

2C:25-1 to 2C:25-16

LEGISLATIVE HISTORY CHECKLIST

NJSA 2C:25-1 to 2C:25-16; 2A:4-18 (prevention of "Domestic Violence Act")

LAWS 1981 CHAPTER 426

Bill No. S3127

Sponsor(s) Lidman and Merlino

Date Introduced Feb. 23, 1981

Committee: Assembly -----

Senate Judiciary

Amended during passage Yes No Senate Committee substitute enacted. Substituted for A3790 (attached)

Date of Passage: Assembly Jan. 7, 1982

Senate Dec. 17, 1981

Date of approval Jan. 9, 1982

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ N

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings ~~Yes~~ No

- 974.90 New Jersey. Commission on Sex Discrimination.
- W872 Sex discrimination in marriage and family
- 1981b law. Second report. Trenton, 1981.
[See pp. 74-76]

Reports cited in sponsors' statement.

(over)

6/22/81

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974.90 New Jersey. Advisory Commission to the U.S.
M359 Commission on Civil Rights.
1981 Battered women in New Jersey, a report.
Washington, DC, January, 1981.

J1.14/7 U.S. Department of Justice.
979 FBI Uniform Crime Reports:
crime in the U.S. - 1979. Sept. 24, 1980.
Washington, DC.

For background see:

974.90 New Jersey. Division of Youth & Family Services.
M359 Physically abused women and their families,
1978 the need for community services; program
development guide. June, 1978. Trenton, 1978.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3127
STATE OF NEW JERSEY

ADOPTED DECEMBER 14, 1981

AN ACT concerning the prevention of domestic violence, supplementing Title 2A of the New Jersey Statutes, amending N. J. S. 2A:4-18 and repealing P. L. 1981, c. 200.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

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

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

14 The Legislature further finds and declares that even though
 15 many of the existing criminal statutes are applicable to acts of
 16 domestic violence, previous societal attitudes concerning domestic
 17 violence have affected the response of our law enforcement and
 18 judicial systems, resulting in these acts receiving different treat-
 19 ment from similar crimes when they occur in a domestic context.
 20 The Legislature finds that battered adults presently experience
 21 substantial difficulty in gaining access to protection from the
 22 judicial system, particularly due to that system's inability to
 23 generate a prompt response in an emergency situation.

24 It is the intent of the Legislature to stress that the primary duty
 25 of a law enforcement officer when responding to a domestic violence

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

26 call is to enforce the laws allegedly violated and to protect the
27 victim. It is further intended that the official response to domestic
28 violence shall communicate the attitude that violent behavior will
29 not be excused or tolerated, and shall make clear the fact that
30 the existing criminal laws and civil remedies created under this
31 act will be enforced without regard to the fact that the violence
32 grows out of a domestic situation.

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

2 a. "Cohabitants" means emancipated minors or persons 18 years
3 of age or older of the opposite sex who have resided together or
4 who currently are residing in the same living quarters or persons
5 who together are the parents of one or more children, regardless of
6 their marital status or whether they have lived together at any
7 time.

8 b. "Domestic violence" means the occurrence of one or more of
9 the following acts between cohabitants:

- 10 (1) Assault N. J. S. 2C:12-1
- 11 (2) Kidnapping N. J. S. 2C:13-1
- 12 (3) Criminal restraint N. J. S. 2C:13-2
- 13 (4) False imprisonment N. J. S. 2C:13-3
- 14 (5) Sexual assault N. J. S. 2C:14-2
- 15 (6) Criminal sexual contact N. J. S. 2C:14-3
- 16 (7) Lewdness N. J. S. 2C:14-4
- 17 (8) Criminal mischief N. J. S. 2C:17-3
- 18 (9) Burglary N. J. S. 2C:18-2

19 c. "Law enforcement agency" means the Division of State Police
20 of the Department of Law and Public Safety, any county prose-
21 cutor's office or a municipal or county police department of the
22 State.

