

# 2C:25-26

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2011                    **CHAPTER:** 213

**NJSA:** 2C:25-26 (Authorizes the court to include provisions for animals in domestic violence restraining orders)

**BILL NO:** A1633/A2509 (Substituted for S540)

**SPONSOR(S)** Wagner and others

**DATE INTRODUCED:** January 12, 2010

**COMMITTEE:**                    **ASSEMBLY:** Judiciary  
                                                 **SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** December 15, 2011  
                                                 **SENATE:** January 9, 2012

**DATE OF APPROVAL:** January 17, 2012

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First Reprint Assembly Committee Substitute enacted)

#### A1633/A2507

**SPONSOR'S STATEMENT A1633:** (Begins on page 6 of introduced bill) Yes

**SPONSOR'S STATEMENT A2509:** (Begins on page 6 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL NOTE:** No

#### S540

**SPONSOR'S STATEMENT:** (Begins on page 6 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL NOTE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/KR

P.L.2011, CHAPTER 213, *approved January 17, 2012*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, Nos. 1633 and 2509

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

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

6  
7 <sup>1</sup>1. Section 10 of P.L.1991, c.261 (C.2C:25-26) is amended to  
8 read as follows:

9 10. a. When a defendant charged with a crime or offense  
10 involving domestic violence is released from custody before trial on  
11 bail or personal recognizance, the court authorizing the release may  
12 as a condition of release issue an order prohibiting the defendant  
13 from having any contact with the victim including, but not limited  
14 to, restraining the defendant from entering the victim's residence,  
15 place of employment or business, or school, and from harassing or  
16 stalking the victim or the victim's friends, co-workers, or relatives  
17 in any way. The court may also enter an order prohibiting the  
18 defendant from having any contact with any animal owned,  
19 possessed, leased, kept, or held by either party or a minor child  
20 residing in the household. In addition, the court may enter an order  
21 directing the possession of the animal and providing that the animal  
22 shall not be disposed of prior to the disposition of the crime or  
23 offense. The court may enter an order prohibiting the defendant  
24 from possessing any firearm or other weapon enumerated in  
25 subsection r. of N.J.S.2C:39-1 and ordering the search for and  
26 seizure of any such weapon at any location where the judge has  
27 reasonable cause to believe the weapon is located. The judge shall  
28 state with specificity the reasons for and scope of the search and  
29 seizure authorized by the order.

30 b. The written court order releasing the defendant shall contain  
31 the court's directives specifically restricting the defendant's ability  
32 to have contact with the victim **[or]**, the victim's friends, co-  
33 workers, or relatives, or any animal owned, possessed, leased, kept,  
34 or held by either party or a minor child residing in the household.  
35 The clerk of the court or other person designated by the court shall  
36 provide a copy of this order to the victim forthwith.

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

**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:

<sup>1</sup> Assembly floor amendments adopted December 5, 2011.

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

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

10 f. A victim shall not be prohibited from applying for, and a  
11 court shall not be prohibited from issuing, temporary restraints  
12 pursuant to this act because the victim has charged any person with  
13 commission of a criminal act.<sup>1</sup>

14 (cf: P.L.1999, c.421, s.2)

15

16 <sup>1</sup>2. Section 11 of P.L.1991, c.261 (C.2C:25-27) is amended to  
17 read as follows:

18 11. a. When a defendant is found guilty of a crime or offense  
19 involving domestic violence and a condition of sentence restricts  
20 the defendant's ability to have contact with the victim, the victim's  
21 friends, co-workers, or relatives, or an animal owned, possessed,  
22 leased, kept, or held by either party or a minor child residing in the  
23 household, that condition shall be recorded in an order of the court  
24 and a written copy of that order shall be provided to the victim by  
25 the clerk of the court or other person designated by the court. In  
26 addition to restricting a defendant's ability to have contact with the  
27 victim, the victim's friends, co-workers, or relatives, or an animal  
28 owned, possessed, leased, kept, or held by either party or a minor  
29 child residing in the household, the court may require the defendant  
30 to receive professional counseling from either a private source or a  
31 source appointed by the court, and if the court so orders, the court  
32 shall require the defendant to provide documentation of attendance  
33 at the professional counseling. In any case where the court order  
34 contains a requirement that the defendant receive professional  
35 counseling, no application by the defendant to dissolve the  
36 restraining order shall be granted unless, in addition to any other  
37 provisions required by law or conditions ordered by the court, the  
38 defendant has completed all required attendance at such counseling.

