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LAW/RWH

P.L.2011, CHAPTER 44, *approved April 6, 2011*
Assembly, No. 2416 (*First Reprint*)

1 AN ACT concerning restraining orders and amending ¹[and
2 supplementing]¹ P.L.1999, c.334 ¹and P.L.2001, c. 365¹.

3

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

6

7 1. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to
8 read as follows:

9 4. a. When a person is charged with a criminal offense on a
10 warrant and the person is released from custody before trial on bail
11 or personal recognizance, the court, upon application of a law
12 enforcement officer or prosecuting attorney pursuant to section 3 of
13 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
14 e. of this section, shall as a condition of release issue an order
15 prohibiting the person from entering any place defined by
16 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
17 including a buffer zone surrounding the place or modifications as
18 provided by subsection f. of this section. ¹[In emergent
19 circumstances a law enforcement officer may employ the
20 procedures provided for in section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).] With regard to an
22 applicant who is not physically present at the same location as the
23 court, the applicant may make such application to the court through
24 telephone, radio or other means of electronic communication. The
25 court may consider and grant such application in accordance with
26 the Rules of Court.¹

27 b. When a person is charged with a criminal offense on a
28 summons, the court, upon application of a law enforcement officer
29 or prosecuting attorney pursuant to section 3 of P.L.2001, c.365
30 (C.2C:35-5.9) and except as provided in subsection e. of this
31 section, shall, at the time of the defendant's first appearance, issue
32 an order prohibiting the person from entering any place defined by
33 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
34 including a buffer zone surrounding the place or modifications as
35 provided by subsection f. of this section. ¹[In emergent
36 circumstances a law enforcement officer may employ the
37 procedures provided for in section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill).]¹

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 September 16, 2010.

1 c. When a person is charged with a criminal offense on a
2 juvenile delinquency complaint and is released from custody at a
3 detention hearing pursuant to section 19 of P.L.1982, c.77
4 (C.2A:4A-38), the court, upon application of a law enforcement
5 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
6 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
7 section, shall issue an order prohibiting the person from entering
8 any place defined by subsection b. of section 3 of P.L.1999, c.334
9 (C.2C:35-5.6), including a buffer zone surrounding the place or
10 modifications as provided by subsection f. of this section.

11 d. When a person is charged with a criminal offense on a
12 juvenile delinquency complaint and is released without being
13 detained pursuant to section 15 or 16 of P.L.1982, c.77 (C.2A:4A-
14 34 or C.2A:4A-35), the law enforcement officer or prosecuting
15 attorney shall prepare an application pursuant to section 3 of
16 P.L.2001, c.365 (C.2C:35-5.9) for filing on the next court day.

17 The law enforcement officer releasing the juvenile shall serve the
18 juvenile and his parent or guardian with written notice that an order
19 shall be issued by the Family Part of the Superior Court on the next
20 court day prohibiting the juvenile from entering any place defined
21 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
22 including a buffer zone surrounding the place or modifications as
23 provided by subsection f. of this section.

24 The court shall issue such order on the first court day following
25 the release of the juvenile. If the restraints contained in the court
26 order differ from the restraints contained in the notice, the order
27 shall not be effective until the third court day following the issuance
28 of the order. The juvenile may apply to the court to stay or modify
29 the order on the grounds set forth in subsection e. of this section.

30 e. The court may forego issuing a restraining order for which
31 application has been made pursuant to section 3 of P.L.2001, c.365
32 (C.2C:35-5.9) only if the defendant establishes by clear and
33 convincing evidence that:

34 (1) the defendant lawfully resides at or has legitimate business
35 on or near the place, or otherwise legitimately needs to enter the
36 place. In such an event, the court shall not issue an order pursuant
37 to this section unless the court is clearly convinced that the need to
38 bar the person from the place in order to protect the public safety
39 and the rights, safety and health of the residents and persons
40 working in the place outweighs the person's interest in returning to
41 the place. If the balance of the interests of the person and the public
42 so warrants, the court may issue an order imposing conditions upon
43 the person's entry at, upon or near the place; or

44 (2) the issuance of an order would cause undue hardship to
45 innocent persons and would constitute a serious injustice which
46 overrides the need to protect the rights, safety and health of persons
47 residing in or having business in the place.

1 f. A restraining order issued pursuant to subsection a., b., c., d.
2 or h. of this section shall describe the place from which the person
3 has been barred and any conditions upon the person's entry into the
4 place, with sufficient specificity to enable the person to guide his
5 conduct accordingly and to enable a law enforcement officer to
6 enforce the order. The order shall also prohibit the person from
7 entering an area of up to 500 feet surrounding the place, unless the
8 court rules that a different buffer zone would better effectuate the
9 purposes of this act. In the discretion of the court, the order may
10 contain modifications to permit the person to enter the area during
11 specified times for specified purposes, such as attending school
12 during regular school hours. When appropriate, the court may
13 append to the order a map depicting the place. The person shall be
14 given a copy of the restraining order and any appended map and
15 shall acknowledge in writing the receipt thereof.

16 g. (1) The court shall provide notice of the restraining order to
17 the local law enforcement agency where the arrest occurred and to
18 the county prosecutor.

19 (2) Notwithstanding the provisions of section 1 of P.L.1982,
20 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
21 of delinquency for a criminal offense, the local law enforcement
22 agency may post a copy of any orders issued pursuant to this
23 section, or an equivalent notice containing the terms of the order,
24 upon one or more of the principal entrances of the place or in any
25 other conspicuous location. Such posting shall be for the purpose
26 of informing the public, and the failure to post a copy of the order
27 shall in no way excuse any violation of the order.

28 (3) Notwithstanding the provisions of section 1 of P.L.1982,
29 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
30 of delinquency for a criminal offense, any law enforcement agency
31 may publish a copy of any orders issued pursuant to this section, or
32 an equivalent notice containing the terms of the order, in a
33 newspaper circulating in the area of the restraining order. Such
34 publication shall be for the purpose of informing the public, and the
35 failure to publish a copy of the order shall in no way excuse any
36 violation of the order.