23 d. "Law enforcement officer" means an officer or trooper of the
24 Division of State Police of the Department of Law and Public
25 Safety, or an officer, investigator or detective of a county prose-
26 cutor's office or of a municipal or county police department of the
27 State.

28 e. "Victim" means a cohabitant who alleges having been sub-
29 jected to domestic violence.

1 4. (New section) The Police Training Commission in the Depart-
2 ment of Law and Public Safety shall provide that all training for
3 law enforcement officers on the handling of domestic violence com-
4 plaints shall stress the enforcement of criminal laws in domestic
5-6 situations, the protection of the victim, and the use of available
7 community resources. Law enforcement agencies may establish

8 domestic crises teams or individual officers may be trained in
9 methods of dealing with domestic violence. The teams may include
10 social workers, clergy or other persons trained in counseling,
11 crisis intervention or in the treatment of domestic violence victims.
12 When an alleged incident of domestic violence is reported, the
13 agency shall dispatch a domestic crisis team or specially trained
14 officer, if available, to the scene of the incident.

1 5. (New section) A law enforcement officer may arrest a person:

2 a. When the officer has probable cause to believe that a person
3 has violated the terms of an order issued pursuant to sections 10,
4 11, 13 or 14 of this act and that service has been effected either
5 in person or by substituted service. The officer may verify, if
6 necessary, the existence of an order with the appropriate law
7 enforcement agency in accordance with subsection d. of section 8
8 of this act; or

9 b. A victim exhibits signs of injury or there is other probable
10 cause to believe that an act of domestic violence has been committed.

1 6. (New section) a law enforcement officer shall not be held
2 liable in any civil action brought by any party for an arrest based
3 on probable cause, enforcement in good faith of a court order, or
4 any other act or omission in good faith under this act.

1 7. (New section) A victim shall have the rights in and an officer
2 shall read and disseminate to the victim the following notice, which
3 shall be written in both English and Spanish:

4 "You have the right to go to the municipal, juvenile and domestic
5 relations or superior court and file a complaint requesting any of
6 the following applicable orders for temporary relief: (1) an order
7 restraining your attacker from abusing you; (2) an order directing
8 your attacker to leave your household; (3) an order awarding you
9 custody of a minor child; (4) an order directing your attacker to
10 pay you for losses suffered as a result of the abuse, including medi-
11 cal, dental and moving expenses, loss of earnings or support, at-
12 torneys fees and other out-of-pocket losses for injuries sustained.

13 You have the right to go to court and file a criminal complaint.

14 On weekends, holidays and other times when the courts are closed,
15 you may go to the municipal court for an emergency order granting
16 the relief set forth above.

17 If you are in need of medical treatment, you may ask the officer
18 present to assist you or arrange for you to go to the nearest
19 hospital or otherwise assist you or accompany you to a place of
20 safety or shelter.

21 If you believe that police protection is needed for your physical
22 safety, you may ask the officer present to remain at the scene until

23 you or your children can leave or until your safety is otherwise
24 insured.”

1 8. (New section) a. It shall be the duty of a law enforcement
2 officer who responds to a domestic violence call to complete a
3 domestic violence offense report. All information contained in the
4 domestic violence offense report shall be forwarded to the appro-
5 priate county bureau of identification and the State bureau of
6 identification in the Division of State Police in the Department of
7 Law and Public Safety.

9 b. The domestic violence offense report shall be on a form
10 prescribed by the supervisor of the State bureau of identification
11 which shall include, but not be limited to, the following information:

- 12 (1) The relationship of the parties;
- 13 (2) The sex of the parties;
- 14 (3) The time the complaint was received;
- 15 (4) The time the officer began investigation of the complaint;
- 16 (5) Whether children were involved, or whether the alleged act
17 of domestic violence had been committed in the presence of children;
- 18 (6) The type and extent of abuse;
- 19 (7) The number and type of weapons involved;
- 20 (8) The amount of time involved in handling the case and the
21 action taken by the law enforcement officer;
- 22 (9) The effective date and terms of an order issued pursuant to
23 sections 10, 11, 13 or 14 of this act concerning the parties; and
- 24 (10) Any other data that may be necessary for a complete analysis
25 of all corcumstances leading to the alleged incident of domestic
26 violence.