39 b. In addition the court may enter an order directing the  
40 possession of an animal owned, possessed, leased, kept, or held by  
41 either party or a minor child residing in the household. Where a  
42 person has abused or threatened to abuse such animal, there shall be  
43 a presumption that possession of the animal shall be awarded to the  
44 non-abusive party.<sup>1</sup>

45 (cf: P.L.1999, c.236, s.1)

1       <sup>1</sup>3. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to  
2 read as follows:

3       12. a. A victim may file a complaint alleging the commission of  
4 an act of domestic violence with the Family Part of the Chancery  
5 Division of the Superior Court in conformity with the Rules of  
6 Court. The court shall not dismiss any complaint or delay  
7 disposition of a case because the victim has left the residence to  
8 avoid further incidents of domestic violence. Filing a complaint  
9 pursuant to this section shall not prevent the filing of a criminal  
10 complaint for the same act.

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

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

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

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

34       d. Summons and complaint forms shall be readily available at  
35 the clerk's office, at the municipal courts and at municipal and State  
36 police stations.

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

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

46       g. If it appears that the plaintiff is in danger of domestic  
47 violence, the judge shall, upon consideration of the plaintiff's

1 domestic violence complaint, order emergency ex parte relief, in the  
2 nature of a temporary restraining order. A decision shall be made  
3 by the judge regarding the emergency relief forthwith.

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

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

27 j. Emergency relief may include forbidding the defendant from  
28 returning to the scene of the domestic violence, forbidding the  
29 defendant from possessing any firearm or other weapon enumerated  
30 in subsection r. of N.J.S.2C:39-1, ordering the search for and  
31 seizure of any such weapon at any location where the judge has  
32 reasonable cause to believe the weapon is located and the seizure of  
33 any firearms purchaser identification card or permit to purchase a  
34 handgun issued to the defendant and any other appropriate relief.  
35 Other appropriate relief may include but is not limited to an order  
36 directing the possession of any animal owned, possessed, leased,  
37 kept, or held by either party or a minor child residing in the  
38 household and providing that the animal shall not be disposed of  
39 prior to entry of a final order pursuant to section 13 of P.L.1991,  
40 c.261 (C.2C:25-29).

41 The judge shall state with specificity the reasons for and scope of  
42 **[the]** any search and seizure authorized by the order. The  
43 provisions of this subsection prohibiting a defendant from  
44 possessing a firearm or other weapon shall not apply to any law  
45 enforcement officer while actually on duty, or to any member of the  
46 Armed Forces of the United States or member of the National

1 Guard while actually on duty or traveling to or from an authorized  
2 place of duty.

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

7 l. An order granting emergency relief, together with the  
8 complaint or complaints, shall immediately be forwarded to the  
9 appropriate law enforcement agency for service on the defendant,  
10 and to the police of the municipality in which the plaintiff resides or  
11 is sheltered, and shall immediately be served upon the defendant by  
12 the police, except that an order issued during regular court hours  
13 may be forwarded to the sheriff for immediate service upon the  
14 defendant in accordance with the Rules of Court. If personal  
15 service cannot be effected upon the defendant, the court may order  
16 other appropriate substituted service. At no time shall the plaintiff  
17 be asked or required to serve any order on the defendant.

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

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

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

25 p. Any temporary or **[permanent]** final restraining order issued  
26 pursuant to this act shall be in effect throughout the State, and shall  
27 be enforced by all law enforcement officers.