37 (4) Notwithstanding the provisions of section 1 of P.L.1982,
38 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
39 of delinquency for a criminal offense, any law enforcement agency
40 may distribute copies of any orders issued pursuant to this section,
41 or an equivalent notice containing the terms of the order, to
42 residents or businesses located within the area delineated in the
43 order or, in the case of a school or any government-owned property,
44 to the appropriate administrator, or to any tenant association
45 representing the residents of the affected area. Such distribution
46 shall be for the purpose of informing the public, and the failure to
47 publish a copy of the order shall in no way excuse any violation of
48 the order.

1 h. When a person is convicted of or adjudicated delinquent for
2 any criminal offense, the court, upon application of a law
3 enforcement officer or prosecuting attorney pursuant to section 3 of
4 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
5 e. of this section, shall, by separate order or within the judgment of
6 conviction, issue an order prohibiting the person from entering any
7 place defined by subsection b. of section 3 of P.L.1999, c.334
8 (C.2C:35-5.6), including a buffer zone surrounding the place or
9 modifications as provided by subsection f. of this section. Upon the
10 person's conviction or adjudication of delinquency for a criminal
11 offense, a law enforcement agency, in addition to posting,
12 publishing, and distributing the order or an equivalent notice
13 pursuant to paragraphs (2), (3) and (4) of subsection g. of this
14 section, may also post, publish and distribute a photograph of the
15 person.

16 i. When a juvenile has been adjudicated delinquent for an act
17 which, if committed by an adult, would be a criminal offense, in
18 addition to an order required by subsection h. of this section or any
19 other disposition authorized by law, the court may order the
20 juvenile and any parent, guardian or any family member over whom
21 the court has jurisdiction to take such actions or obey such restraints
22 as may be necessary to facilitate the rehabilitation of the juvenile or
23 to protect public safety or to safeguard or enforce the rights of
24 residents of the place. The court may commit the juvenile to the
25 care and responsibility of the Department of Children and Families
26 until such time as the juvenile reaches the age of 18 or until the
27 order of removal and restraint expires, whichever first occurs, or to
28 such alternative residential placement as is practicable.

29 j. An order issued pursuant to subsection a., b., c. or d. of this
30 section shall remain in effect until the case has been adjudicated or
31 dismissed, or for not less than two years, whichever is less. An
32 order issued pursuant to subsection h. of this section shall remain in
33 effect for such period of time as shall be fixed by the court but not
34 longer than the maximum term of imprisonment or incarceration
35 allowed by law for the underlying offense or offenses. When the
36 court issues a restraining order pursuant to subsection h. of this
37 section and the person is also sentenced to any form of probationary
38 supervision or participation in the Intensive Supervision Program,
39 the court shall make continuing compliance with the order an
40 express condition of probation or the Intensive Supervision
41 Program. When the person has been sentenced to a term of
42 incarceration, continuing compliance with the terms and conditions
43 of the order shall be made an express condition of the person's
44 release from confinement or incarceration on parole. At the time of
45 sentencing or, in the case of a juvenile, at the time of disposition of
46 the juvenile case, the court shall advise the defendant that the
47 restraining order shall include a fixed time period in accordance
48 with this subsection and shall include that provision in the judgment

1 of conviction, dispositional order, separate order or order vacating
2 an existing restraining order, to the law enforcement agency that
3 made the arrest and to the county prosecutor.

4 k. All applications to stay or modify an order issued pursuant
5 to this act, including an order originally issued in municipal court,
6 shall be made in the Superior Court. The court shall immediately
7 notify the county prosecutor in writing whenever an application is
8 made to stay or modify an order issued pursuant to this act. If the
9 court does not issue a restraining order, the sentence imposed by the
10 court for a criminal offense as defined in subsection b. of this
11 section shall not become final for ten days in order to permit the
12 appeal of the court's findings by the prosecution.

13 l. Nothing in this section shall be construed in any way to limit
14 the authority of the court to take such other actions or to issue such
15 orders as may be necessary to protect the public safety or to
16 safeguard or enforce the rights of others with respect to the place.

17 m. Notwithstanding any other provision of this section, the
18 court may permit the person to return to the place to obtain personal
19 belongings and effects and, by court order, may restrict the time and
20 duration and provide for police supervision of such a visit.

21 (cf: P.L.2006, c.47, s.27)

22

23 2. Section 3 of P.L.2001, c.365 (C.2C:35-5.9) is amended to
24 read as follows:

25 3. Certification of Offense Location.

26 The court shall issue a restraining order pursuant to P.L.1999,
27 c.334 (C.2C:35-5.4 et seq.) ¹["as amended and supplemented by
28 P.L. , c. (C.) (pending before the Legislature as this bill)"]¹
29 only upon request by a law enforcement officer or prosecuting
30 attorney and ¹either: (1) submission of a certification describing
31 the location of the offense¹; or (2) in matters where the applicant is
32 not physically present at the same location as the court, an oral
33 statement describing the location of the offense followed by
34 submission within a reasonable time of a certification describing the
35 location of the offense in accordance with the Rules of Court¹.

36 (cf: P.L.2001, c.365, s.3)

37

38 ¹[3. (New section) In emergent circumstances, when a person is
39 charged with a criminal offense and is released without being
40 detained, the law enforcement officer or prosecuting attorney may
41 prepare an application pursuant to section 3 of P.L.2001, c.365
42 (C.2C:35-5.9) for filing on the next court day.

43 The law enforcement officer releasing the person shall serve the
44 person with written notice that an order may be issued by the
45 Superior Court on the next court day prohibiting the person from
46 entering any place defined by subsection b. of section 3 of
47 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding

1 the place or modifications as provided by subsection f. of section 4
2 of P.L.1999, c.334 (C.2C:35-5.7).