27 c. It shall be the duty of the Superintendent of the State Police
28 to compile and report annually for a period of 5 years to the
29 Governor, the Legislature and the Advisory Council on Shelters
30 for Victims of Domestic Violence on the tabulated data from the
31 domestic violence offense reports. The Advisory Council on Shelters
32 for Victims of Domestic Violence may request the Legislature to
33 continue the reports for another 5 years. The report shall include,
34 but not be limited to, the following information:

- 35 (1) The total number of domestic violence calls received;
- 36 (2) The number of calls made by victims of each sex;
- 37 (3) The number of domestic violence calls investigated;
- 38 (4) The average time-lapse in responding to these calls;
- 39 (5) The number of calls received from victims who have filed
40 civil or criminal complaints with regard to domestic violence on
41 more than one occasion with a classification according to charges
42 brought;

43 (6) The number of complaints not pursued by the victims; and

44 (7) The types of police actions taken in disposition of these
45 cases, including the number of arrests.

46 d. The supervisor of the State bureau of identification shall
47 assist all law enforcement agencies in the establishment of pro-
48 cedures to insure that dispatchers and officers at the scene of an
49 alleged incident of domestic violence are informed of any verified
50 order in force concerning the parties issued pursuant to sections
51 10, 11, 13, or 14 of this act or of any prior recorded incident of
52 domestic violence involving the parties.

1 9. (New section) The court in domestic violence actions:

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

6 b. Shall not require proof that either party is seeking a dissolu-
7 tion of a marriage prior to institution of criminal proceedings;

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

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

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

1 11. (New section) When a defendant is found guilty of a crime
2 or offense involving domestic violence and a condition of sentence
3 restricts the defendant's ability to have contact with the victim,
4 that condition shall be recorded in an order of the court and a
5 written copy of that order shall be provided to the victim by the
6 clerk of the court or other person designated by the court.
7 In addition to restricting a defendant's ability to have contact
8 with the victim, the court may require the defendant to receive
9 professional counseling from either a private source or a source
10 appointed by the court, and the court may require the defendant to
11 provide documentation of attendance at the professional counseling.

1 12. (New section) a. A victim may file a complaint alleging the
2 commission of an act of domestic violence with the juvenile and
3 domestic relations court in conformity with the rules of court.
4 The court in domestic violence actions shall not dismiss any com-
5 plaint or delay disposition of a case because the victim has left
6 the residence to avoid further incidents of domestic violence. Filing
7 a complaint pursuant to this section shall not prevent the filing
8 of a criminal complaint for the same act.

9 b. The juvenile and domestic relations court shall waive any
10 requirement that the petitioner's place of residence appear on the
11 complaint.

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

15 d. Summons and complaint forms shall be readily available at the
16 clerk's office and at the municipal courts.

1 13. (New section) a. A hearing shall be scheduled in juvenile
2 and domestic relations court within 10 days of the filing of a
3 complaint pursuant to section 12 of this act. At the hearing the
4 standard for proving the allegations in the complaint shall be by
5 a preponderance of the evidence.