28 q. Prior to the issuance of any temporary or **[permanent]** final  
29 restraining order issued pursuant to this section, the court shall  
30 order that a search be made of the domestic violence central registry  
31 with regard to the defendant's record.<sup>1</sup>

32 (cf: P.L 2003, c.277, s.5)

33

34 <sup>1</sup>**[1.] 4.**<sup>1</sup> Section 13 of P.L.1991, c.261 (C.2C:25-29) is  
35 amended to read as follows:

36 13. a. A hearing shall be held in the Family Part of the Chancery  
37 Division of the Superior Court within 10 days of the filing of a  
38 complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28)  
39 in the county where the ex parte restraints were ordered, unless  
40 good cause is shown for the hearing to be held elsewhere. A copy  
41 of the complaint shall be served on the defendant in conformity  
42 with the Rules of Court. If a criminal complaint arising out of the  
43 same incident which is the subject matter of a complaint brought  
44 under P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261  
45 (C.2C:25-17 et seq.) has been filed, testimony given by the plaintiff  
46 or defendant in the domestic violence matter shall not be used in the  
47 simultaneous or subsequent criminal proceeding against the

1 defendant, other than domestic violence contempt matters and  
2 where it would otherwise be admissible hearsay under the rules of  
3 evidence that govern where a party is unavailable. At the hearing  
4 the standard for proving the allegations in the complaint shall be by  
5 a preponderance of the evidence. The court shall consider but not  
6 be limited to the following factors:

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

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

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

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

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

15 (6) The existence of a verifiable order of protection from  
16 another jurisdiction.

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

26 b. In proceedings in which complaints for restraining orders  
27 have been filed, the court shall grant any relief necessary to prevent  
28 further abuse. In addition to any other provisions, any restraining  
29 order issued by the court shall bar the defendant from purchasing,  
30 owning, possessing or controlling a firearm and from receiving or  
31 retaining a firearms purchaser identification card or permit to  
32 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
33 which the restraining order is in effect or two years whichever is  
34 greater, except that this provision shall not apply to any law  
35 enforcement officer while actually on duty, or to any member of the  
36 Armed Forces of the United States or member of the National  
37 Guard while actually on duty or traveling to or from an authorized  
38 place of duty. At the hearing the judge of the Family Part of the  
39 Chancery Division of the Superior Court may issue an order  
40 granting any or all of the following relief:

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

43 (2) An order granting exclusive possession to the plaintiff of the  
44 residence or household regardless of whether the residence or  
45 household is jointly or solely owned by the parties or jointly or  
46 solely leased by the parties. This order shall not in any manner  
47 affect title or interest to any real property held by either party or



1 both jointly. If it is not possible for the victim to remain in the  
2 residence, the court may order the defendant to pay the victim's rent  
3 at a residence other than the one previously shared by the parties if  
4 the defendant is found to have a duty to support the victim and the  
5 victim requires alternative housing.

6 (3) An order providing for parenting time. The order shall  
7 protect the safety and well-being of the plaintiff and minor children  
8 and shall specify the place and frequency of parenting time.  
9 Parenting time arrangements shall not compromise any other  
10 remedy provided by the court by requiring or encouraging contact  
11 between the plaintiff and defendant. Orders for parenting time may  
12 include a designation of a place of parenting time away from the  
13 plaintiff, the participation of a third party, or supervised parenting  
14 time.

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

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

27 (4) An order requiring the defendant to pay to the victim  
28 monetary compensation for losses suffered as a direct result of the  
29 act of domestic violence. The order may require the defendant to  
30 pay the victim directly, to reimburse the Victims of Crime  
31 Compensation '【Board】 Agency'<sup>1</sup> for any and all compensation  
32 paid by the Victims of Crime Compensation '【Board】 Agency'<sup>1</sup>  
33 directly to or on behalf of the victim, and may require that the  
34 defendant reimburse any parties that may have compensated the  
35 victim, as the court may determine. Compensatory losses shall  
36 include, but not be limited to, loss of earnings or other support,  
37 including child or spousal support, out-of-pocket losses for injuries  
38 sustained, cost of repair or replacement of real or personal property  
39 damaged or destroyed or taken by the defendant, cost of counseling  
40 for the victim, moving or other travel expenses, reasonable  
41 attorney's fees, court costs, and compensation for pain and  
42 suffering. Where appropriate, punitive damages may be awarded in  
43 addition to compensatory damages.

44 (5) An order requiring the defendant to receive professional  
45 domestic violence counseling from either a private source or a  
46 source appointed by the court and, in that event, requiring the  
47 defendant to provide the court at specified intervals with

1 documentation of attendance at the professional counseling. The  
2 court may order the defendant to pay for the professional  
3 counseling. No application by the defendant to dissolve a final  
4 order which contains a requirement for attendance at professional  
5 counseling pursuant to this paragraph shall be granted by the court  
6 unless, in addition to any other provisions required by law or  
7 conditions ordered by the court, the defendant has completed all  
8 required attendance at such counseling.