3 The court shall issue such order on the first court day following
4 the release of the person. If the restraints contained in the court
5 order differ from the restraints contained in the notice, the order
6 shall not be effective until the third court day following the issuance
7 of the order and the person shall be served with notice of the
8 changes. The person may apply to the court to stay or modify the
9 order on the grounds set forth in subsection e. of section 4 of
10 P.L.1999, c.334 (C.2C:35-5.7).¹

11

12 ¹[4. The Attorney General, in consultation with the
13 Administrative Office of the Courts, shall adopt rules and
14 regulations pursuant to the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of
16 this act.]¹

17

18 **[5.] ¹3.¹ This act shall take effect immediately ¹and shall apply
19 to matters in which a criminal complaint is filed on or after the
20 effective date of this act¹.**

21

22

23

24

25 _____
26 Modifies procedures available under the Drug Offender
Restraining Order Act.

ASSEMBLY, No. 2416

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 4, 2010

Sponsored by:

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

Assemblyman GILBERT "WHIP" L. WILSON

District 5 (Camden and Gloucester)

Assemblyman SCOTT RUDDER

District 8 (Burlington)

Co-Sponsored by:

Assemblymen Mainor, Ramos, Chiappone, Diegnan, Giblin, Caputo,

Assemblywoman Spencer, Assemblymen Milam, Prieto and

Assemblywoman Riley

SYNOPSIS

Modifies procedures available under the Drug Offender Restraining Order Act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2010)

1 AN ACT concerning restraining orders and amending and
2 supplementing P.L.1999, c.334.

3

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

6

7 1. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
8 as follows:

9 4. a. When a person is charged with a criminal offense on a
10 warrant and the person is released from custody before trial on bail
11 or personal recognizance, the court, upon application of a law
12 enforcement officer or prosecuting attorney pursuant to section 3 of
13 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
14 e. of this section, shall as a condition of release issue an order
15 prohibiting the person from entering any place defined by
16 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
17 including a buffer zone surrounding the place or modifications as
18 provided by subsection f. of this section. In emergent
19 circumstances a law enforcement officer may employ the
20 procedures provided for in section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 b. When a person is charged with a criminal offense on a
23 summons, the court, upon application of a law enforcement officer
24 or prosecuting attorney pursuant to section 3 of P.L.2001, c.365
25 (C.2C:35-5.9) and except as provided in subsection e. of this
26 section, shall, at the time of the defendant's first appearance, issue
27 an order prohibiting the person from entering any place defined by
28 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
29 including a buffer zone surrounding the place or modifications as
30 provided by subsection f. of this section. In emergent
31 circumstances a law enforcement officer may employ the
32 procedures provided for in section 3 of P.L. , c. (C.)
33 (pending before the Legislature as this bill).

34 c. When a person is charged with a criminal offense on a
35 juvenile delinquency complaint and is released from custody at a
36 detention hearing pursuant to section 19 of P.L.1982, c.77
37 (C.2A:4A-38), the court, upon application of a law enforcement
38 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
39 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
40 section, shall issue an order prohibiting the person from entering
41 any place defined by subsection b. of section 3 of P.L.1999, c.334
42 (C.2C:35-5.6), including a buffer zone surrounding the place or
43 modifications as provided by subsection f. of this section.

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 d. When a person is charged with a criminal offense on a
2 juvenile delinquency complaint and is released without being
3 detained pursuant to section 15 or 16 of P.L.1982, c.77 (C.2A:4A-
4 34 or C.2A:4A-35), the law enforcement officer or prosecuting
5 attorney shall prepare an application pursuant to section 3 of
6 P.L.2001, c.365 (C.2C:35-5.9) for filing on the next court day.

7 The law enforcement officer releasing the juvenile shall serve the
8 juvenile and his parent or guardian with written notice that an order
9 shall be issued by the Family Part of the Superior Court on the next
10 court day prohibiting the juvenile from entering any place defined
11 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
12 including a buffer zone surrounding the place or modifications as
13 provided by subsection f. of this section.

14 The court shall issue such order on the first court day following
15 the release of the juvenile. If the restraints contained in the court
16 order differ from the restraints contained in the notice, the order
17 shall not be effective until the third court day following the issuance
18 of the order. The juvenile may apply to the court to stay or modify
19 the order on the grounds set forth in subsection e. of this section.

20 e. The court may forego issuing a restraining order for which
21 application has been made pursuant to section 3 of P.L.2001, c.365
22 (C.2C:35-5.9) only if the defendant establishes by clear and
23 convincing evidence that:

24 (1) the defendant lawfully resides at or has legitimate business
25 on or near the place, or otherwise legitimately needs to enter the
26 place. In such an event, the court shall not issue an order pursuant
27 to this section unless the court is clearly convinced that the need to
28 bar the person from the place in order to protect the public safety
29 and the rights, safety and health of the residents and persons
30 working in the place outweighs the person's interest in returning to
31 the place. If the balance of the interests of the person and the public
32 so warrants, the court may issue an order imposing conditions upon
33 the person's entry at, upon or near the place; or

34 (2) the issuance of an order would cause undue hardship to
35 innocent persons and would constitute a serious injustice which
36 overrides the need to protect the rights, safety and health of persons
37 residing in or having business in the place.

38 f. A restraining order issued pursuant to subsection a., b., c., d.
39 or h. of this section shall describe the place from which the person
40 has been barred and any conditions upon the person's entry into the
41 place, with sufficient specificity to enable the person to guide his
42 conduct accordingly and to enable a law enforcement officer to
43 enforce the order. The order shall also prohibit the person from
44 entering an area of up to 500 feet surrounding the place, unless the
45 court rules that a different buffer zone would better effectuate the
46 purposes of this act. In the discretion of the court, the order may
47 contain modifications to permit the person to enter the area during
48 specified times for specified purposes, such as attending school

1 during regular school hours. When appropriate, the court may
2 append to the order a map depicting the place. The person shall be
3 given a copy of the restraining order and any appended map and
4 shall acknowledge in writing the receipt thereof.