6 b. At the hearing the juvenile and domestic relations court may
7 issue an order granting any or all of the following relief:

8 (1) An order prohibiting the defendant from having contact
9 with the victim including, but not limited to, restraining the de-
10 fendant from entering the plaintiff's residence, place of employ-
11 ment or business, or school. The court shall prohibit the defendant
12 from harassing the plaintiff or plaintiff's relatives in any way;

13 (2) An order granting possession to the plaintiff of the residence
14 to the exclusion of the defendant when the residence or household
15 is jointly owned or leased by the parties. The court may amend its
16 order at any time upon petition by either party. Sole ownership
17 in the name of the defendant of the real property constituting the
18 residence of the parties shall not bar the court from entering an
19 order restraining the defendant from entering the marital resi-
20 dence. No order shall affect any interest in the residence held by
21 either party;

22 (3) When the defendant has a duty to support the plaintiff or
23 minor children living in the residence or household and the defend-
24 ant is sole owner or lessee of the residence, an order granting
25 possession to the plaintiff of the residence or household to the
26 exclusion of the defendant may be issued or, upon consent of the
27 parties, allowing the defendant to provide suitable, alternate
28 housing;

29 (4) An order determining child support, child custody, or estab-
30 lishing visitation rights, provided that this issue has not been
31 resolved nor is being litigated between the parties. The court shall
32 protect the safety of the plaintiff by specifying a place of visitation
33 away from the plaintiff or take any other appropriate precaution
34 necessary to protect the safety and well-being of the plaintiff
35 and minor children;

36 (5) An order requiring the defendant to pay to the victim
37 monetary compensation for losses suffered as a direct result of
38 the act of domestic violence. Compensatory losses shall include, but
39 not be limited to, loss of earnings or support, out-of-pocket losses
40 for injuries sustained, moving expenses and reasonable attorneys
41 fees;

42 (6) An order requiring the defendant to receive professional
43 counseling from either a private source or a source appointed by
44 the court and, in that event, at the court's discretion requiring the
45 defendant to provide the court at specified intervals with docu-
46 mentation of attendance at the professional counseling.

47 c. In addition to the relief sought in subsection b. of this section
48 a plaintiff may seek emergency, *ex parte* relief in the nature of a
49 temporary restraining order. The juvenile and domestic relations
50 court may enter *ex parte* orders when necessary to protect the
51 life, health or well-being of a victim on whose behalf the relief is
52 sought.

53 Whenever emergency relief is sought by the plaintiff the clerk
54 of the court or other person designated by the court shall immedi-
55 ately transmit the complaint to the presiding juvenile and domestic
56 relations court judge regarding the emergency relief sought by the
57 close of business on the day relief is sought. An order granting
58 emergency relief shall immediately be forwarded to the sheriff
59 for immediate service of the order for emergency relief upon the
60 defendant.

61 d. An order for emergency relief shall be granted upon good
62 cause shown.

63 e. Emergency relief may constitute all relief available under
64 this act together with any other appropriate relief. A temporary
65 restraining order shall remain in effect until further action by
66 the court.

67 f. Notice of orders issued pursuant to this section shall be sent
68 by the clerk of the juvenile and domestic relations court or other
69 person designated by the court to the appropriate chiefs of police,
70 members of the State Police and any other law enforcement agency.

71 g. All pleadings, process, and other orders filed pursuant to this
72 act shall be served upon the defendant in accordance with the rules
73 of court. If personal service cannot be effected upon the defendant,
74 the court may order other appropriate substitute service.

1 14. (New section) a. A municipal court judge shall be available
2 to issue a temporary restraining order pursuant to this act. The
3 order shall be made by the judge of the jurisdiction where the
4 alleged domestic violence occurred or the jurisdiction where the
5 plaintiff resides using the same procedure now available on other
6 emergent applications.

7 b. If it appears that the plaintiff or the plaintiff's children are
8 in danger of domestic violence, the municipal court judge shall,
9 upon consideration of the plaintiff's affidavit, order emergency
10 relief in the nature of a temporary restraining order. A decision
11 shall be made by the judge regarding the emergency relief forth-
12 with. An order granting emergency relief shall immediately be
13 forwarded to the sheriff for immediate service of the order for
14 emergency relief upon the defendant.