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

15 (7) An order restraining the defendant from making contact with  
16 the plaintiff or others, including an order forbidding the defendant  
17 from personally or through an agent initiating any communication  
18 likely to cause annoyance or alarm including, but not limited to,  
19 personal, written, or telephone contact with the victim or other  
20 family members, or their employers, employees, or fellow workers,  
21 or others with whom communication would be likely to cause  
22 annoyance or alarm to the victim.

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

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

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

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

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

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

46 (14) An order granting any other appropriate relief for the  
47 plaintiff and dependent children, provided that the plaintiff consents

1 to such relief, including relief requested by the plaintiff at the final  
2 hearing, whether or not the plaintiff requested such relief at the time  
3 of the granting of the initial emergency order.

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

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

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

24 (18) An order requiring the defendant to undergo a psychiatric  
25 evaluation.

26 (19) An order directing the<sup>1</sup> [care, custody, or control]  
27 possession<sup>1</sup> of any animal owned, possessed, leased, kept, or held  
28 by either party or a minor child residing in the household. <sup>1</sup>[The  
29 court may also prohibit the defendant from interfering with the  
30 victim's efforts to remove the animal, and from knowingly coming  
31 within, or knowingly remaining within, a specified distance of  
32 specified locations where the animal is regularly found. The court  
33 may order the defendant to make no contact with the animal and  
34 forbid the defendant from taking, transferring, encumbering,  
35 concealing, molesting, attacking, striking, threatening, harming, or  
36 otherwise disposing of the animal.] Where a person has abused or  
37 threatened to abuse such animal, there shall be a presumption that  
38 possession of the animal shall be awarded to the non-abusive party.<sup>1</sup>

39 c. Notice of orders issued pursuant to this section shall be sent  
40 by the clerk of the Family Part of the Chancery Division of the  
41 Superior Court or other person designated by the court to the  
42 appropriate chiefs of police, members of the State Police and any  
43 other appropriate law enforcement agency.

44 d. Upon good cause shown, any final order may be dissolved or  
45 modified upon application to the Family Part of the Chancery  
46 Division of the Superior Court, but only if the judge who dissolves  
47 or modifies the order is the same judge who entered the order, or

1 has available a complete record of the hearing or hearings on which  
2 the order was based.

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

6 (cf: P.L.2003, c.277, s.2)

7

8 '[2.] 5.' This act shall take effect immediately.

9

10

11

12

13 Authorizes the court to include provisions for animals in  
14 domestic violence restraining orders.

# ASSEMBLY, No. 1633

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblywoman CONNIE WAGNER**

**District 38 (Bergen)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Co-Sponsored by:**

**Assemblymen Holzapfel, Wolfe and Assemblywoman Jasey**

**SYNOPSIS**

Permits court to include animals in domestic violence restraining orders.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/6/2011)**

1 AN ACT concerning domestic violence and amending P.L.1991,  
2 s.261.

3

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

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7 1. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to  
8 reads as follows:

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

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

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

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

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

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

35 (6) The existence of a verifiable order of protection from  
36 another jurisdiction.

37 An order issued under this act shall only restrain or provide  
38 damages payable from a person against whom a complaint has been  
39 filed under this act and only after a finding or an admission is made  
40 that an act of domestic violence was committed by that person. The  
41 issue of whether or not a violation of this act occurred, including an  
42 act of contempt under this act, shall not be subject to mediation or  
43 negotiation in any form. In addition, where a temporary or final  
44 order has been issued pursuant to this act, no party shall be ordered  
45 to participate in mediation on the issue of custody or parenting time.

**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. In proceedings in which complaints for restraining orders  
2 have been filed, the court shall grant any relief necessary to prevent  
3 further abuse. In addition to any other provisions, any restraining  
4 order issued by the court shall bar the defendant from purchasing,  
5 owning, possessing or controlling a firearm and from receiving or  
6 retaining a firearms purchaser identification card or permit to  
7 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
8 which the restraining order is in effect or two years whichever is  
9 greater, except that this provision shall not apply to any law  
10 enforcement officer while actually on duty, or to any member of the  
11 Armed Forces of the United States or member of the National  
12 Guard while actually on duty or traveling to or from an authorized  
13 place of duty. At the hearing the judge of the Family Part of the  
14 Chancery Division of the Superior Court may issue an order  
15 granting any or 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

1 child pursuant to the parenting time order has threatened the safety  
2 and well-being of the child.

