or the victim’s legal representative, a law
12 enforcement agency ¹with primary responsibility for investigating a
13 complaint filed pursuant to the “Prevention of Domestic Violence Act
14 of 1991,” P.L.1991, c.261 (C.2C:25-17 et al.)¹ shall provide at no cost
15 to the victim or victim’s legal representative copies of law
16 enforcement records ¹enumerated in this section¹ relating to ¹**【an】** the
17 alleged¹ act of domestic violence ¹**【reported to the law enforcement**
18 agency. If¹ ²If release of the records would jeopardize an ongoing
19 criminal investigation or the safety of any person, the records shall
20 either be redacted such that release to the victim would not jeopardize
21 an ongoing criminal investigation or the safety of any person, or
22 released pursuant to a protective order issued pursuant to subsection b.
23 of this section² . Except as otherwise provided in this section, if¹ the
24 law enforcement agency is unable to produce a copy of a requested
25 record within the 10-day-period, a copy of the record shall be provided
26 to the victim or victim’s representative within 24 hours after the record
27 becomes available. The record shall be provided electronically or in
28 hard copy paper form, in accordance with the request of the victim or
29 victim’s representative. The records shall be certified pursuant to New
30 Jersey Rules of Evidence ¹as the law enforcement agency’s business
31 records¹ .

32 A request may be made for a copy of any of the following records
33 related to ¹**【an】** the¹ ²alleged² act of domestic violence ²**【¹before the**
34 court¹】 which is the subject of a complaint filed pursuant to the
35 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261
36 (C.2C:25-17 et al.) or an act of domestic violence relating to a previous
37 complaint filed pursuant to the “Prevention of Domestic Violence Act of
38 1991,” P.L.1991, c.261 (C.2C:25-17 et al.) involving both parties² :

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:

¹Assembly AJU committee amendments adopted March 9, 2023.

²Assembly AAP committee amendments adopted March 23, 2023.

- 1 (1) photographs taken by a law enforcement officer;
- 2 (2) law enforcement officer body ¹worn¹ camera or dashboard
3 camera footage²], provided the footage does not implicate the identity
4 or statements of a third-party witness]²;
- 5 (3) 9-1-1 transcript or recording²], provided the transcript or
6 recording does not implicate the identity or statements of a third-party
7 witness]²; and
- 8 (4) contents of the police report, as deemed appropriate by the law
9 enforcement agency ²], provided the contents of the report do not
10 implicate or contain the identity or statements of a third-party witness
11 or jeopardize an ongoing criminal investigation]².

12 ²[In providing copies of the requested law enforcement records,
13 the law enforcement agency may redact the statements of third-party
14 witnesses if production of the information would either jeopardize an
15 ongoing criminal investigation or could jeopardize the safety of any
16 third-party.]² If the law enforcement agency is unable to produce a
17 copy of a requested record within the 10-day-period, ²and the court
18 does not reschedule the hearing to be conducted pursuant to section 13
19 of P.L.1991, c.261 (C.2C:25-29), upon the request of the victim,² the
20 law enforcement agency ²[¹,]² shall make ²at least one of² the officers
21 primarily responsible for investigating the complaint available for the
22 hearing. The law enforcement agency¹ may request additional time
23 from the court to redact the documents ¹[. A request for additional
24 time to produce the records shall be made in writing] by submitting a
25 written request¹ to the court with notice to the victim or victim's legal
26 representative. ¹The court shall approve the written request without a
27 hearing or additional proceedings, unless good cause exists to deny the
28 additional time requested.¹ If granted additional time by the court, the
29 law enforcement agency shall provide a copy of the records to the
30 victim or victim's legal representative within 24 hours after the record
31 becomes available.

32 b. The Family Part of the Chancery Division of the Superior
33 Court shall have jurisdiction to enforce the victim or victim's legal
34 representative's request for copies of law enforcement records
35 pursuant to this section, and to ¹[compel production of the requested
36 records from the law enforcement agency by issuing an order to show
37 cause to the law enforcement agency] issue such protective orders as
38 may be appropriate to ²[ensure that information is disclosed only to
39 the extent required for conduct related to the complaint or a related
40 action or proceeding involving the parties to the complaint.¹] set forth
41 terms and conditions authorizing or limiting disclosure or use to the
42 extent warranted. Dissemination of copies of law enforcement records
43 in violation of a protective order issued pursuant to this subsection
44 may be subject to prosecution for harassment pursuant to N.J.S.2C:33-
45 4; cyber-harassment pursuant to section 1 of P.L.2013, c.272

1 (C.2C:33-4.1); invasion of privacy pursuant to N.J.S.2C:14-9; or any
2 other applicable criminal law².

3 c. ¹**Nothing in this section shall be construed as superseding the**
4 **right of a victim to access records pursuant to the provisions of**
5 **P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open**
6 **public records act.**

7 d. ¹**A victim of domestic violence who is seeking to access**
8 **law enforcement agency records but who is not seeking other relief in**
9 **the Family Part of the Chancery Division of the Superior Court may**
10 **enforce their right of access pursuant to P.L.1963, c.73 (C.47:1A-1 et**
11 **seq.) on an expedited basis. The victim shall not be required to**
12 **complete a formal open public records act request form to access the**
13 **records.**

14

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

17 13. a. **[A]** Except as otherwise provided in this subsection, a
18 hearing shall be held in the Family Part of the Chancery Division of
19 the Superior Court within 10 days of the filing of a complaint
20 pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in the
21 county where the ex parte restraints were ordered, unless good
22 cause is shown for the hearing to be held elsewhere. A copy of the
23 complaint shall be served on the defendant in conformity with the
24 Rules of Court. If a criminal complaint arising out of the same
25 incident which is the subject matter of a complaint brought under
26 P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17
27 et seq.) has been filed, testimony given by the plaintiff or defendant
28 in the domestic violence matter shall not be used in the
29 simultaneous or subsequent criminal proceeding against the
30 defendant, other than domestic violence contempt matters and
31 where it would otherwise be admissible hearsay under the rules of
32 evidence that govern where a party is unavailable. **If there are law**
33 **enforcement records related to an incident which is the subject of a**
34 **complaint or the domestic violence history described in the**
35 **complaint, and the plaintiff has requested the records, the court**
36 **shall grant plaintiff's request for an adjournment if reasonably**
37 **needed to collect evidence contained in the law enforcement**
38 **records. ¹**The court may grant the plaintiff's request for an****
39 **adjournment of up to 14 calendar days to provide the plaintiff**
40 **additional time to seek production of records from a law**
41 **enforcement agency pursuant to section 1 of P.L. , c. (C.)**
42 **(pending before the Legislature as this bill).**¹ **If the plaintiff has**
43 **requested records from a law enforcement agency pursuant to**
44 **section 1 of P.L. , c. (C.) (pending before the Legislature**
45 **as this bill), but has not received the records as of the date of the**
46 **original or rescheduled hearing, the law enforcement agency's**
47 **failure to provide the requested records shall be noted on the record**

1 prior to the court making a final determination on the request for
2 restraints. The ¹[court] absence of law enforcement records¹ shall
3 not ¹[draw a negative inference if: a plaintiff has requested, but not
4 received, records pursuant to this section; the production of records
5 is incomplete; or the plaintiff did not report an act of domestic
6 violence to law enforcement] be a basis to deny relief pursuant to
7 this section¹ . At the hearing the standard for proving the
8 allegations in the complaint shall be by a preponderance of the
9 evidence.

10 The court shall consider but not be limited to the following
11 factors:

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

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

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

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

18 (5) In determining custody and parenting time the protection of
19 the victim's safety; and

20 (6) The existence of a verifiable order of protection from
21 another jurisdiction.

22 An order issued under this act shall only restrain or provide
23 damages payable from a person against whom a complaint has been
24 filed under this act and only after a finding or an admission is made
25 that an act of domestic violence was committed by that person. The
26 issue of whether or not a violation of this act occurred, including an
27 act of contempt under this act, shall not be subject to mediation or
28 negotiation in any form. In addition, where a temporary or final
29 order has been issued pursuant to this act, no party shall be ordered
30 to participate in mediation on the issue of custody or parenting time.

31 b. In proceedings in which complaints for restraining orders
32 have been filed, the court shall grant any relief necessary to prevent
33 further abuse. In addition to any other provisions, any restraining
34 order issued by the court shall bar the defendant from purchasing,
35 owning, possessing or controlling a firearm and from receiving or
36 retaining a firearms purchaser identification card or permit to
37 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
38 which the restraining order is in effect or two years, whichever is
39 greater. The order shall require the immediate surrender of any
40 firearm or other weapon belonging to the defendant. The order
41 shall include notice to the defendant of the penalties for a violation
42 of any provision of the order, including but not limited to the
43 penalties for contempt of court and unlawful possession of a firearm
44 or other weapon pursuant to N.J.S.2C:39-5.

45 A law enforcement officer shall accompany the defendant, or
46 may proceed without the defendant if necessary, to any place where
47 any firearm or other weapon belonging to the defendant is located
48 to ensure that the defendant does not gain access to any firearm or

1 other weapon, and a law enforcement officer shall take custody of
2 any firearm or other weapon belonging to the defendant. If the
3 order prohibits the defendant from returning to the scene of
4 domestic violence or other place where firearms or other weapons
5 belonging to the defendant are located, any firearm or other weapon
6 located there shall be seized by a law enforcement officer. The
7 provisions of this subsection requiring the surrender or removal of a
8 firearm, card, or permit shall not apply to any law enforcement
9 officer while actually on duty, or to any member of the Armed
10 Forces of the United States or member of the National Guard while
11 actually on duty or traveling to or from an authorized place of duty.
12 At the hearing the judge of the Family Part of the Chancery
13 Division of the Superior Court may issue an order granting any or
14 all of the following relief:

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

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

27 (3) An order providing for parenting time. The order shall
28 protect the safety and well-being of the plaintiff and minor children
29 and shall specify the place and frequency of parenting time.
30 Parenting time arrangements shall not compromise any other
31 remedy provided by the court by requiring or encouraging contact
32 between the plaintiff and defendant. Orders for parenting time may
33 include a designation of a place of parenting time away from the
34 plaintiff, the participation of a third party, or supervised parenting
35 time.