5 g. (1) The court shall provide notice of the restraining order to
6 the local law enforcement agency where the arrest occurred and to
7 the county prosecutor.

8 (2) Notwithstanding the provisions of section 1 of P.L.1982,
9 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
10 of delinquency for a criminal offense, the local law enforcement
11 agency may post a copy of any orders issued pursuant to this
12 section, or an equivalent notice containing the terms of the order,
13 upon one or more of the principal entrances of the place or in any
14 other conspicuous location. Such posting shall be for the purpose
15 of informing the public, and the failure to post a copy of the order
16 shall in no way excuse any violation of the order.

17 (3) Notwithstanding the provisions of section 1 of P.L.1982,
18 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
19 of delinquency for a criminal offense, any law enforcement agency
20 may publish a copy of any orders issued pursuant to this section, or
21 an equivalent notice containing the terms of the order, in a
22 newspaper circulating in the area of the restraining order. Such
23 publication shall be for the purpose of informing the public, and the
24 failure to publish a copy of the order shall in no way excuse any
25 violation of the order.

26 (4) Notwithstanding the provisions of section 1 of P.L.1982,
27 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
28 of delinquency for a criminal offense, any law enforcement agency
29 may distribute copies of any orders issued pursuant to this section,
30 or an equivalent notice containing the terms of the order, to
31 residents or businesses located within the area delineated in the
32 order or, in the case of a school or any government-owned property,
33 to the appropriate administrator, or to any tenant association
34 representing the residents of the affected area. Such distribution
35 shall be for the purpose of informing the public, and the failure to
36 publish a copy of the order shall in no way excuse any violation of
37 the order.

38 h. When a person is convicted of or adjudicated delinquent for
39 any criminal offense, the court, upon application of a law
40 enforcement officer or prosecuting attorney pursuant to section 3 of
41 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
42 e. of this section, shall, by separate order or within the judgment of
43 conviction, issue an order prohibiting the person from entering any
44 place defined by subsection b. of section 3 of P.L.1999, c.334
45 (C.2C:35-5.6), including a buffer zone surrounding the place or
46 modifications as provided by subsection f. of this section. Upon the
47 person's conviction or adjudication of delinquency for a criminal
48 offense, a law enforcement agency, in addition to posting,

1 publishing, and distributing the order or an equivalent notice
2 pursuant to paragraphs (2), (3) and (4) of subsection g. of this
3 section, may also post, publish and distribute a photograph of the
4 person.

5 i. When a juvenile has been adjudicated delinquent for an act
6 which, if committed by an adult, would be a criminal offense, in
7 addition to an order required by subsection h. of this section or any
8 other disposition authorized by law, the court may order the
9 juvenile and any parent, guardian or any family member over whom
10 the court has jurisdiction to take such actions or obey such restraints
11 as may be necessary to facilitate the rehabilitation of the juvenile or
12 to protect public safety or to safeguard or enforce the rights of
13 residents of the place. The court may commit the juvenile to the
14 care and responsibility of the Department of Children and Families
15 until such time as the juvenile reaches the age of 18 or until the
16 order of removal and restraint expires, whichever first occurs, or to
17 such alternative residential placement as is practicable.

18 j. An order issued pursuant to subsection a., b., c. or d. of this
19 section shall remain in effect until the case has been adjudicated or
20 dismissed, or for not less than two years, whichever is less. An
21 order issued pursuant to subsection h. of this section shall remain in
22 effect for such period of time as shall be fixed by the court but not
23 longer than the maximum term of imprisonment or incarceration
24 allowed by law for the underlying offense or offenses. When the
25 court issues a restraining order pursuant to subsection h. of this
26 section and the person is also sentenced to any form of probationary
27 supervision or participation in the Intensive Supervision Program,
28 the court shall make continuing compliance with the order an
29 express condition of probation or the Intensive Supervision
30 Program. When the person has been sentenced to a term of
31 incarceration, continuing compliance with the terms and conditions
32 of the order shall be made an express condition of the person's
33 release from confinement or incarceration on parole. At the time of
34 sentencing or, in the case of a juvenile, at the time of disposition of
35 the juvenile case, the court shall advise the defendant that the
36 restraining order shall include a fixed time period in accordance
37 with this subsection and shall include that provision in the judgment
38 of conviction, dispositional order, separate order or order vacating
39 an existing restraining order, to the law enforcement agency that
40 made the arrest and to the county prosecutor.

41 k. All applications to stay or modify an order issued pursuant
42 to this act, including an order originally issued in municipal court,
43 shall be made in the Superior Court. The court shall immediately
44 notify the county prosecutor in writing whenever an application is
45 made to stay or modify an order issued pursuant to this act. If the
46 court does not issue a restraining order, the sentence imposed by the
47 court for a criminal offense as defined in subsection b. of this

1 section shall not become final for ten days in order to permit the
2 appeal of the court's findings by the prosecution.

3 1. Nothing in this section shall be construed in any way to limit
4 the authority of the court to take such other actions or to issue such
5 orders as may be necessary to protect the public safety or to
6 safeguard or enforce the rights of others with respect to the place.

7 m. Notwithstanding any other provision of this section, the
8 court may permit the person to return to the place to obtain personal
9 belongings and effects and, by court order, may restrict the time and
10 duration and provide for police supervision of such a visit.

11 (cf: P.L.2006, c.47, s.27)

12

13 2. Section 3 of P.L.2001, c.365 (C.2C:35-5.9) is amended to
14 read as follows:

15 3. Certification of Offense Location.