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

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

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

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

45 (8) An order requiring that the defendant make or continue to  
46 make rent or mortgage payments on the residence occupied by the  
47 victim if the defendant is found to have a duty to support the victim



1 or other dependent household members; provided that this issue has  
2 not been resolved or is not being litigated between the parties in  
3 another action.

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

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

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

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

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

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

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

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

37 (17) An order prohibiting the defendant from stalking or  
38 following, or threatening to harm, to stalk or to follow, the  
39 complainant or any other person named in the order in a manner  
40 that, taken in the context of past actions of the defendant, would put  
41 the complainant in reasonable fear that the defendant would cause  
42 the death or injury of the complainant or any other person.  
43 Behavior prohibited under this act includes, but is not limited to,  
44 behavior prohibited under the provisions of P.L.1992, c.209  
45 (C.2C:12-10).

46 (18) An order requiring the defendant to undergo a psychiatric  
47 evaluation.

1       (19) An order directing the care, custody, or control of any  
2       animal owned, possessed, leased, kept, or held by either party or a  
3       minor child residing in the household.

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

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

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

18 (cf: P.L.2003, c.277, s.2)

19

20       2. This act shall take effect immediately.

21

22

23

#### STATEMENT

24

25       This bill authorizes a court to issue an order directing the care,  
26 custody, or control of any animal owned, possessed, leased, kept, or  
27 held by either party or a minor child residing in the household.  
28 Animals are not directly addressed by current domestic violence  
29 law.

30       The purpose of the bill is to provide specific statutory  
31 authorization for courts to issue orders covering animals in  
32 situations where a person abuses or threatens to abuse an animal as  
33 part of a domestic dispute.

34       The bill is modeled on a recently enacted Maine law.

# ASSEMBLY, No. 2509

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 8, 2010

**Sponsored by:**

**Assemblywoman CHARLOTTE VANDERVALK  
District 39 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Holzapfel and Wolfe**

**SYNOPSIS**

Authorizes courts to include animals in domestic violence restraining orders.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/6/2011)**

A2509 VANDERVALK

2

1 AN ACT concerning domestic violence involving animals and  
2 amending P.L.1991, s.261.

3

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

6

7 1. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to  
8 reads as follows:

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

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

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

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

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

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

35 (6) The existence of a verifiable order of protection from  
36 another jurisdiction.

37 An order issued under this act shall only restrain or provide  
38 damages payable from a person against whom a complaint has been  
39 filed under this act and only after a finding or an admission is made  
40 that an act of domestic violence was committed by that person. The  
41 issue of whether or not a violation of this act occurred, including an  
42 act of contempt under this act, shall not be subject to mediation or  
43 negotiation in any form. In addition, where a temporary or final  
44 order has been issued pursuant to this act, no party shall be ordered  
45 to participate in mediation on the issue of custody or parenting time.

**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. In proceedings in which complaints for restraining orders  
2 have been filed, the court shall grant any relief necessary to prevent  
3 further abuse. In addition to any other provisions, any restraining  
4 order issued by the court shall bar the defendant from purchasing,  
5 owning, possessing or controlling a firearm and from receiving or  
6 retaining a firearms purchaser identification card or permit to  
7 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
8 which the restraining order is in effect or two years whichever is  
9 greater, except that this provision shall not apply to any law  
10 enforcement officer while actually on duty, or to any member of the  
11 Armed Forces of the United States or member of the National  
12 Guard while actually on duty or traveling to or from an authorized  
13 place of duty. At the hearing the judge of the Family Part of the  
14 Chancery Division of the Superior Court may issue an order  
15 granting any or 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 Board for any and all compensation paid by the  
6 Victims of Crime Compensation Board 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 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 care, custody, or control of any  
46 animal owned, possessed, leased, kept, or held by either party or a  
47 minor residing in the household.

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

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

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

15 (cf: P.L.2003, c.277, s.2)

16

17 2. This act shall take effect immediately.