36 (a) The court shall consider a request by a custodial parent who
37 has been subjected to domestic violence by a person with parenting
38 time rights to a child in the parent's custody for an investigation or
39 evaluation by the appropriate agency to assess the risk of harm to
40 the child prior to the entry of a parenting time order. Any denial of
41 such a request must be on the record and shall only be made if the
42 judge finds the request to be arbitrary or capricious.

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

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

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

29 (6) An order restraining the defendant from entering the
30 residence, property, school, or place of employment of the victim or
31 of other family or household members of the victim and requiring
32 the defendant to stay away from any specified place that is named
33 in the order and is frequented regularly by the victim or other
34 family or household members.

35 (7) An order restraining the defendant from making contact with
36 the plaintiff or others, including an order forbidding the defendant
37 from personally or through an agent initiating any communication
38 likely to cause annoyance or alarm including, but not limited to,
39 personal, written, or telephone contact with the victim or other
40 family members, or their employers, employees, or fellow workers,
41 or others with whom communication would be likely to cause
42 annoyance or alarm to the victim.

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

- 1 (9) An order granting either party temporary possession of
2 specified personal property, such as an automobile, checkbook,
3 documentation of health insurance, an identification document, a
4 key, and other personal effects.
- 5 (10) An order awarding emergency monetary relief, including
6 emergency support for minor children, to the victim and other
7 dependents, if any. An ongoing obligation of support shall be
8 determined at a later date pursuant to applicable law.
- 9 (11) An order awarding temporary custody of a minor child.
10 The court shall presume that the best interests of the child are
11 served by an award of custody to the non-abusive parent.
- 12 (12) An order requiring that a law enforcement officer
13 accompany either party to the residence or any shared business
14 premises to supervise the removal of personal belongings in order
15 to ensure the personal safety of the plaintiff when a restraining
16 order has been issued. This order shall be restricted in duration.
- 17 (13) (Deleted by amendment, P.L.1995, c.242).
- 18 (14) An order granting any other appropriate relief for the
19 plaintiff and dependent children, provided that the plaintiff consents
20 to such relief, including relief requested by the plaintiff at the final
21 hearing, whether or not the plaintiff requested such relief at the time
22 of the granting of the initial emergency order.
- 23 (15) An order that requires that the defendant report to the
24 intake unit of the Family Part of the Chancery Division of the
25 Superior Court for monitoring of any other provision of the order.
- 26 (16) In addition to the order required by this subsection
27 prohibiting the defendant from possessing any firearm, the court
28 may also issue an order prohibiting the defendant from possessing
29 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
30 ordering the search for and seizure of any firearm or other weapon
31 at any location where the judge has reasonable cause to believe the
32 weapon is located. The judge shall state with specificity the reasons
33 for and scope of the search and seizure authorized by the order.
- 34 (17) An order prohibiting the defendant from stalking or
35 following, or threatening to harm, to stalk or to follow, the
36 complainant or any other person named in the order in a manner
37 that, taken in the context of past actions of the defendant, would put
38 the complainant in reasonable fear that the defendant would cause
39 the death or injury of the complainant or any other person.
40 Behavior prohibited under this act includes, but is not limited to,
41 behavior prohibited under the provisions of P.L.1992, c.209
42 (C.2C:12-10).
- 43 (18) An order requiring the defendant to undergo a psychiatric
44 evaluation.
- 45 (19) An order directing the possession of any animal owned,
46 possessed, leased, kept, or held by either party or a minor child
47 residing in the household. Where a person has abused or threatened

1 to abuse such animal, there shall be a presumption that possession
2 of the animal shall be awarded to the non-abusive party.

3 c. Notice of orders issued pursuant to this section shall be sent
4 by the clerk of the Family Part of the Chancery Division of the
5 Superior Court or other person designated by the court to the
6 appropriate chiefs of police, members of the State Police and any
7 other appropriate law enforcement agency.

8 d. Upon good cause shown, any final order may be dissolved or
9 modified upon application to the Family Part of the Chancery
10 Division of the Superior Court, but only if the judge who dissolves
11 or modifies the order is the same judge who entered the order, or
12 has available a complete record of the hearing or hearings on which
13 the order was based.

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

17 ¹f. ²A final judgment rendered in favor of the State in any
18 criminal proceeding brought pursuant to the “Prevention of
19 Domestic Violence Act of 1991,” P.L.1991, c.261 (C.2C:25-17 et
20 seq.) shall estop the defendant from denying the same conduct in
21 any proceeding brought pursuant to this section.

22 ^{g.}² In connection with a pending complaint filed with the
23 Superior Court, Chancery Division, Family Part, pursuant to the
24 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261
25 (C.2C:25-17 et al.), a party to the complaint may request the release
26 or unsealing of expunged records, or sealed records under prior law,
27 or prior arrests or convictions related to previous complaints filed
28 pursuant to the “Prevention of Domestic Violence Act of 1991,”
29 P.L.1991, c.261 (C.2C:25-17 et al.) involving both parties.

30 ²[g.] ^{h.}² Expunged records, or sealed records under prior law,
31 of prior arrests or convictions shall be provided to any party, county
32 prosecutor, Criminal Division of the Superior Court, or the Attorney
33 General when requested for use in conjunction with proceedings
34 related to any of the following matters:

35 (1) a temporary or final restraining order or a weapons forfeiture
36 complaint filed in the Superior Court, Chancery Division, Family
37 Part, pursuant to the “Prevention of Domestic Violence Act of
38 1991,” P.L.1991, c.261 (C.2C:25-17 et al.); and

39 (2) a temporary or final extreme risk protection order complaint
40 filed in the Superior Court pursuant to the “Extreme Risk Protective
41 Order Act of 2018,” P.L.2018, c.35 (C.2C:58-20 et al.).¹

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

43

44 3. This act shall take effect ¹**[immediately]** on the first day of the
45 fourth month next following the date of enactment, but the Attorney
46 General and the Administrative Office of the Courts may take such

1 anticipatory action prior to the effective date as needed to effectuate
2 the provisions of this act¹.

3

4

5

6

7 Requires copies of certain law enforcement records to be provided
8 to victims of domestic violence upon request.

ASSEMBLY, No. 5285

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2023

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman SHAMA A. HAIDER

District 37 (Bergen)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning victims of domestic violence and
2 supplementing and amending P.L.1991, c.261.

3

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

6

7 1. (New section) a. Within 10 calendar days of the request of
8 a victim of domestic violence or the victim's legal representative, a
9 law enforcement agency shall provide at no cost to the victim or
10 victim's legal representative copies of law enforcement records
11 relating to an act of domestic violence reported to the law
12 enforcement agency. If the law enforcement agency is unable to
13 produce a copy of a requested record within the 10-day-period, a
14 copy of the record shall be provided to the victim or victim's
15 representative within 24 hours after the record becomes available.
16 The record shall be provided electronically or in hard copy paper
17 form, in accordance with the request of the victim or victim's
18 representative. The records shall be certified pursuant to New
19 Jersey Rules of Evidence.

20 A request may be made for a copy of any of the following records
21 related to an act of domestic violence:

22 (1) photographs taken by a law enforcement officer;

23 (2) law enforcement officer body camera or dashboard camera
24 footage, provided the footage does not implicate the identity or
25 statements of a third-party witness;

26 (3) 9-1-1 transcript or recording, provided the transcript or
27 recording does not implicate the identity or statements of a third-
28 party witness; and

29 (4) contents of the police report, as deemed appropriate by the
30 law enforcement agency, provided the contents of the report do not
31 implicate or contain the identity or statements of a third-party
32 witness or jeopardize an ongoing criminal investigation.

33 In providing copies of the requested law enforcement records,
34 the law enforcement agency may redact the statements of third-
35 party witnesses if production of the information would either
36 jeopardize an ongoing criminal investigation or could jeopardize the
37 safety of any third-party. If the law enforcement agency is unable
38 to produce a copy of a requested record within the 10-day-period,
39 the law enforcement agency may request additional time from the
40 court to redact the documents. A request for additional time to
41 produce the records shall be made in writing to the court with notice
42 to the victim or victim's legal representative. If granted additional
43 time by the court, the law enforcement agency shall provide a copy
44 of the records to the victim or victim's legal representative within
45 24 hours after the record becomes available.

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

Matter underlined thus is new matter.

1 b. The Family Part of the Chancery Division of the Superior
2 Court shall have jurisdiction to enforce the victim or victim's legal
3 representative's request for copies of law enforcement records
4 pursuant to this section, and to compel production of the requested
5 records from the law enforcement agency by issuing an order to
6 show cause to the law enforcement agency.

7 c. Nothing in this section shall be construed as superseding the
8 right of a victim to access records pursuant to the provisions of
9 P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open
10 public records act.

11 d. A victim of domestic violence who is seeking to access law
12 enforcement agency records but who is not seeking other relief in
13 the Family Part of the Chancery Division of the Superior Court may
14 enforce their right of access pursuant to P.L.1963, c.73 (C.47:1A-1
15 et seq.) on an expedited basis. The victim shall not be required to
16 complete a formal open public records act request form to access
17 the records.