16 The court shall issue a restraining order pursuant to P.L.1999,
17 c.334 (C.2C:35-5.4 et seq.) as amended and supplemented by
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 only upon request by a law enforcement officer or prosecuting
20 attorney and submission of a certification describing the location of
21 the offense.

22 (cf: P.L.2001, c.365, s.3)

23

24 3. (New section) In emergent circumstances, when a person is
25 charged with a criminal offense and is released without being
26 detained, the law enforcement officer or prosecuting attorney may
27 prepare an application pursuant to section 3 of P.L.2001, c.365
28 (C.2C:35-5.9) for filing on the next court day.

29 The law enforcement officer releasing the person shall serve the
30 person with written notice that an order may be issued by the
31 Superior Court on the next court day prohibiting the person from
32 entering any place defined by subsection b. of section 3 of
33 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
34 the place or modifications as provided by subsection f. of section 4
35 of P.L.1999, c.334 (C.2C:35-5.7).

36 The court shall issue such order on the first court day following
37 the release of the person. If the restraints contained in the court
38 order differ from the restraints contained in the notice, the order
39 shall not be effective until the third court day following the issuance
40 of the order and the person shall be served with notice of the
41 changes. The person may apply to the court to stay or modify the
42 order on the grounds set forth in subsection e. of section 4 of
43 P.L.1999, c.334 (C.2C:35-5.7).

44

45 4. The Attorney General, in consultation with the Administrative
46 Office of the Courts, shall adopt rules and regulations pursuant to
47 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.) to effectuate the provisions of this act.

1 5. This act shall take effect immediately.

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STATEMENT

5

6 This bill would enhance the current procedure for obtaining a
7 restraining order under the “Drug Offender Restraining Order Act
8 of 1999.” Under the bill, if a person is charged with a criminal
9 offense and is released without being detained, a law enforcement
10 officer or prosecuting attorney, under emergent circumstances,
11 would be permitted to prepare an application for a restraining order
12 for filing on the next court day.

13 Currently, there are separate court procedures concerning the
14 issuance of restraining orders that are conducted for various
15 defendants, depending whether the defendant is charged with a
16 criminal offense on a warrant, charged with a criminal offense on a
17 summons, is a juvenile charged with a criminal offense on a
18 juvenile delinquency complaint and released from custody or is a
19 juvenile charged with a criminal offense on a juvenile delinquency
20 complaint and is released without being detained. This bill would
21 establish an additional procedure for emergent circumstances in
22 which a person is charged with a criminal offense and is released
23 without being detained.

24 Under the bill, a law enforcement officer releasing a person
25 would serve the person with written notice that an order will be
26 issued by the Superior Court on the next court day prohibiting the
27 person from entering premises, locations or areas where the offense
28 occurred, including a buffer zone surrounding the place or
29 modifications as provided by subsection f. of section 4 of P.L.1999,
30 c.334 (C.2C:35-5.6).

31 The bill provides that the court would issue such order on the
32 first court day following the release of the person. If the restraints
33 contained in the court order differ from the restraints contained in
34 the notice, the order would not be effective until the third court day
35 following the issuance of the order and the person shall be served
36 with notice of the changes. The person would be permitted to apply
37 to the court to stay or modify the order.

38 This bill is intended to modify current procedures under the
39 “Drug Offender Restraining Order Act of 1999” to facilitate the use
40 of restraining orders by law enforcement.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2416

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 16, 2010

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2416.

This bill would enhance the current procedure for obtaining a restraining order under the “Drug Offender Restraining Order Act of 1999.” Currently, there are separate court procedures concerning the issuance of restraining orders for various defendants, depending whether the defendant is charged with a criminal offense on a warrant, charged with a criminal offense on a summons, is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released from custody or is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released without being detained.

Originally, this bill would have established new procedures when a person is charged with a criminal offense on a warrant or on a summons in emergent circumstances. The bill would have required the law enforcement officer to serve the person with written notice that an order will be issued by the Superior Court on the next court day prohibiting the person from entering premises, locations or areas where the offense occurred, including a buffer zone surrounding the place or modifications. The court would issue such order on the first court day following the release of the person. The person would be permitted to apply to the court to stay or modify the order.

The committee amended the bill to permit expedited procedures for issuance of a drug offender restraining order when a defendant is charged with a criminal offense on a warrant and the applicant (the law enforcement officer or the prosecuting attorney) is not physically present at the same location as the court. The amendments provide that under these circumstances the application for a drug offender restraining order may be made through telephone, radio or other means of electronic communication. The court may consider and grant such application in accordance with the court rules.

The amendments provide that the court shall issue the restraining order only upon request by a law enforcement officer or prosecuting attorney and either: (1) submission of a certification describing the location of the offense; or (2) in matters where the applicant is not

physically present at the same location as the court, an oral statement describing the location of the offense followed by submission within a reasonable time of a certification describing the location of the offense in accordance with the Rules of Court.

The amendments also change the effective date to provide that the provisions of the bill would take effect immediately and would apply to matters in which a criminal complaint is filed on or after the effective date of the bill.

COMMITTEE AMENDMENTS:

1. Make technical corrections to statutory references in the bill title.

2. Add new language in subsection a. of N.J.S.A.2C:35-5.7 to provide that when an applicant is not physically present at the same location at the court the applicant may apply to the court through telephone, radio or other means of electronic communication. The amendments provide that the court may consider and grant such application in accordance with the Rules of Court.

2. Remove language from subsection b. of N.J.S.A.2C:35-5.7 referring to emergent circumstances.

3. Add new language to N.J.S.A.2C:35-5.9 to provide that the court shall issue the restraining order only upon request by a law enforcement officer or prosecuting attorney and either: (1) submission of a certification describing the location of the offense; or (2) in matters where the applicant is not physically present at the same location as the court, an oral statement describing the location of the offense followed by submission within a reasonable time of a certification describing the location of the offense in accordance with the Rules of Court.