15 c. An order for emergency relief shall be granted upon good
16 cause shown and shall remain in effect for 72 hours, which may be
17 extended but not for more than 7 days. Any order hereunder may
18 be dissolved or modified on 24 hours notice of immediately appeal-
19 able for a plenary hearing *de novo* not on the record before the
20 Superior Court, Chancery Division or other juvenile and domestic
21 relations court of the county in which the plaintiff resides.

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

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

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

33 g. An application for a temporary restraining order pursuant
34 to this section shall, upon filing and issuance, be immediately
35 forwarded to the clerk of the juvenile and domestic relations court
36 of plaintiff's vicinage.

1 15. (New section) a. Upon the issuance of an order pursuant to
2 sections 10, 11, 13 or 14 of this act the court may order a law
3 enforcement officer to accompany either party to the residence to

4 supervise the removal of personal belongings in order to insure
5 the personal safety of the plaintiff.

6 b. Violation of an order issued pursuant to sections 10, 11, 13 or
7 14 of this act shall constitute contempt and each order shall so
8 state.

1 16. (New section) The Administrative Office of the Courts shall
2 maintain a uniform record of all requests for orders issued pur-
3 suant to sections 10, 11, 13, or 14 of this act. The record shall
4 include the following information:

5 a. The names and addresses of the parties;

6 b. The sex of the parties;

7 c. The relationship of the parties;

8 d. The nature of the complaint;

9 e. The relief sought;

10 f. The nature of the relief granted including but not limited to,
11 custody and child support; and

12 g. The effective date and terms of each order issued.

13 It shall be the duty of the Director of the Administrative Office of
14 the Courts to compile and report annually to the Governor, the
15 the Legislature and the Advisory Council on Shelters for Victims
16 of Domestic Violence on the data tabulated from the records on
17 these orders for a period of 5 years. The Advisory Council on
18 Shelters for Victims of Domestic Violence may request the Legisla-
19 ture continue the reports for another 5 years.

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

1 17. N. J. S. 2A:4-18 is amended to read as follows:

2 2A:4-18. The juvenile and domestic relations court shall also
3 have jurisdiction concurrently with such other courts as may have
4 jurisdiction over the matter, to hear and determine in a summary
5 manner disputes and complaints:

6 a. Involving the domestic relation or the welfare of children, as
7 to which jurisdiction is vested in any court except the Superior
8 Court or except with respect to the adoption of children or adults.

9 b. Involving matters of support or temporary custody of children
10 as to which jurisdiction is vested in the Superior Court.

11 c. Involving violations of subtitle 12 (disorderly persons law)
12 of this title (§ 2A:169-1 et seq.), and chapter 1 of Title 44, Poor
13 (§ ~~44:1-1~~ et seq.), chapter 6 and chapter 17 of Title 9, Children
14 (§ 9:6-1 et seq., and § 9:17-1 et seq.), and article 4 of chapter 5 of
15 Title 30, Institutions and Agencies (§ 30:5-33 et seq.), of the Re-
16 vised Statutes, together with any other laws or future enactments

17 covering similar complaints or offenses, where the gravamen of
18 the complaint under such laws or enactments is the failure or
19 neglect of one member of the family to satisfy or discharge [his]
19A *the* legal obligations to another member of the family.

19B d. Against any person who abuses, neglects, cruelly treats or
20 abandons a child or who contributes to the delinquency of a child.

21 e. Involving the domestic relation, where a [husband or father]
22 *spouse or parent* deserts [his wife] *the other spouse* or child even
23 though they continue to live in the same household, in which case
24 the court may order adequate support of [his wife], *the other*
25 *spouse*, child or family.

26 f. Involving the domestic relation, where a [husband or father]
27 *spouse or a parent* forces [his wife] *the other spouse* or child to
28 leave the home because of [his] cruel and inhuman conduct, in
29 which case the court may provide by appropriate order for their
30 support and maintenance.