18
19 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to
20 read as follows:

21 13. a. **[A]** Except as otherwise provided in this subsection, a
22 hearing shall be held in the Family Part of the Chancery Division of
23 the Superior Court within 10 days of the filing of a complaint
24 pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in the
25 county where the ex parte restraints were ordered, unless good
26 cause is shown for the hearing to be held elsewhere. A copy of the
27 complaint shall be served on the defendant in conformity with the
28 Rules of Court. If a criminal complaint arising out of the same
29 incident which is the subject matter of a complaint brought under
30 P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17
31 et seq.) has been filed, testimony given by the plaintiff or defendant
32 in the domestic violence matter shall not be used in the
33 simultaneous or subsequent criminal proceeding against the
34 defendant, other than domestic violence contempt matters and
35 where it would otherwise be admissible hearsay under the rules of
36 evidence that govern where a party is unavailable. If there are law
37 enforcement records related to an incident which is the subject of a
38 complaint or the domestic violence history described in the
39 complaint, and the plaintiff has requested the records, the court
40 shall grant plaintiff's request for an adjournment if reasonably
41 needed to collect evidence contained in the law enforcement
42 records. The court may grant the plaintiff's request for an
43 adjournment of up to 14 calendar days to provide the plaintiff
44 additional time to seek production of records from a law
45 enforcement agency pursuant to section 1 of P.L. , c. (C.)
46 (pending before the Legislature as this bill). If the plaintiff has
47 requested records from a law enforcement agency pursuant to
48 section 1 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), but has not received the records as of the date of the
2 original or rescheduled hearing, the law enforcement agency's
3 failure to provide the requested records shall be noted on the record
4 prior to the court making a final determination on the request for
5 restraints. The court shall not draw a negative inference if: a
6 plaintiff has requested, but not received, records pursuant to this
7 section; the production of records is incomplete; or the plaintiff did
8 not report an act of domestic violence to law enforcement. At the
9 hearing the standard for proving the allegations in the complaint
10 shall be by a preponderance of the evidence.

11 The court shall consider but not be limited to the following
12 factors:

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

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

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

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

19 (5) In determining custody and parenting time the protection of
20 the victim's safety; and

21 (6) The existence of a verifiable order of protection from
22 another jurisdiction.

23 An order issued under this act shall only restrain or provide
24 damages payable from a person against whom a complaint has been
25 filed under this act and only after a finding or an admission is made
26 that an act of domestic violence was committed by that person. The
27 issue of whether or not a violation of this act occurred, including an
28 act of contempt under this act, shall not be subject to mediation or
29 negotiation in any form. In addition, where a temporary or final
30 order has been issued pursuant to this act, no party shall be ordered
31 to participate in mediation on the issue of custody or parenting time.

32 b. In proceedings in which complaints for restraining orders
33 have been filed, the court shall grant any relief necessary to prevent
34 further abuse. In addition to any other provisions, any restraining
35 order issued by the court shall bar the defendant from purchasing,
36 owning, possessing or controlling a firearm and from receiving or
37 retaining a firearms purchaser identification card or permit to
38 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
39 which the restraining order is in effect or two years, whichever is
40 greater. The order shall require the immediate surrender of any
41 firearm or other weapon belonging to the defendant. The order
42 shall include notice to the defendant of the penalties for a violation
43 of any provision of the order, including but not limited to the
44 penalties for contempt of court and unlawful possession of a firearm
45 or other weapon pursuant to N.J.S.2C:39-5.

46 A law enforcement officer shall accompany the defendant, or
47 may proceed without the defendant if necessary, to any place where
48 any firearm or other weapon belonging to the defendant is located

1 to ensure that the defendant does not gain access to any firearm or
2 other weapon, and a law enforcement officer shall take custody of
3 any firearm or other weapon belonging to the defendant. If the
4 order prohibits the defendant from returning to the scene of
5 domestic violence or other place where firearms or other weapons
6 belonging to the defendant are located, any firearm or other weapon
7 located there shall be seized by a law enforcement officer. The
8 provisions of this subsection requiring the surrender or removal of a
9 firearm, card, or permit shall not apply to any law enforcement
10 officer while actually on duty, or to any member of the Armed
11 Forces of the United States or member of the National Guard while
12 actually on duty or traveling to or from an authorized place of duty.
13 At the hearing the judge of the Family Part of the Chancery
14 Division of the Superior Court may issue an order granting any or
15 all of the following relief:

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

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

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

37 (a) The court shall consider a request by a custodial parent who
38 has been subjected to domestic violence by a person with parenting
39 time rights to a child in the parent's custody for an investigation or
40 evaluation by the appropriate agency to assess the risk of harm to
41 the child prior to the entry of a parenting time order. Any denial of
42 such a request must be on the record and shall only be made if the
43 judge finds the request to be arbitrary or capricious.

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

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

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

29 (6) An order restraining the defendant from entering the
30 residence, property, school, or place of employment of the victim or
31 of other family or household members of the victim and requiring
32 the defendant to stay away from any specified place that is named
33 in the order and is frequented regularly by the victim or other
34 family or household members.

35 (7) An order restraining the defendant from making contact with
36 the plaintiff or others, including an order forbidding the defendant
37 from personally or through an agent initiating any communication
38 likely to cause annoyance or alarm including, but not limited to,
39 personal, written, or telephone contact with the victim or other
40 family members, or their employers, employees, or fellow workers,
41 or others with whom communication would be likely to cause
42 annoyance or alarm to the victim.

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

- 1 (9) An order granting either party temporary possession of
2 specified personal property, such as an automobile, checkbook,
3 documentation of health insurance, an identification document, a
4 key, and other personal effects.
- 5 (10) An order awarding emergency monetary relief, including
6 emergency support for minor children, to the victim and other
7 dependents, if any. An ongoing obligation of support shall be
8 determined at a later date pursuant to applicable law.
- 9 (11) An order awarding temporary custody of a minor child.
10 The court shall presume that the best interests of the child are
11 served by an award of custody to the non-abusive parent.
- 12 (12) An order requiring that a law enforcement officer
13 accompany either party to the residence or any shared business
14 premises to supervise the removal of personal belongings in order
15 to ensure the personal safety of the plaintiff when a restraining
16 order has been issued. This order shall be restricted in duration.
- 17 (13) (Deleted by amendment, P.L.1995, c.242).
- 18 (14) An order granting any other appropriate relief for the
19 plaintiff and dependent children, provided that the plaintiff consents
20 to such relief, including relief requested by the plaintiff at the final
21 hearing, whether or not the plaintiff requested such relief at the time
22 of the granting of the initial emergency order.
- 23 (15) An order that requires that the defendant report to the
24 intake unit of the Family Part of the Chancery Division of the
25 Superior Court for monitoring of any other provision of the order.
- 26 (16) In addition to the order required by this subsection
27 prohibiting the defendant from possessing any firearm, the court
28 may also issue an order prohibiting the defendant from possessing
29 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
30 ordering the search for and seizure of any firearm or other weapon
31 at any location where the judge has reasonable cause to believe the
32 weapon is located. The judge shall state with specificity the reasons
33 for and scope of the search and seizure authorized by the order.
- 34 (17) An order prohibiting the defendant from stalking or
35 following, or threatening to harm, to stalk or to follow, the
36 complainant or any other person named in the order in a manner
37 that, taken in the context of past actions of the defendant, would put
38 the complainant in reasonable fear that the defendant would cause
39 the death or injury of the complainant or any other person.
40 Behavior prohibited under this act includes, but is not limited to,
41 behavior prohibited under the provisions of P.L.1992, c.209
42 (C.2C:12-10).
- 43 (18) An order requiring the defendant to undergo a psychiatric
44 evaluation.
- 45 (19) An order directing the possession of any animal owned,
46 possessed, leased, kept, or held by either party or a minor child
47 residing in the household. Where a person has abused or threatened

1 to abuse such animal, there shall be a presumption that possession
2 of the animal shall be awarded to the non-abusive party.

3 c. Notice of orders issued pursuant to this section shall be sent
4 by the clerk of the Family Part of the Chancery Division of the
5 Superior Court or other person designated by the court to the
6 appropriate chiefs of police, members of the State Police and any
7 other appropriate law enforcement agency.

8 d. Upon good cause shown, any final order may be dissolved or
9 modified upon application to the Family Part of the Chancery
10 Division of the Superior Court, but only if the judge who dissolves
11 or modifies the order is the same judge who entered the order, or
12 has available a complete record of the hearing or hearings on which
13 the order was based.

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

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

18

19 3. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 This bill requires copies of certain law enforcement records to be
25 provided, upon request, to victims of domestic violence.

26 Under the bill, a domestic violence victim, or their legal
27 representative, may request copies of the following law
28 enforcement records relating to an act of domestic violence reported
29 to the law enforcement agency:

- 30 • photographs taken by a law enforcement officer;
- 31 • law enforcement officer body camera or dashboard camera
32 footage, provided the footage does not implicate the identity
33 or statements of a third-party witness;
- 34 • 9-1-1 transcript or recording, provided the transcript or
35 recording does not implicate the identity or statements of a
36 third-party witness; or
- 37 • contents of the police report, as deemed appropriate by the
38 law enforcement agency, provided the contents of the report
39 do not implicate or contain the identity or statements of a
40 third-party witness or jeopardize an ongoing criminal
41 investigation.

42 The records are to be provided at no charge to the requester
43 within 10 calendar days of the request. In providing copies of the
44 requested law enforcement records, the law enforcement agency
45 may redact the statements of third-party witnesses if production of
46 the information would either jeopardize an ongoing criminal
47 investigation or could jeopardize the safety of any third party. If
48 the law enforcement agency is unable to produce a copy of a

1 requested record within the 10-day period, the law enforcement
2 agency may request additional time from the court to redact the
3 documents. A request for additional time to produce the records is
4 to be made in writing to the court with notice to the victim or
5 victim's legal representative. If granted additional time by the
6 court, the law enforcement agency is to provide a copy of the
7 records to the victim or victim's legal representative within 24
8 hours after the record becomes available. A record is to be
9 provided electronically or in hard copy paper form, in accordance
10 with the request of the victim or victim's representative.

11 The Family Part of the Chancery Division of the Superior Court
12 may enforce the victim or representative's request for records under
13 the bill and compel production by issuing an order to show cause to
14 the law enforcement agency.