18

19

20

#### STATEMENT

21

22 This bill authorizes a court to issue an order directing the care,  
23 custody, or control of any animal owned, possessed, leased, kept, or  
24 held by either party or a minor residing in the household. Animals  
25 are not directly addressed by current domestic violence law.

26 The purpose of the bill is to provide specific statutory  
27 authorization for courts to issue orders covering animals in  
28 situations where a person abuses or threatens to abuse an animal as  
29 part of a domestic dispute.

30 The bill is modeled on a recently enacted Maine law.



ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 1633 and 2509**

**STATE OF NEW JERSEY**

DATED: MAY 5, 2011

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 1633 and 2509.

This substitute authorizes the court to include provisions regarding the disposition of animals in domestic violence restraining orders. Under the substitute, a domestic violence restraining order could direct the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household.

The order could also prohibit the defendant from interfering with the victim's efforts to remove the animal, and from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the animal is regularly found. The court could order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 1633 and 2509**

with Assembly Floor Amendments  
(Proposed by Assemblywoman WAGNER)

ADOPTED: DECEMBER 5, 2011

This substitute would authorize the court to include provisions concerning animals in domestic violence restraining orders.

In its original form, the substitute concerned final restraining orders pursuant to N.J.S.A.2C:25-29. These floor amendments would expand the substitute to also address temporary restraining orders, orders issued by the court when defendants are released on bail, and conditions of sentence when a defendant is found guilty of a crime or offense involving domestic violence.

N.J.S.A.2C:25-26 would be amended to provide that when a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court may enter an order prohibiting the defendant from having any contact with any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. In addition, the amendments authorize the court to enter an order directing the possession of the animal and providing that the animal shall not be disposed of prior to the final disposition of the crime or offense.

N.J.S.A.2C:25-27 would be amended to provide that when a defendant is found guilty of a crime or offense involving domestic violence and a condition of sentence restricts the defendant's ability to have contact with an animal of either party or a minor child residing in the household, that condition would be recorded in an order of the court.

The amendments to N.J.S.A.2C:25-28 provide that as part of a temporary restraining order the court could issue an order directing the possession of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household and providing that the animal shall not be disposed of prior to entry of a final order.

The floor amendments also amend N.J.S.A.2C:25-29 concerning final restraining orders to provide that these orders may contain a provision directing the possession of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. The amendments to this section also provide that where a person has abused or threatened to abuse an animal, there would be a presumption that possession of the animal would be awarded to the non-abusive party.

The floor amendments also delete a provision in the substitute that would have authorized the court to bar the defendant from coming

within a specified distance of specified locations where the animal is regularly found.

Finally, the floor amendments make two language changes. The amendments replace the term “permanent restraining order” with “final restraining order” to maintain consistency in the domestic violence statutes, and replace the outdated reference to the “Victims of Crime Compensation Board” with the correct reference to the “Victims of Crime Compensation Agency.”

# SENATE, No. 540

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Co-Sponsored by:**

**Senators Bateman, Kyrillos, Greenstein and Scutari**

**SYNOPSIS**

Authorizes courts to include animals in domestic violence restraining orders.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 9/20/2011)**

1 AN ACT concerning domestic violence involving animals and  
2 amending P.L.1991, s.261.

3

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

6

7 1. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to  
8 reads as follows:

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

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

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

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

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

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

35 (6) The existence of a verifiable order of protection from  
36 another jurisdiction.

37 An order issued under this act shall only restrain or provide  
38 damages payable from a person against whom a complaint has been  
39 filed under this act and only after a finding or an admission is made  
40 that an act of domestic violence was committed by that person. The  
41 issue of whether or not a violation of this act occurred, including an  
42 act of contempt under this act, shall not be subject to mediation or  
43 negotiation in any form. In addition, where a temporary or final  
44 order has been issued pursuant to this act, no party shall be ordered  
45 to participate in mediation on the issue of custody or parenting time.