4. Change the effective date to provide that the provisions of the bill would take effect immediately and would apply to matters in which a criminal complaint is filed on or after the effective date of the bill.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2416

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2010

The Senate Judiciary Committee reports favorably Assembly Bill No. 2416 (1R).

This bill would enhance the current procedure for obtaining a restraining order under the “Drug Offender Restraining Order Act of 1999.” Currently, there are separate court procedures concerning the issuance of restraining orders for various defendants, depending whether the defendant is charged with a criminal offense on a warrant, charged with a criminal offense on a summons, is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released from custody or is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released without being detained.

This bill as introduced would have established new procedures when a person is charged with a criminal offense on a warrant or on a summons in emergent circumstances. The bill would have required the law enforcement officer to serve the person with written notice that an order will be issued by the Superior Court on the next court day prohibiting the person from entering premises, locations or areas where the offense occurred, including a buffer zone surrounding the place or modifications.

The Assembly Judiciary Committee amended the bill to permit expedited procedures for issuance of a drug offender restraining order when a defendant is charged with a criminal offense on a warrant and the applicant (the law enforcement officer or the prosecuting attorney) is not physically present at the same location as the court. Those committee amendments provide that under these circumstances the application for a drug offender restraining order may be made through telephone, radio or other means of electronic communication. The court may consider and grant such application in accordance with the court rules.

The bill as amended by the Assembly committee provides that the court shall issue the restraining order only upon request by a law enforcement officer or prosecuting attorney and either: (1) submission of a certification describing the location of the offense; or (2) in matters where the applicant is not physically present at the same

location as the court, an oral statement describing the location of the offense followed by submission within a reasonable time of a certification describing the location of the offense in accordance with the Rules of Court.

Those amendments also change the effective date to provide that the provisions of the bill would take effect immediately and would apply to matters in which a criminal complaint is filed on or after the effective date of the bill.

This bill is identical to Senate Bill No. 1782 with Senate committee amendments adopted December 9, 2010.

SENATE, No. 1782

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 15, 2010

Sponsored by:

Senator DONALD NORCROSS

District 5 (Camden and Gloucester)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Modifies procedures available under the Drug Offender Restraining Order Act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/10/2010)

S1782 NORCROSS, SCUTARI

2

1 AN ACT concerning restraining orders and amending and
2 supplementing P.L.1999, c.334.

3

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

6

7 1. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read
8 as follows:

9 4. a. When a person is charged with a criminal offense on a
10 warrant and the person is released from custody before trial on bail
11 or personal recognizance, the court, upon application of a law
12 enforcement officer or prosecuting attorney pursuant to section 3 of
13 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
14 e. of this section, shall as a condition of release issue an order
15 prohibiting the person from entering any place defined by
16 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
17 including a buffer zone surrounding the place or modifications as
18 provided by subsection f. of this section. In emergent
19 circumstances a law enforcement officer may employ the
20 procedures provided for in section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 b. When a person is charged with a criminal offense on a
23 summons, the court, upon application of a law enforcement officer
24 or prosecuting attorney pursuant to section 3 of P.L.2001, c.365
25 (C.2C:35-5.9) and except as provided in subsection e. of this
26 section, shall, at the time of the defendant's first appearance, issue
27 an order prohibiting the person from entering any place defined by
28 subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
29 including a buffer zone surrounding the place or modifications as
30 provided by subsection f. of this section. In emergent
31 circumstances a law enforcement officer may employ the
32 procedures provided for in section 3 of P.L. , c. (C.)
33 (pending before the Legislature as this bill).

34 c. When a person is charged with a criminal offense on a
35 juvenile delinquency complaint and is released from custody at a
36 detention hearing pursuant to section 19 of P.L.1982, c.77
37 (C.2A:4A-38), the court, upon application of a law enforcement
38 officer or prosecuting attorney pursuant to section 3 of P.L.2001,
39 c.365 (C.2C:35-5.9) and except as provided in subsection e. of this
40 section, shall issue an order prohibiting the person from entering
41 any place defined by subsection b. of section 3 of P.L.1999, c.334
42 (C.2C:35-5.6), including a buffer zone surrounding the place or
43 modifications as provided by subsection f. of this section.

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 d. When a person is charged with a criminal offense on a
2 juvenile delinquency complaint and is released without being
3 detained pursuant to section 15 or 16 of P.L.1982, c.77 (C.2A:4A-
4 34 or C.2A:4A-35), the law enforcement officer or prosecuting
5 attorney shall prepare an application pursuant to section 3 of
6 P.L.2001, c.365 (C.2C:35-5.9) for filing on the next court day.

7 The law enforcement officer releasing the juvenile shall serve the
8 juvenile and his parent or guardian with written notice that an order
9 shall be issued by the Family Part of the Superior Court on the next
10 court day prohibiting the juvenile from entering any place defined
11 by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6),
12 including a buffer zone surrounding the place or modifications as
13 provided by subsection f. of this section.

14 The court shall issue such order on the first court day following
15 the release of the juvenile. If the restraints contained in the court
16 order differ from the restraints contained in the notice, the order
17 shall not be effective until the third court day following the issuance
18 of the order. The juvenile may apply to the court to stay or modify
19 the order on the grounds set forth in subsection e. of this section.

20 e. The court may forego issuing a restraining order for which
21 application has been made pursuant to section 3 of P.L.2001, c.365
22 (C.2C:35-5.9) only if the defendant establishes by clear and
23 convincing evidence that:

24 (1) the defendant lawfully resides at or has legitimate business
25 on or near the place, or otherwise legitimately needs to enter the
26 place. In such an event, the court shall not issue an order pursuant
27 to this section unless the court is clearly convinced that the need to
28 bar the person from the place in order to protect the public safety
29 and the rights, safety and health of the residents and persons
30 working in the place outweighs the person's interest in returning to
31 the place. If the balance of the interests of the person and the public
32 so warrants, the court may issue an order imposing conditions upon
33 the person's entry at, upon or near the place; or

34 (2) the issuance of an order would cause undue hardship to
35 innocent persons and would constitute a serious injustice which
36 overrides the need to protect the rights, safety and health of persons
37 residing in or having business in the place.