15 The provisions of the bill are not to be construed as superseding
16 the right of a victim to access records under current law pursuant to
17 the open public records act (OPRA). A victim of domestic violence
18 who is seeking to access law enforcement agency records but who
19 is not seeking other relief in the Family Part of the Chancery
20 Division of the Superior Court may enforce their right of access
21 pursuant to OPRA on an expedited basis. The victim shall not be
22 required to complete a formal OPRA request form to access the
23 records.

24 Under current law, a hearing is to be held in the family part
25 within 10 days of the filing of a complaint of domestic violence.
26 Under the bill, if there are law enforcement records related to an
27 incident which is the subject of a complaint or the domestic
28 violence history described in the complaint, and the plaintiff has
29 requested the records, the court is required to grant plaintiff's
30 request for an adjournment if reasonably needed to collect evidence
31 contained in the records. The court may grant the plaintiff's request
32 for an adjournment of up to 14 calendar days to provide the plaintiff
33 additional time to seek production of the records. If a plaintiff has
34 requested records from a law enforcement agency pursuant to
35 provisions of the bill but has not received the records as of the date
36 of the original or rescheduled hearing, the law enforcement
37 agency's failure to provide the requested records is to be noted on
38 the record prior to the court making a final determination on the
39 request for restraints. The court is not permitted to draw a negative
40 inference if: a plaintiff has requested, but not received, records
41 pursuant to the bill; the production of records is incomplete; or the
42 plaintiff did not report an act of domestic violence to law
43 enforcement.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5285

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2023

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 5285.

As amended and reported by the committee, Assembly Bill No. 5285 requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or their legal representative, may request copies of the following records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint, provided that certain records do not implicate the identity or statements of a third party witness or jeopardize an ongoing investigation:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA). The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time by the court, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint.

Under the bill, if there are law enforcement records related to a domestic violence incident related to the complaint, and the plaintiff has requested the records, the court is required to grant the plaintiff's request for an adjournment if reasonably needed to collect evidence contained in the records. If a plaintiff has requested records pursuant to provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief pursuant to the bill.

The bill further provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order.

COMMITTEE AMENDMENTS:

The Committee amended the bill to:

(1) clarify that a request for records may be made to the law enforcement agency with primary responsibility for investigating a domestic violence complaint;

(2) provide that the absence of law enforcement records is not to be a basis to deny relief pursuant to the bill;

(3) provide that if a law enforcement agency is unable to produce requested records within the 10-day-period, the law enforcement agency is required to make the law enforcement officers primarily responsible for investigating the complaint available for the hearing;

(4) provide that the court may issue appropriate protective orders to limit the disclosure of information to appropriate parties;

(5) remove the provision of the bill which provides that a court may compel the production of records by issuing an order to show cause to the law enforcement agency;

(6) provide that the court is to grant a law enforcement agency's request for additional time to produce records, unless the court finds good cause to deny the request;

(7) remove the provision that provides that the court may grant a plaintiff's request for an adjournment of up to 14 calendar days to provide plaintiff additional time seek production of records from a law enforcement agency; and

(8) make technical corrections to the bill.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5285

STATE OF NEW JERSEY

DATED: MARCH 9, 2023

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No.5285 (1R).

As reported by the committee, Assembly Bill No. 5285 (1R) requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or the victim's legal representative, may request copies of the following records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint, provided that certain records do not implicate the identity or statements of a third party witness or jeopardize an ongoing investigation:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA). The records are to be provided at no charge to the requester within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time by the court, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

Victims of domestic violence who are seeking to access law enforcement agency records under the bill, but who are not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a complaint of domestic violence.

Under the bill, if there are law enforcement records related to a domestic violence incident, which is the subject of a complaint or described in the complaint, and the plaintiff has requested the records, the court is required to grant the plaintiff's request for an adjournment if reasonably needed to collect evidence contained in the records. If a plaintiff has requested records from a law enforcement agency pursuant to provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief pursuant to the bill.

The bill further provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. These records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or the Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5285

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5285 (1R).

As amended, this bill requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or their legal representative, may request copies of certain records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint. If release of the records would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order. A person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The following records may be requested:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill clarifies that the right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA) or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief pursuant to the bill.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order. Under the bill, a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would estop the defendant from denying the same conduct in any proceeding brought under the bill.

COMMITTEE AMENDMENTS:

The Committee amended the bill to:

(1) clarify that the provisions of the bill regarding access of records are in addition to rights to access records under current law pursuant to the Rules of Court;

(2) clarify that a law enforcement agency that is unable to produce a copy of a requested record within the 10-day-period, upon the request of the victim, is required to make at least one of the officers primarily responsible for investigating the complaint available for the hearing, provided the court does not reschedule the hearing to be conducted pursuant to the "Prevention of Domestic Violence Act of 1991";

(3) remove duplicative language and clarify that if the release of the records under the bill would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order;

(4) provide that, in issuing a protective order under the bill, the court may set terms and conditions authorizing or limiting the disclosure or use of information to the extent warranted;

(5) provide that a person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution;

(6) clarify that a request may be made under the bill for a copy of any records related to the alleged act of domestic violence which is the subject of a complaint filed pursuant to the “Prevention of Domestic Violence Act of 1991,” or an act of domestic violence relating to a previous complaint filed pursuant to the “Prevention of Domestic Violence Act of 1991” involving both parties; and

(7) provide that a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the “Prevention of Domestic Violence Act of 1991” would stop the defendant from denying the same conduct in any proceeding brought under the bill.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 5285

STATE OF NEW JERSEY

DATED: MAY 18, 2023

As reported by the committee, Assembly Bill No. 5285 (2R) requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or the victim's legal representative, may request copies of certain records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint. If the release of the records would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order. A person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The following records may be requested:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill clarifies that the right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA) or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA

on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order. Under the bill, a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would estop the defendant from denying the same conduct in any proceeding brought under the bill.

As reported by the committee, Assembly Bill No. 5285 (2R) is identical to the Senate Committee Substitute for Senate Bill No. 3708, which also was reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 5285

STATE OF NEW JERSEY

DATED: DECEMBER 21, 2023

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5285 (2R).

The bill requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or the victim's legal representative, may request copies of certain records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint. If the release of the records would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order. A person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The following records may be requested:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill clarifies that the right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA) or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the

Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order. Under the bill, a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would estop the defendant from denying the same conduct in any proceeding brought under the bill.

As reported by the committee, Assembly Bill No. 5285 (2R) is identical to the Senate Committee Substitute for Senate Bill No. 3708, which also was reported by the committee on this same date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.

The bill may expand the number of charges related to the dissemination of law enforcement records in violation of protective orders, which may result in convictions for crimes of the third and fourth degree, and disorderly persons offenses. This would increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts, as additional defendants would be prosecuted and tried for these crimes and offenses.

The OLS notes that crimes of the third and fourth degree are adjudicated by the Superior Court, while disorderly persons offenses

are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5285

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: AUGUST 22, 2023

SUMMARY

- Synopsis:** Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request.
- Type of Impact:** Annual State, county, and municipal expenditure and revenue increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Corrections; Administrative Office of the Courts; Superior Courts; Municipal Courts; State, County, and Municipal Law Enforcement and Prosecutors.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.
- The bill may expand the number of charges related to the dissemination of law enforcement records in violation of protective orders, which may result in convictions for crimes of the third and fourth degree, and disorderly persons offenses. This would increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts, as additional defendants would be prosecuted and tried for these crimes and offenses.

- The OLS notes that crimes of the third and fourth degree are adjudicated by the Superior Court, while disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

BILL DESCRIPTION

This bill requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or their legal representative, may request copies of the following records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint, provided that certain records are not released pursuant to a protective order and do not jeopardize an ongoing investigation or the safety of any person:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill establishes that anyone who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the Open Public Records Act or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time by the court, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court, may enforce their right of access pursuant to the Open Public Records Act on an expedited basis. The victim shall not be required to complete a formal Open Public Records Act request form to access the records.

Under current law, a hearing is to be held in the Family Part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, the Criminal Division of the Superior Court, or the Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.

Law Enforcement, Court, and Corrections Expenditure Increases: The OLS notes that current law provides that crime victims are not to be charged any fee otherwise prescribed by law or regulation to obtain copies of the victim's own records to which the victim is entitled to access as provided in the Open Public Records Act. These records include, but are not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order. This bill would expand the types of records which may be requested by these victims to: photographs taken by a law enforcement officer; law enforcement officer body worn camera or dashboard camera footage; 9-1-1 transcript or recording; or contents of a police report. The 2020 Domestic Violence Offense Report statistics indicate that there were 63,058 domestic offenses reported by law enforcement in 2020, a six percent increase from those reported in 2019. The OLS does not have information available on the projected number of information requests in correlation to the bill's expansion of records. The OLS also does not have information on the counties or municipalities that may already provide this information to victims.

These records are currently required to be provided within 10 days and at no charge to the requester; however, the law enforcement agency may request additional time through the court. This bill provides that, upon request of the victim, an individual may receive a copy of police records as expanded under the bill and creates a redaction requirement. The OLS estimates that the expansion of data and the redaction requirement could create an expense as additional dedicated resources by State, county, and municipal law enforcement agencies may be required. Additionally, if the respective law enforcement agency cannot provide the requested information in 10 days, and the court does not approve a delay for providing the records, the agency is required to dedicate an officer to appear at a hearing. The expanded access to records under the bill may result in an increase in requests for the reports, possibly increasing expenditures to State, county, and municipal law enforcement agencies which are not currently issuing the reports without a formal Open Public Records Act request.

Further, this bill indicates the dissemination of law enforcement records in violation of a protective order may result in charges of crimes of the third and fourth degree, and disorderly persons offenses, which will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts as additional defendants may be prosecuted and tried for these established crimes and offenses.