**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. In proceedings in which complaints for restraining orders  
2 have been filed, the court shall grant any relief necessary to prevent  
3 further abuse. In addition to any other provisions, any restraining  
4 order issued by the court shall bar the defendant from purchasing,  
5 owning, possessing or controlling a firearm and from receiving or  
6 retaining a firearms purchaser identification card or permit to  
7 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in  
8 which the restraining order is in effect or two years whichever is  
9 greater, except that this provision shall not apply to any law  
10 enforcement officer while actually on duty, or to any member of the  
11 Armed Forces of the United States or member of the National  
12 Guard while actually on duty or traveling to or from an authorized  
13 place of duty. At the hearing the judge of the Family Part of the  
14 Chancery Division of the Superior Court may issue an order  
15 granting any or 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

1 child pursuant to the parenting time order has threatened the safety  
2 and well-being of the child.

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

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

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

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

45 (8) An order requiring that the defendant make or continue to  
46 make rent or mortgage payments on the residence occupied by the  
47 victim if the defendant is found to have a duty to support the victim

1 or other dependent household members; provided that this issue has  
2 not been resolved or is not being litigated between the parties in  
3 another action.

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

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

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

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

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

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

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

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

37 (17) An order prohibiting the defendant from stalking or  
38 following, or threatening to harm, to stalk or to follow, the  
39 complainant or any other person named in the order in a manner  
40 that, taken in the context of past actions of the defendant, would put  
41 the complainant in reasonable fear that the defendant would cause  
42 the death or injury of the complainant or any other person.  
43 Behavior prohibited under this act includes, but is not limited to,  
44 behavior prohibited under the provisions of P.L.1992, c.209  
45 (C.2C:12-10).

46 (18) An order requiring the defendant to undergo a psychiatric  
47 evaluation.





# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 540**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 19, 2011

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 540.

This bill authorizes a court to issue an order directing the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor residing in the household. Animals are not directly addressed by current domestic violence law.

The committee amended the bill to include additional language in the new paragraph (19) being added by the bill to subsection b. of N.J.S.A. 2C:25-29 which sets forth the types of relief that may be ordered by a Family Part judge. The new language provides that the court may also prohibit the defendant from interfering with the victim's efforts to remove the animal, and from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the animal is regularly found. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended, this bill is identical to Assembly Committee Substitute for Assembly, Nos. 1633/2509.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 540**

with Senate Floor Amendments  
(Proposed by Senator T. KEAN)

ADOPTED: DECEMBER 15, 2011

This bill would authorize the court to include provisions concerning animals in domestic violence restraining orders.

In its original form, the bill concerned final restraining orders pursuant to N.J.S.A.2C:25-29. These floor amendments would expand the bill to also address temporary restraining orders, orders issued by the court when defendants are released on bail, and conditions of sentence when a defendant is found guilty of a crime or offense involving domestic violence.

The amendments would add a new section 1 to the bill which would amend N.J.S.A.2C:25-26 to provide that when a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court may enter an order prohibiting the defendant from having any contact with any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. In addition, the amendments authorize the court to enter an order directing the possession of the animal and providing that the animal shall not be disposed of prior to the final disposition of the crime or offense.

The floor amendments would add a new section 2 to the bill which would amend N.J.S.A.2C:25-27 to provide that when a defendant is found guilty of a crime or offense involving domestic violence and a condition of sentence restricts the defendant's ability to have contact with an animal of either party or a minor child residing in the household, that condition would be recorded in an order of the court.

The floor amendments would add a new section 3 to the bill which would amend N.J.S.A.2C:25-28 to provide that as part of a temporary restraining order the court could issue an order directing the possession of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household and providing that the animal shall not be disposed of prior to entry of a final order.

The floor amendments would also renumber section 1 of the bill as section 4. This section amends N.J.S.A.2C:25-29 concerning final restraining orders. The floor amendments would amend N.J.S.A.2C:25-29 to provide that these orders may contain a provision directing the possession of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. The amendments would also provide that where a person has abused or

threatened to abuse an animal, there would be a presumption that possession of the animal would be awarded to the non-abusive party.

In addition, the floor amendments delete a provision in N.J.S.A.2C:25-29 that would have authorized the court to bar the defendant from coming within a specified distance of specified locations where the animal is regularly found.

Finally, the floor amendments make two language changes in the bill. The amendments replace the term “permanent restraining order” with “final restraining order” to maintain consistency in the domestic violence statutes, and replace the outdated reference to the “Victims of Crime Compensation Board” with the correct reference to the “Victims of Crime Compensation Agency.”

These amendments would make this bill identical to ACS for Assembly Bill No. 1633 and 2509 (1R).