38 f. A restraining order issued pursuant to subsection a., b., c., d.
39 or h. of this section shall describe the place from which the person
40 has been barred and any conditions upon the person's entry into the
41 place, with sufficient specificity to enable the person to guide his
42 conduct accordingly and to enable a law enforcement officer to
43 enforce the order. The order shall also prohibit the person from
44 entering an area of up to 500 feet surrounding the place, unless the
45 court rules that a different buffer zone would better effectuate the
46 purposes of this act. In the discretion of the court, the order may
47 contain modifications to permit the person to enter the area during
48 specified times for specified purposes, such as attending school

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1 during regular school hours. When appropriate, the court may
2 append to the order a map depicting the place. The person shall be
3 given a copy of the restraining order and any appended map and
4 shall acknowledge in writing the receipt thereof.

5 g. (1) The court shall provide notice of the restraining order to
6 the local law enforcement agency where the arrest occurred and to
7 the county prosecutor.

8 (2) Notwithstanding the provisions of section 1 of P.L.1982,
9 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
10 of delinquency for a criminal offense, the local law enforcement
11 agency may post a copy of any orders issued pursuant to this
12 section, or an equivalent notice containing the terms of the order,
13 upon one or more of the principal entrances of the place or in any
14 other conspicuous location. Such posting shall be for the purpose
15 of informing the public, and the failure to post a copy of the order
16 shall in no way excuse any violation of the order.

17 (3) Notwithstanding the provisions of section 1 of P.L.1982,
18 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
19 of delinquency for a criminal offense, any law enforcement agency
20 may publish a copy of any orders issued pursuant to this section, or
21 an equivalent notice containing the terms of the order, in a
22 newspaper circulating in the area of the restraining order. Such
23 publication shall be for the purpose of informing the public, and the
24 failure to publish a copy of the order shall in no way excuse any
25 violation of the order.

26 (4) Notwithstanding the provisions of section 1 of P.L.1982,
27 c.79 (C.2A:4A-60), prior to the person's conviction or adjudication
28 of delinquency for a criminal offense, any law enforcement agency
29 may distribute copies of any orders issued pursuant to this section,
30 or an equivalent notice containing the terms of the order, to
31 residents or businesses located within the area delineated in the
32 order or, in the case of a school or any government-owned property,
33 to the appropriate administrator, or to any tenant association
34 representing the residents of the affected area. Such distribution
35 shall be for the purpose of informing the public, and the failure to
36 publish a copy of the order shall in no way excuse any violation of
37 the order.

38 h. When a person is convicted of or adjudicated delinquent for
39 any criminal offense, the court, upon application of a law
40 enforcement officer or prosecuting attorney pursuant to section 3 of
41 P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection
42 e. of this section, shall, by separate order or within the judgment of
43 conviction, issue an order prohibiting the person from entering any
44 place defined by subsection b. of section 3 of P.L.1999, c.334
45 (C.2C:35-5.6), including a buffer zone surrounding the place or
46 modifications as provided by subsection f. of this section. Upon the
47 person's conviction or adjudication of delinquency for a criminal
48 offense, a law enforcement agency, in addition to posting,

1 publishing, and distributing the order or an equivalent notice
2 pursuant to paragraphs (2), (3) and (4) of subsection g. of this
3 section, may also post, publish and distribute a photograph of the
4 person.

5 i. When a juvenile has been adjudicated delinquent for an act
6 which, if committed by an adult, would be a criminal offense, in
7 addition to an order required by subsection h. of this section or any
8 other disposition authorized by law, the court may order the
9 juvenile and any parent, guardian or any family member over whom
10 the court has jurisdiction to take such actions or obey such restraints
11 as may be necessary to facilitate the rehabilitation of the juvenile or
12 to protect public safety or to safeguard or enforce the rights of
13 residents of the place. The court may commit the juvenile to the
14 care and responsibility of the Department of Children and Families
15 until such time as the juvenile reaches the age of 18 or until the
16 order of removal and restraint expires, whichever first occurs, or to
17 such alternative residential placement as is practicable.

18 j. An order issued pursuant to subsection a., b., c. or d. of this
19 section shall remain in effect until the case has been adjudicated or
20 dismissed, or for not less than two years, whichever is less. An
21 order issued pursuant to subsection h. of this section shall remain in
22 effect for such period of time as shall be fixed by the court but not
23 longer than the maximum term of imprisonment or incarceration
24 allowed by law for the underlying offense or offenses. When the
25 court issues a restraining order pursuant to subsection h. of this
26 section and the person is also sentenced to any form of probationary
27 supervision or participation in the Intensive Supervision Program,
28 the court shall make continuing compliance with the order an
29 express condition of probation or the Intensive Supervision
30 Program. When the person has been sentenced to a term of
31 incarceration, continuing compliance with the terms and conditions
32 of the order shall be made an express condition of the person's
33 release from confinement or incarceration on parole. At the time of
34 sentencing or, in the case of a juvenile, at the time of disposition of
35 the juvenile case, the court shall advise the defendant that the
36 restraining order shall include a fixed time period in accordance
37 with this subsection and shall include that provision in the judgment
38 of conviction, dispositional order, separate order or order vacating
39 an existing restraining order, to the law enforcement agency that
40 made the arrest and to the county prosecutor.

41 k. All applications to stay or modify an order issued pursuant
42 to this act, including an order originally issued in municipal court,
43 shall be made in the Superior Court. The court shall immediately
44 notify the county prosecutor in writing whenever an application is
45 made to stay or modify an order issued pursuant to this act. If the
46 court does not issue a restraining order, the sentence imposed by the
47 court for a criminal offense as defined in subsection b. of this

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1 section shall not become final for ten days in order to permit the
2 appeal of the court's findings by the prosecution.