Crimes of the third and fourth degree are adjudicated by the Superior Court. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and

disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

Fine and Penalty Payments: This bill may expand the number of charges related to the unauthorized dissemination of law enforcement records for established offenses such as harassment, cyber-harassment, and invasion of privacy, resulting in a higher number of crimes of the third and fourth degree, and disorderly persons offenses. The bill thusly creates the potential for recurring State and municipal revenue gains.

Crimes of the third degree are punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A disorderly persons offense is punishable by up to six months' imprisonment, a fine of up to \$1,000, or both. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances.

The OLS cannot determine the number of convictions the bill's provisions may generate, and by extension, the total of any resultant fine and penalty revenue. The OLS additionally notes that due to financial constraints, many such penalties go unpaid.

Section: *Law and Public Safety*
Analyst: *Kristin Brunner Santos*
 Lead Fiscal Analyst
Approved: *Thomas Koenig*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3708

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MARCH 9, 2023

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Co-Sponsored by:

Senators Gopal and O'Scanlon

SYNOPSIS

Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/18/2023)

1 AN ACT concerning victims of domestic violence and
2 supplementing and amending P.L.1991, c.261.

3

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

6

7 1. (New section) a. Within 10 calendar days of the request of a
8 victim of domestic violence or the victim's legal representative, a
9 law enforcement agency shall provide at no cost to the victim or
10 victim's legal representative copies of law enforcement records
11 relating to an act of domestic violence reported to the law
12 enforcement agency. If the law enforcement agency is unable to
13 produce a copy of a requested record within the 10-day-period, a
14 copy of the record shall be provided to the victim or victim's
15 representative within 24 hours after the record becomes available.
16 The record shall be provided electronically or in hard copy paper
17 form, in accordance with the request of the victim or victim's
18 representative. The records shall be certified pursuant to New
19 Jersey Rules of Evidence.

20 A request may be made for a copy of any of the following records
21 related to an act of domestic violence:

22 (1) photographs taken by a law enforcement officer;

23 (2) law enforcement officer body camera or dashboard camera
24 footage, provided the footage does not implicate the identity or
25 statements of a third-party witness;

26 (3) 9-1-1 transcript or recording, provided the transcript or
27 recording does not implicate the identity or statements of a third-
28 party witness; and

29 (4) contents of the police report, as deemed appropriate by the
30 law enforcement agency, provided the contents of the report do not
31 implicate or contain the identity or statements of a third-party
32 witness or jeopardize an ongoing criminal investigation.

33 In providing copies of the requested law enforcement records,
34 the law enforcement agency may redact the statements of third-
35 party witnesses if production of the information would either
36 jeopardize an ongoing criminal investigation or could jeopardize the
37 safety of any third-party. If the law enforcement agency is unable
38 to produce a copy of a requested record within the 10-day-period,
39 the law enforcement agency may request additional time from the
40 court to redact the documents. A request for additional time to
41 produce the records shall be made in writing to the court with notice
42 to the victim or victim's legal representative. If granted additional
43 time by the court, the law enforcement agency shall provide a copy
44 of the records to the victim or victim's legal representative within
45 24 hours after the record becomes available.

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

Matter underlined thus is new matter.

1 b. The Family Part of the Chancery Division of the Superior
2 Court shall have jurisdiction to enforce the victim or victim's legal
3 representative's request for copies of law enforcement records
4 pursuant to this section, and to compel production of the requested
5 records from the law enforcement agency by issuing an order to
6 show cause to the law enforcement agency.

7 c. Nothing in this section shall be construed as superseding the
8 right of a victim to access records pursuant to the provisions of
9 P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open
10 public records act.

11 d. A victim of domestic violence who is seeking to access law
12 enforcement agency records but who is not seeking other relief in
13 the Family Part of the Chancery Division of the Superior Court may
14 enforce their right of access pursuant to P.L.1963, c.73 (C.47:1A-1
15 et seq.) on an expedited basis. The victim shall not be required to
16 complete a formal open public records act request form to access
17 the records.

18
19 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to
20 read as follows:

21 13. a. **[A]** Except as otherwise provided in this subsection, a
22 hearing shall be held in the Family Part of the Chancery Division of
23 the Superior Court within 10 days of the filing of a complaint
24 pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in the
25 county where the ex parte restraints were ordered, unless good
26 cause is shown for the hearing to be held elsewhere. A copy of the
27 complaint shall be served on the defendant in conformity with the
28 Rules of Court. If a criminal complaint arising out of the same
29 incident which is the subject matter of a complaint brought under
30 P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17
31 et seq.) has been filed, testimony given by the plaintiff or defendant
32 in the domestic violence matter shall not be used in the
33 simultaneous or subsequent criminal proceeding against the
34 defendant, other than domestic violence contempt matters and
35 where it would otherwise be admissible hearsay under the rules of
36 evidence that govern where a party is unavailable. If there are law
37 enforcement records related to an incident which is the subject of a
38 complaint or the domestic violence history described in the
39 complaint, and the plaintiff has requested the records, the court
40 shall grant plaintiff's request for an adjournment if reasonably
41 needed to collect evidence contained in the law enforcement
42 records. The court may grant the plaintiff's request for an
43 adjournment of up to 14 calendar days to provide the plaintiff
44 additional time to seek production of records from a law
45 enforcement agency pursuant to section 1 of P.L. , c. (C.)
46 (pending before the Legislature as this bill). If the plaintiff has
47 requested records from a law enforcement agency pursuant to
48 section 1 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), but has not received the records as of the date of the
2 original or rescheduled hearing, the law enforcement agency's
3 failure to provide the requested records shall be noted on the record
4 prior to the court making a final determination on the request for
5 restraints. The court shall not draw a negative inference if: a
6 plaintiff has requested, but not received, records pursuant to this
7 section; the production of records is incomplete; or the plaintiff did
8 not report an act of domestic violence to law enforcement. At the
9 hearing the standard for proving the allegations in the complaint
10 shall be by a preponderance of the evidence.

11 The court shall consider but not be limited to the following
12 factors:

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

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

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

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

19 (5) In determining custody and parenting time the protection of
20 the victim's safety; and

21 (6) The existence of a verifiable order of protection from
22 another jurisdiction.

23 An order issued under this act shall only restrain or provide
24 damages payable from a person against whom a complaint has been
25 filed under this act and only after a finding or an admission is made
26 that an act of domestic violence was committed by that person. The
27 issue of whether or not a violation of this act occurred, including an
28 act of contempt under this act, shall not be subject to mediation or
29 negotiation in any form. In addition, where a temporary or final
30 order has been issued pursuant to this act, no party shall be ordered
31 to participate in mediation on the issue of custody or parenting time.

32 b. In proceedings in which complaints for restraining orders
33 have been filed, the court shall grant any relief necessary to prevent
34 further abuse. In addition to any other provisions, any restraining
35 order issued by the court shall bar the defendant from purchasing,
36 owning, possessing or controlling a firearm and from receiving or
37 retaining a firearms purchaser identification card or permit to
38 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
39 which the restraining order is in effect or two years, whichever is
40 greater. The order shall require the immediate surrender of any
41 firearm or other weapon belonging to the defendant. The order
42 shall include notice to the defendant of the penalties for a violation
43 of any provision of the order, including but not limited to the
44 penalties for contempt of court and unlawful possession of a firearm
45 or other weapon pursuant to N.J.S.2C:39-5.

46 A law enforcement officer shall accompany the defendant, or
47 may proceed without the defendant if necessary, to any place where
48 any firearm or other weapon belonging to the defendant is located

1 to ensure that the defendant does not gain access to any firearm or
2 other weapon, and a law enforcement officer shall take custody of
3 any firearm or other weapon belonging to the defendant. If the
4 order prohibits the defendant from returning to the scene of
5 domestic violence or other place where firearms or other weapons
6 belonging to the defendant are located, any firearm or other weapon
7 located there shall be seized by a law enforcement officer. The
8 provisions of this subsection requiring the surrender or removal of a
9 firearm, card, or permit shall not apply to any law enforcement
10 officer while actually on duty, or to any member of the Armed
11 Forces of the United States or member of the National Guard while
12 actually on duty or traveling to or from an authorized place of duty.
13 At the hearing the judge of the Family Part of the Chancery
14 Division of the Superior Court may issue an order granting any or
15 all of the following relief:

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

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

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

37 (a) The court shall consider a request by a custodial parent who
38 has been subjected to domestic violence by a person with parenting
39 time rights to a child in the parent's custody for an investigation or
40 evaluation by the appropriate agency to assess the risk of harm to
41 the child prior to the entry of a parenting time order. Any denial of
42 such a request must be on the record and shall only be made if the
43 judge finds the request to be arbitrary or capricious.

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

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

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

29 (6) An order restraining the defendant from entering the
30 residence, property, school, or place of employment of the victim or
31 of other family or household members of the victim and requiring
32 the defendant to stay away from any specified place that is named
33 in the order and is frequented regularly by the victim or other
34 family or household members.

35 (7) An order restraining the defendant from making contact with
36 the plaintiff or others, including an order forbidding the defendant
37 from personally or through an agent initiating any communication
38 likely to cause annoyance or alarm including, but not limited to,
39 personal, written, or telephone contact with the victim or other
40 family members, or their employers, employees, or fellow workers,
41 or others with whom communication would be likely to cause
42 annoyance or alarm to the victim.

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

- 1 (9) An order granting either party temporary possession of
2 specified personal property, such as an automobile, checkbook,
3 documentation of health insurance, an identification document, a
4 key, and other personal effects.
- 5 (10) An order awarding emergency monetary relief, including
6 emergency support for minor children, to the victim and other
7 dependents, if any. An ongoing obligation of support shall be
8 determined at a later date pursuant to applicable law.
- 9 (11) An order awarding temporary custody of a minor child. The
10 court shall presume that the best interests of the child are served by
11 an award of custody to the non-abusive parent.
- 12 (12) An order requiring that a law enforcement officer
13 accompany either party to the residence or any shared business
14 premises to supervise the removal of personal belongings in order
15 to ensure the personal safety of the plaintiff when a restraining
16 order has been issued. This order shall be restricted in duration.
- 17 (13) (Deleted by amendment, P.L.1995, c.242).
- 18 (14) An order granting any other appropriate relief for the
19 plaintiff and dependent children, provided that the plaintiff consents
20 to such relief, including relief requested by the plaintiff at the final
21 hearing, whether or not the plaintiff requested such relief at the time
22 of the granting of the initial emergency order.
- 23 (15) An order that requires that the defendant report to the intake
24 unit of the Family Part of the Chancery Division of the Superior
25 Court for monitoring of any other provision of the order.
- 26 (16) In addition to the order required by this subsection
27 prohibiting the defendant from possessing any firearm, the court
28 may also issue an order prohibiting the defendant from possessing
29 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
30 ordering the search for and seizure of any firearm or other weapon
31 at any location where the judge has reasonable cause to believe the
32 weapon is located. The judge shall state with specificity the reasons
33 for and scope of the search and seizure authorized by the order.
- 34 (17) An order prohibiting the defendant from stalking or
35 following, or threatening to harm, to stalk or to follow, the
36 complainant or any other person named in the order in a manner
37 that, taken in the context of past actions of the defendant, would put
38 the complainant in reasonable fear that the defendant would cause
39 the death or injury of the complainant or any other person.
40 Behavior prohibited under this act includes, but is not limited to,
41 behavior prohibited under the provisions of
42 P.L.1992, c.209 (C.2C:12-10).
- 43 (18) An order requiring the defendant to undergo a psychiatric
44 evaluation.
- 45 (19) An order directing the possession of any animal owned,
46 possessed, leased, kept, or held by either party or a minor child
47 residing in the household. Where a person has abused or threatened

1 to abuse such animal, there shall be a presumption that possession
2 of the animal shall be awarded to the non-abusive party.

3 c. Notice of orders issued pursuant to this section shall be sent
4 by the clerk of the Family Part of the Chancery Division of the
5 Superior Court or other person designated by the court to the
6 appropriate chiefs of police, members of the State Police and any
7 other appropriate law enforcement agency.

8 d. Upon good cause shown, any final order may be dissolved or
9 modified upon application to the Family Part of the Chancery
10 Division of the Superior Court, but only if the judge who dissolves
11 or modifies the order is the same judge who entered the order, or
12 has available a complete record of the hearing or hearings on which
13 the order was based.

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

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

18

19 3. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 This bill requires copies of certain law enforcement records to be
25 provided, upon request, to victims of domestic violence.

26 Under the bill, a domestic violence victim, or their legal
27 representative, may request copies of the following law
28 enforcement records relating to an act of domestic violence reported
29 to the law enforcement agency:

- 30 • photographs taken by a law enforcement officer;
- 31 • law enforcement officer body camera or dashboard camera
32 footage, provided the footage does not implicate the identity
33 or statements of a third-party witness;
- 34 • 9-1-1 transcript or recording, provided the transcript or
35 recording does not implicate the identity or statements of a
36 third-party witness; or
- 37 • contents of the police report, as deemed appropriate by the
38 law enforcement agency, provided the contents of the report
39 do not implicate or contain the identity or statements of a
40 third-party witness or jeopardize an ongoing criminal
41 investigation.

42 The records are to be provided at no charge to the requester
43 within 10 calendar days of the request. In providing copies of the
44 requested law enforcement records, the law enforcement agency
45 may redact the statements of third-party witnesses if production of
46 the information would either jeopardize an ongoing criminal
47 investigation or could jeopardize the safety of any third party. If
48 the law enforcement agency is unable to produce a copy of a

1 requested record within the 10-day period, the law enforcement
2 agency may request additional time from the court to redact the
3 documents. A request for additional time to produce the records is
4 to be made in writing to the court with notice to the victim or
5 victim's legal representative. If granted additional time by the
6 court, the law enforcement agency is to provide a copy of the
7 records to the victim or victim's legal representative within 24
8 hours after the record becomes available. A record is to be
9 provided electronically or in hard copy paper form, in accordance
10 with the request of the victim or victim's representative.

11 The Family Part of the Chancery Division of the Superior Court
12 may enforce the victim or representative's request for records under
13 the bill and compel production by issuing an order to show cause to
14 the law enforcement agency.

15 The provisions of the bill are not to be construed as superseding
16 the right of a victim to access records under current law pursuant to
17 the open public records act (OPRA). A victim of domestic violence
18 who is seeking to access law enforcement agency records but who
19 is not seeking other relief in the Family Part of the Chancery
20 Division of the Superior Court may enforce their right of access
21 pursuant to OPRA on an expedited basis. The victim shall not be
22 required to complete a formal OPRA request form to access the
23 records.

24 Under current law, a hearing is to be held in the family part
25 within 10 days of the filing of a complaint of domestic violence.
26 Under the bill, if there are law enforcement records related to an
27 incident which is the subject of a complaint or the domestic
28 violence history described in the complaint, and the plaintiff has
29 requested the records, the court is required to grant plaintiff's
30 request for an adjournment if reasonably needed to collect evidence
31 contained in the records. The court may grant the plaintiff's request
32 for an adjournment of up to 14 calendar days to provide the plaintiff
33 additional time to seek production of the records. If a plaintiff has
34 requested records from a law enforcement agency pursuant to
35 provisions of the bill but has not received the records as of the date
36 of the original or rescheduled hearing, the law enforcement
37 agency's failure to provide the requested records is to be noted on
38 the record prior to the court making a final determination on the
39 request for restraints. The court is not permitted to draw a negative
40 inference if: a plaintiff has requested, but not received, records
41 pursuant to the bill; the production of records is incomplete; or the
42 plaintiff did not report an act of domestic violence to law
43 enforcement.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 3708

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 3708 SCS.

As reported by the Senate Law and Public Safety Committee, the Senate Committee Substitute for Senate Bill No. 3708 requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or the victim's legal representative, may request copies of certain records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint. If the release of the records would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order. A person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The following records may be requested:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill clarifies that the right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA) or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order. Under the bill, a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would estop the defendant from denying the same conduct in any proceeding brought under the bill.

As reported by the committee, the Senate Committee Substitute for Senate Bill No. 3708 is identical to Assembly Bill No. 5285 (2R), which also was reported by the committee on this same date.

COMMITTEE SUBSTITUTE:

The committee substitute made the following changes to:

(1) clarify that the provisions of the bill regarding access of records are in addition to rights to access records under current law and pursuant to the Rules of Court;

(2) clarify that a law enforcement agency that is unable to produce a copy of a requested record within the 10-day-period, upon the request of the victim, is required to make at least one of the officers primarily responsible for investigating the complaint available for the hearing, provided the court does not reschedule the hearing to be conducted pursuant to the "Prevention of Domestic Violence Act of 1991";

(3) clarify that if the release of the records under the bill would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order;

(4) provide that in issuing a protective order under the bill, the court may set terms and conditions authorizing or limiting the disclosure or use of information to the extent warranted;

(5) provide that a person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution;

(6) clarify that a request may be made under the bill for a copy of any records related to the alleged act of domestic violence which is the subject of a complaint filed pursuant to the "Prevention of Domestic Violence Act of 1991," or an act of domestic violence relating to a previous complaint filed pursuant to the "Prevention of Domestic Violence Act of 1991" involving both parties;

(7) provide that a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would prevent the defendant from denying the same conduct in any proceeding brought under the bill;

(8) provide that the court is to grant a law enforcement agency's request for additional time to produce records, unless the court finds good cause to deny the request;

(9) remove the provision that provides that the court may grant a plaintiff's request for an adjournment of up to 14 calendar days to provide plaintiff additional time seek production of records from a law enforcement agency; and

(10) make technical corrections to the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3708**

STATE OF NEW JERSEY

DATED: DECEMBER 21, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3708 SCS.

The bill requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or the victim's legal representative, may request copies of certain records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint. If the release of the records would jeopardize an ongoing criminal investigation or the safety of any person, the records are required to either be redacted so that release to the victim does not jeopardize an ongoing criminal investigation or the safety of any person, or released pursuant to a protective order. A person who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The following records may be requested:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill clarifies that the right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA) or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the

Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order. Under the bill, a final judgment rendered in favor of the State in any criminal proceeding brought pursuant to the "Prevention of Domestic Violence Act of 1991" would estop the defendant from denying the same conduct in any proceeding brought under the bill.

As reported by the committee, the Senate Committee Substitute for Senate Bill No. 3708 is identical to Assembly Bill No. 5285 (2R), which also was reported by the committee on this same date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.

The bill may expand the number of charges related to the dissemination of law enforcement records in violation of protective orders, which may result in convictions for crimes of the third and fourth degree, and disorderly persons offenses. This would increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts, as additional defendants would be prosecuted and tried for these crimes and offenses.

The OLS notes that crimes of the third and fourth degree are adjudicated by the Superior Court, while disorderly persons offenses

are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3708
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: AUGUST 22, 2023

SUMMARY

- Synopsis:** Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request.
- Type of Impact:** Annual State, county, and municipal expenditure and revenue increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Corrections; Administrative Office of the Courts; Superior Courts; Municipal Courts; State, County, and Municipal Law Enforcement and Prosecutors.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.
- The bill may expand the number of charges related to the dissemination of law enforcement records in violation of protective orders, which may result in convictions for crimes of the third and fourth degree, and disorderly persons offenses. This would increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts, as additional defendants would be prosecuted and tried for these crimes and offenses.

- The OLS notes that crimes of the third and fourth degree are adjudicated by the Superior Court, while disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

BILL DESCRIPTION

This bill requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or their legal representative, may request copies of the following records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint, provided that certain records are not released pursuant to a protective order and do not jeopardize an ongoing investigation or the safety of any person:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The bill establishes that anyone who disseminates a copy of a law enforcement record in violation of a protective order issued under the bill may be subject to criminal prosecution.