3 1. Nothing in this section shall be construed in any way to limit
4 the authority of the court to take such other actions or to issue such
5 orders as may be necessary to protect the public safety or to
6 safeguard or enforce the rights of others with respect to the place.

7 m. Notwithstanding any other provision of this section, the
8 court may permit the person to return to the place to obtain personal
9 belongings and effects and, by court order, may restrict the time and
10 duration and provide for police supervision of such a visit.

11 (cf: P.L.2006, c.47, s.27)

12

13 2. Section 3 of P.L.2001, c.365 (C.2C:35-5.9) is amended to
14 read as follows:

15 3. Certification of Offense Location.

16 The court shall issue a restraining order pursuant to P.L.1999,
17 c.334 (C.2C:35-5.4 et seq.) as amended and supplemented by
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 only upon request by a law enforcement officer or prosecuting
20 attorney and submission of a certification describing the location of
21 the offense.

22 (cf: P.L.2001, c.365, s.3)

23

24 3. (New section) In emergent circumstances, when a person is
25 charged with a criminal offense and is released without being
26 detained, the law enforcement officer or prosecuting attorney may
27 prepare an application pursuant to section 3 of P.L.2001, c.365
28 (C.2C:35-5.9) for filing on the next court day.

29 The law enforcement officer releasing the person shall serve the
30 person with written notice that an order may be issued by the
31 Superior Court on the next court day prohibiting the person from
32 entering any place defined by subsection b. of section 3 of
33 P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding
34 the place or modifications as provided by subsection f. of section 4
35 of P.L.1999, c.334 (C.2C:35-5.7).

36 The court shall issue such order on the first court day following
37 the release of the person. If the restraints contained in the court
38 order differ from the restraints contained in the notice, the order
39 shall not be effective until the third court day following the issuance
40 of the order and the person shall be served with notice of the
41 changes. The person may apply to the court to stay or modify the
42 order on the grounds set forth in subsection e. of section 4 of
43 P.L.1999, c.334 (C.2C:35-5.7).

44

45 4. The Attorney General, in consultation with the Administrative
46 Office of the Courts, shall adopt rules and regulations pursuant to
47 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.) to effectuate the provisions of this act.

1 5. This act shall take effect immediately.

2

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4

STATEMENT

5

6 This bill would enhance the current procedure for obtaining a
7 restraining order under the “Drug Offender Restraining Order Act
8 of 1999.” Under the bill, if a person is charged with a criminal
9 offense and is released without being detained, a law enforcement
10 officer or prosecuting attorney, under emergent circumstances,
11 would be permitted to prepare an application for a restraining order
12 for filing on the next court day.

13 Currently, there are separate court procedures concerning the
14 issuance of restraining orders that are conducted for various
15 defendants, depending whether the defendant is charged with a
16 criminal offense on a warrant, charged with a criminal offense on a
17 summons, is a juvenile charged with a criminal offense on a
18 juvenile delinquency complaint and released from custody or is a
19 juvenile charged with a criminal offense on a juvenile delinquency
20 complaint and is released without being detained. This bill would
21 establish an additional procedure for emergent circumstances in
22 which a person is charged with a criminal offense and is released
23 without being detained.

24 Under the bill, a law enforcement officer releasing a person
25 would serve the person with written notice that an order will be
26 issued by the Superior Court on the next court day prohibiting the
27 person from entering premises, locations or areas where the offense
28 occurred, including a buffer zone surrounding the place or
29 modifications as provided by subsection f. of section 4 of P.L.1999,
30 c.334 (C.2C:35-5.6).

31 The bill provides that the court would issue such order on the
32 first court day following the release of the person. If the restraints
33 contained in the court order differ from the restraints contained in
34 the notice, the order would not be effective until the third court day
35 following the issuance of the order and the person shall be served
36 with notice of the changes. The person would be permitted to apply
37 to the court to stay or modify the order.

38 This bill is intended to modify current procedures under the
39 “Drug Offender Restraining Order Act of 1999” to facilitate the use
40 of restraining orders by law enforcement.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1782

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2010

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1782.

This bill would enhance the current procedure for obtaining a restraining order under the “Drug Offender Restraining Order Act of 1999.” Currently, there are separate court procedures concerning the issuance of restraining orders for various defendants, depending whether the defendant is charged with a criminal offense on a warrant, charged with a criminal offense on a summons, is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released from custody or is a juvenile charged with a criminal offense on a juvenile delinquency complaint and released without being detained.

This bill as introduced would have established new procedures when a person is charged with a criminal offense on a warrant or on a summons in emergent circumstances. The bill would have required the law enforcement officer to serve the person with written notice that an order will be issued by the Superior Court on the next court day prohibiting the person from entering premises, locations or areas where the offense occurred, including a buffer zone surrounding the place or modifications.

The committee amended the bill to permit expedited procedures for issuance of a drug offender restraining order when a defendant is charged with a criminal offense on a warrant and the applicant (the law enforcement officer or the prosecuting attorney) is not physically present at the same location as the court. The amendments provide that under these circumstances the application for a drug offender restraining order may be made through telephone, radio or other means of electronic communication. The court may consider and grant such application in accordance with the court rules.

The committee amendments provide that the court shall issue the restraining order only upon request by a law enforcement officer or prosecuting attorney and either: (1) submission of a certification describing the location of the offense; or (2) in matters where the applicant is not physically present at the same location as the court, an oral statement describing the location of the offense followed by

submission within a reasonable time of a certification describing the location of the offense in accordance with the Rules of Court.

The committee amendments also change the effective date to provide that the provisions of the bill would take effect immediately and would apply to matters in which a criminal complaint is filed on or after the effective date of the bill.

As amended, this bill is identical to Assembly Bill No. 2416 (1R).