The right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the Open Public Records Act or the Rules of Court. The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time by the court, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court, may enforce their right of access pursuant to the Open Public Records Act on an expedited basis. The victim shall not be required to complete a formal Open Public Records Act request form to access the records.

Under current law, a hearing is to be held in the Family Part within 10 days of the filing of a domestic violence complaint. If a plaintiff has requested records pursuant to the provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief.

The bill also provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, the Criminal Division of the Superior Court, or the Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the State, county, and municipal law enforcement agencies will incur indeterminate additional annual operating expenses from processing an increased number of records requests; assigning personnel on certain information requests which may not be completed in the required 10-day time period to redact records; and potentially incarcerating any offenders who violate a protective order under the bill. In addition, the OLS estimates increased State, county, and municipal revenue because of the potential of increased fines and penalties.

Law Enforcement, Court, and Corrections Expenditure Increases: The OLS notes that current law provides that crime victims are not to be charged any fee otherwise prescribed by law or regulation to obtain copies of the victim's own records to which the victim is entitled to access as provided in the Open Public Records Act. These records include, but are not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order. This bill would expand the types of records which may be requested by these victims to: photographs taken by a law enforcement officer; law enforcement officer body worn camera or dashboard camera footage; 9-1-1 transcript or recording; or contents of a police report. The 2020 Domestic Violence Offense Report statistics indicate that there were 63,058 domestic offenses reported by law enforcement in 2020, a six percent increase from those reported in 2019. The OLS does not have information available on the projected number of information requests in correlation to the bill's expansion of records. The OLS also does not have information on the counties or municipalities that may already provide this information to victims.

These records are currently required to be provided within 10 days and at no charge to the requester; however, the law enforcement agency may request additional time through the court. This bill provides that, upon request of the victim, an individual may receive a copy of police records as expanded under the bill and creates a redaction requirement. The OLS estimates that the expansion of data and the redaction requirement could create an expense as additional dedicated resources by State, county, and municipal law enforcement agencies may be required. Additionally, if the respective law enforcement agency cannot provide the requested information in 10 days, and the court does not approve a delay for providing the records, the agency is required to dedicate an officer to appear at a hearing. The expanded access to records under the bill may result in an increase in requests for the reports, possibly increasing expenditures to State, county, and municipal law enforcement agencies which are not currently issuing the reports without a formal Open Public Records Act request.

Further, this bill indicates the dissemination of law enforcement records in violation of a protective order may result in charges of crimes of the third and fourth degree, and disorderly persons offenses, which will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor's offices, the Administrative Office of the Courts, Superior Courts, and municipal courts as additional defendants may be prosecuted and tried for these established crimes and offenses.

Crimes of the third and fourth degree are adjudicated by the Superior Court. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration generally applies to first-time offenders of crimes of the third and fourth degree, and

disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

Fine and Penalty Payments: This bill may expand the number of charges related to the unauthorized dissemination of law enforcement records for established offenses such as harassment, cyber-harassment, and invasion of privacy, resulting in a higher number of crimes of the third and fourth degree, and disorderly persons offenses. The bill thusly creates the potential for recurring State and municipal revenue gains.

Crimes of the third degree are punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A disorderly persons offense is punishable by up to six months' imprisonment, a fine of up to \$1,000, or both. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances.

The OLS cannot determine the number of convictions the bill's provisions may generate, and by extension, the total of any resultant fine and penalty revenue. The OLS additionally notes that due to financial constraints, many such penalties go unpaid.

Section: Law and Public Safety
Analyst: Kristin Brunner Santos
Lead Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

01/16/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

SCS for S-281/ACS for A-3791 (Greenstein, Turner/Sumter, Reynolds-Jackson) – w/STATEMENT - Concerns automatic fire sprinkler systems within newly constructed townhouses

[Copy of Statement](#)

S-539wGR/A-2140 (Ruiz, Pou/Reynolds-Jackson, Wimberly, Mosquera) - Permits online purchase of eligible foods using WIC funds and use of WIC funds for grocery delivery charges

S-659/A-2014 (Oroho, Greenstein/Conaway, Wirths, Umba) - “Manufacturing in Higher Education Act”; requires various State entities to promote manufacturing career pathways for students and provides assistance to manufacturing industry

S-1110/A-3936 (Polistina, Singleton/Guardian, Swift, McClellan) - Authorizes CRDA to finance transportation projects between Atlantic City Airport and Atlantic City Tourism District

S-1662/A-3526 (Ruiz, Codey/Lampitt, Benson, Sauckie) - Requires NJ Youth Suicide Prevention Advisory Council to prepare report regarding suicide prevention instruction in public schools

S-1680wGR/A-2257 (Pou, Ruiz/Murphy, Quijano, Wimberly) - Designates each community college in State as provider of allowable services under SNAP employment and training program

S-2076/ACS for A-3319 (Zwicker, Greenstein/McKnight, Lampitt) - Establishes “Twelfth Grade Postsecondary Transition Year Pilot Program” in Department of Education

S-2535wGR/A-4048 (Polistina, Pou/Benson, McKnight, Reynolds-Jackson, Carter) - Requires health benefits coverage of hearing aids and cochlear implants

S-2841/A-4292 (Scutari, Bramnick/Carter) - Raises minimum amount of liability coverage for commercial motor vehicles and autocabs

SCS for S-3080/ACS for-398 (Ruiz, Burgess/Caputo, Giblin, Tucker) - Establishes position of Youth Disconnection Prevention and Recovery Ombudsperson; establishes “School Disconnection Prevention Task Force”; appropriates \$200,000

S-3102/A-4715 (Smith, Singleton/Stanley, Benson) - Establishes uptime requirement for electric vehicle charging station incentive programs

S-3176/A-4760 (Greenstein, Smith/Swain, Haider, Tully) - Requires DEP and Drinking Water Quality Institute to perform study concerning regulation and treatment of perfluoroalkyl and polyfluoroalkyl substances

SCS for S-3632 and 3649w/GR/ACS for A-1948 (Johnson, Cryan/Haider, Conaway, Quijano) - Requires labeling of non-flushable disposable wipes

S-3758/A-5343 (Cryan/Karabinchak) - Changes deadline for unaffiliated mail-in voters to declare their political party before primary election

S-3837/A-5438 (Pou, Cruz-Perez/Pintor Marin, Wimberly) - Clarifies process for administrative appropriations to UEZs

S-3897/A-5578 (Ruiz, Sarlo/Jasey, Carter, Reynolds-Jackson) - Authorizes Higher Education Student Assistance Authority to award annual summer tuition aid grants

S-4040/A-5881 (Polistina, Lagana/Tully, Guardian, Swift) - Concerns jurisdiction and operations of regional municipal courts

S-4084/A-5851 (Ruiz, Cruz-Perez/Moriarty, Calabrese, Moen) - Concerns temporary registration certificates and license plates

S-4130/A-5849 (Codey/Jasey, Tucker) - Special legislation to change name of “Township of South Orange Village” to “South Orange Village”; changes titles of certain municipal officials; permits nonpartisan municipal elections to be moved to November; permits stipend for governing body members

S-4206/A-5856 (Sarlo/Calabrese) - Changes number of signatures required on primary election petition to nominate certain municipal candidates in certain municipalities

S-4209/A-5879 (Sarlo/Pintor Marin) - Eliminates vote on school budgets for Type II school districts in April elections, except for separate proposals to spend above cap

S-4268/A-5911 (Scutari/Danielsen) - Permits certain special State officers to represent cannabis businesses

A-203/S-2884 (Rooney, Benson, Caputo/A.M. Bucco) - Authorizes creation of special license plates commemorating horse as State animal

A-1100/S-995 (Calabrese, Mukherji, McKnight/Ruiz, Stack) - Requires entities to remove abandoned lines and mark information on certain lines

A-1107/S-770 (Chaparro, Murphy, Mukherji/Pou, Beach) - Directs Chief Technology Officer to conduct study on impacts of redacting handwritten signatures published on State websites; allows for protocols for such redactions to be established by rules and regulations

ACS for A-1255/SS for S-1794 (Stanley, Conaway, Benson/Gopal, Singer) - Updates requirements and standards for authorization and prior authorization of health care services

A-1727/S-3300 (Speight, Reynolds-Jackson, Verrelli/Stanfield, Ruiz) - Requires Attorney General to perform outreach and provide services to victims of human trafficking under certain circumstances

A-1729/S-3550 (Speight, Reynolds-Jackson, McKnight/Greenstein, Ruiz) - Requires AG to address human trafficking in underserved communities

A-1755/S-2505 (McKeon, Calabrese, Conaway/Smith, Greenstein) - Requires installation of operational automatic rain sensor or smart sprinkler as condition of sale of certain real properties, and on certain commercial, retail, and industrial properties and common interest communities within specified timeframes

A-2146wGR/S-855 (Reynolds-Jackson, Wimberly, Sumter/Singleton, Beach) - Creates State business assistance program to establish contracting agency procurement goals for socially and economically disadvantaged business enterprises

A-2581/S-2503 (Lampitt, Park/Beach) - Provides that certain cosmetology and hairstyling courses may be taught using distance learning technology

A-3142/S-1564 (Moen, Moriarty, Benson/Singleton, Corrado) - Authorizes grants to purchase and rehabilitate abandoned homes for homeless veterans

A-3211/S-2302 (Speight, Haider, Swain/Gopal, Ruiz) - Establishes “New Jersey Feminine Hygiene Products for the Homeless Act”

A-3980/S-2706 (Speight, McKnight, Atkins/Zwicker, Turner) - Grants child placed in resource family care and resource family parents the right to be notified when case manager or supervisor is assigned to child; grants child in resource family care right to be notified of certain property and benefits

A-4033wGR/S-2657 (Coughlin, Wimberly/Sarlo, Ruiz) - Extends deadline for completion of school district’s annual audit

A-4049/S-3495 (McKnight, Reynolds-Jackson, Benson/Vitale, Johnson) - Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid

A-4105/S-4202 (Lopez, Jimenez, Quijano/Vitale, Turner) - Establishes Interagency Council on Homelessness

A-4183/S-4264 (Haider/Singleton) - Concerns local unit filing requirement for certain shared services agreements

A-4212/S-2762 (Pintor Marin, Reynolds-Jackson, Verrelli/Ruiz, Cunningham) - Establishes Center for Career Relevant Education and Talent Evaluation of New Jersey at Thomas Edison State University

A-4337/S-4156 (Conaway, Atkins, Rooney/Singleton, Pou) - Requires Department of Health to provide information to Statewide 2-1-1 telephone system regarding the location of safe disposal sites for hypodermic syringes and needles and prescription drugs

ACS for A-4496/SCS for S-3247 (Coughlin, Lampitt, Karabinchak, Wimberly/Zwicker, Greenstein) - Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority; establishes "Charter School and Renaissance School Project Facilities Loan Program" in EDA

A-4522/S-3234 (Moen, McKnight, Quijano/Singer, Singleton) - Requires certain disclosures by sellers of single-family homes with solar panels installed

A-4691/S-1530 (Swain, DeAngelo, Speight/Greenstein, Zwicker) - Requires hazard mitigation plans to include climate change-related threat assessments and hazard prevention and mitigation strategies

A-4723/S-2740 (McKeon, Moriarty, Rooney/Codey, Scutari) - Requires motor vehicle dealer to offer to delete personal information in motor vehicles in certain situations

A-4791/S-3184 (Kennedy, Haider, McKeon/Diegnan, Sarlo) - Establishes "Resiliency and Environmental System Investment Charge Program"

ACS for A-4794/S-3224 (Benson, Mukherji/Singleton, Turner) - Requires request for proposal to establish demonstration projects to develop electric vehicle charging depots serviced by distributed energy resource charging centers for certain electric vehicle use

A-4814/S-1023 (Moen, Wimberly/Singleton, Gopal) - Removes expected family contribution from calculation of financial need under circumstances in which public institutions of higher education may reduce student's institutional financial aid

ACS for A-4821 and 4823wGR/S-3283 (Karabinchak, Conaway, Schaer/Greenstein, Zwicker) - Directs DEP to take certain actions concerning identification and testing of microplastics in drinking water, and requires DEP and BPU to study and promote use of microplastics removal technologies

A-4955/S-3531 (S. Kean, Thomson/Singer, Gopal) - Designates portion of State Highway Route 71 as "John Tarantino Highway"

A-5094/S-3476 (Spearman/Beach, Greenstein) - Concerns licensing of security officer companies

A-5227/S-3662 (Danielsen, Space/Smith, Oroho) - Expands eligibility for "fishing buddy license" fee

A-5285/SCS for S-3708 (Greenwald, Haider, Lopez/Greenstein, A.M. Bucco) - Requires copies of certain law enforcement records to be provided to victims of domestic violence upon request

A-5293/S-3746 (Greenwald, McKnight, Rooney/Gopal, Ruiz) - Concerns New Jersey Civic Information Consortium

A-5311/S-3061 (Verrelli, McKnight, Matsikoudis/Stanfield, Turner) - Enters New Jersey into Counseling Compact

A-5391/S-3765 (DeAngelo/Diegnan, Corrado) - Imposes conditions on drivers approaching disabled vehicles

A-5412/S-3850 (Greenwald, Swain, Jasey/Gopal, Singer) - Establishes nonpublic school transportation program to provide funding to consortiums of nonpublic schools that will assume responsibility for mandated nonpublic school busing

A-5416wGR/S-3883 (Wimberly, Giblin, Haider/Greenstein, Turner) - Requires State Board of Education to authorize alternate route to expedite teacher certification of persons employed as paraprofessionals in school districts

A-5442/S-3793 (Karabinchak, Conaway, McKeon/Smith, Greenstein) - Directs BPU to conduct study to determine feasibility, marketability, and costs of implementing large-scale geothermal heat pump systems in State

A-5462/S-3867 (Coughlin, McKnight, Speight/Vitale, Turner) - Revises law establishing Office of Food Security Advocate, and establishes certain conditions for use of monies appropriated to emergency food organizations

ACS for A-5495/SCS for S-3846 (Danielsen/Scutari, A.M. Bucco) - Clarifies types of firearms allowed to be carried or transported while hunting

A-5516/S-4047 (Reynolds-Jackson, Verrelli, Conaway/Burgess, Turner) - Requires certain health care professionals to undergo bias training

A-5565/S-3971 (S. Kean, Thomson/Gopal) - Provides that 10-year term does not apply to lease of certain municipal properties unless they are waterfront properties or related to waterfront concessions

A-5567/S-3807 (Torrissi, Calabrese/A.M. Bucco, Sarlo) - Extends period of usefulness of fire engines for bonding purposes from 10 to 20 years; eliminates exclusion of passenger cars and station wagons

A-5582/S-3781 (Swain, Simonsen/Lagana, Cryan) - Establishes grant program for NJ YouthBuild programs through DOLWD; makes appropriation

A-5610wGR/S-3954 (Greenwald, Spearman, Chaparro/Beach, A.M. Bucco) - Revises penalties for possession or consumption of alcoholic beverages by underage persons

A-5748/S-4166 (Spearman, Moen, Moriarty/Cruz-Perez, Madden) - Amends definition of "participating county" under County Option Hospital Fee Program

A-5755/S-4183 (Carter, Sumter, Wimberly, Quijano/Scutari, Singleton) - Enhances notice requirements and occupancy restrictions for hotels and multiple dwellings following determination of potentially hazardous condition

A-5799/S-1472 (Moen, Moriarty/Beach, Stack) - Authorizes DOT to establish and administer toll collection and enforcement system on behalf of NJ toll authorities and to enter into reciprocal agreements for enforcement of toll violations with toll authorities from other states

A-5806/S-4165 (Moriarty, Sauickie/Greenstein, Oroho) - Appropriates \$48 million from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects, and Green Acres Program administrative costs

A-5807/S-4138 (Freiman/Johnson, Schepisi) - Appropriates \$58 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

A-5808/S-4135 (Park, Freiman, Lopez/Beach, Turner) - Appropriates \$15,564,293 from constitutionally dedicated CBT revenues to NJ Historic Trust for grants for certain historic preservation projects and associated administrative expenses

A-5809/S-4097 (Swain, Lopez, Sauickie/Zwicker, Gopal) - Amends lists of projects eligible to receive loans for environmental infrastructure projects from NJ Infrastructure Bank for FY 2024

A-5810/S-4098 (Sampson, Sauickie, Lopez/Greenstein, Stanfield) - Amends lists of environmental infrastructure projects approved for long-term funding by DEP under FY 2024 environmental infrastructure funding program

A-5828/S-4201 (Lopez/Vitale) - Authorizes State Treasurer to sell as surplus certain real property and improvements in Township of Woodbridge in Middlesex County

A-5835/S-4134 (Greenwald, Lampitt/Beach, Turner) - Authorizes regional authority to develop and operate regional rehabilitation and reentry center

A-5836/S-4212 (DeAngelo, Sumter, Wimberly/Gopal, Greenstein) - Makes supplemental appropriation of \$650,000 to New Jersey Division of State Police for trooper recruitment and retention

A-5910/S-4266 (Egan/Codey) - Increases annual salary of certain public employees and officers

AJR-200/SJR-138 (Park, Freiman, Calabrese/Lagana) - Designates November 22 of each year as Kimchi Day

Governor Murphy pocket vetoed the following bills:

S-2989/A-1739 (Pou, Singer/McKeon, Quijano, Flynn) - Makes certain for-profit debt adjusters eligible for licensing to conduct business in State

S-3172/A-4689 (Gopal, Turner/Lampitt, Matsikoudis, McKnight) - Establishes teacher certification route for candidates with Montessori teaching credentials

- S-3287/ACS for A-4852 and 1170 (Turner/Reynolds-Jackson, Jasey, Dunn, Wimberly, Calabrese, Spearman, Verrilli)** - Requires institutions of higher education to maintain supply and develop policy governing use of naloxone hydrochloride nasal spray for opioid overdose emergencies
- A-1476/S-930 (Benson, Dancer/Holzapfel, Diegnan)** - Exempts certain motor vehicles that are owned by certain nutrition programs and certain nonprofit organizations that offer social services from motor vehicle registration fees
- A-3642/S-665 (Wirhths, Murphy, Benson, Oroho/Greenstein)** - Requires MVC to place designation on motor vehicle's registration information indicating registrant is deaf
- A-3945/S-1660 (Quijano, Reynolds-Jackson, Carter/Ruiz, Singleton)** - Establishes "Male Teachers of Color Mentorship Pilot Program"; appropriates \$95,000
- A-4177/S-2478 (Mosquera, Swain, McKnight, Tucker, Dunn/Ruiz, Vitale)** - Extends duration of law requiring certain provider subsidy payments for child care services be based on enrollment
- A-4396/S-2927 (Lampitt, Jasey, Caputo/Codey)** - Establishes timelines for review and approval by Commissioner of Education of annual certified audits submitted by approved private schools for students with disabilities
- A-4621/S-3156 (Mosquera, Greenwald, Swain/Madden)** - Requires issuance of report on certain information and data on processing of applications for professional and occupational licenses and mandates review of training and call intake in Division of Consumer Affairs.
- A-4740/S-2970 (Mukherji, DeAngelo, McKnight/Cruz-Perez, Turner)** - Provides employee access to employee's employment records on file with DOLWD
- A-5294/S-1825 (Greenwald, Swain, Rooney/Steinhardt, Sarlo, Doherty)** - Exempts sales of investment metal bullion and investment coins from sales and use tax
- A-5893/S-4228 (Karabinchak, Calabrese, Sauckie/Gopal, Sarlo)** - Extends annual horse racing purse subsidies through State fiscal year 2029