31 *g. Involving domestic violence where a victim seeks civil relief.*

1 18. P. L. 1981, c. 200 (C. 2C:12-4 et seq.) is repealed.

1 19. This act shall take effect 90 days following enactment.

SENATE, No. 3127

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1981

By Senators LIPMAN and MERLINO

Referred to Committee on Judiciary

AN ACT concerning the prevention of domestic violence, supplementing Title 2A of the New Jersey Statutes and amending N. J. S. 2A:4-18.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

1 2. (New section) The Legislature finds and declares that domestic
2 violence is a serious crime against society; that there are thousands
3 of persons in this State who are regularly beaten, tortured and in
4 some cases killed by their cohabitants; that a significant number
5 of victims are pregnant women, elderly people or children and that
6 victims of domestic violence come from all social, economic and
7 ethnic groups. It is therefore the intent of the Legislature to assure
8 the victims of domestic violence the maximum protection from
9 abuse through the enforcement of existing criminal laws and civil
10 remedies. A further intent of the Legislature is to require law
11 enforcement agencies and prosecutors to investigate and prosecute
12 domestic violence complaints as vigorously as any other complaints.
13 Previous societal attitudes which have been reflected through the
14 policies and practices of law enforcement agencies and prosecutors,
15 who have accorded different treatment to crimes occurring between
16 cohabitants and all other crimes, are no longer acceptable.

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

2 a. "Cohabitants" means persons of the opposite sex who have or
3 are sharing the same living quarters; persons related to each other
4 by blood or by law; or persons who together are the parents of one
5 or more children, regardless of their marital status or whether they
6 have lived together at any time.

7 b. "Domestic violence" means the occurrence of one or more of
8 the following acts between cohabitants:

9	(1) Assault	N. J. S. 2C:12-1
10	(2) Recklessly endangering another person	N. J. S. 2C:12-2
11	(3) Kidnapping	N. J. S. 2C:13-1
12	(4) Criminal restraint	N. J. S. 2C:13-2
13	(5) False imprisonment	N. J. S. 2C:13-3
14	(6) Interference with custody	N. J. S. 2C:13-4
15	(7) Criminal coercion	N. J. S. 2C:13-5
16	(8) Sexual assault	N. J. S. 2C:14-2
17	(9) Criminal sexual contact	N. J. S. 2C:14-3
18	(10) Lewdness	N. J. S. 2C:14-4
19	(11) Criminal mischief	N. J. S. 2C:17-3
20	(12) Burglary	N. J. S. 2C:18-2
21	(13) Criminal trespass	N. J. S. 2C:18-3
22	(14) Endangering the welfare of children	N. J. S. 2C:24-4
23	(15) Willful nonsupport	N. J. S. 2C:24-5
24	(16) Endangering the welfare of an in-	
25	competent person	N. J. S. 2C:24-7
26	(17) Harassment	N. J. S. 2C:33-4

27 c. "Law enforcement agency" means the Division of State Police
28 of the Department of Law and Public Safety or a municipal police
29 department of the State.

30 d. "Law enforcement officer" means an officer or trooper of the
31 Division of State Police of the Department of Law and Public
32 Safety or an officer of a municipal police department of the State.

33 e. "Victim" means a cohabitant who alleges having been sub-
34 jected to domestic violence.

1 4. (New section) All training for law enforcement officers on the
2 handling of domestic violence complaints shall stress the enforce-
3 ment of criminal laws in domestic situations, the protection of the
4 victim, and the use of available community resources. Law en-
5 forcement agencies shall establish domestic crisis teams or, if the
6 agency has fewer than 5 officers whose responsibility it is to
7 respond to domestic violence calls, individual officers shall be
8 trained in methods of dealing with domestic violence. The teams
9 or individuals may include social workers, clergymen or other per-
10 sons trained in counseling, crisis intervention or in the treatment of
11 domestic violence victims. When an alleged incident of domestic
12 violence is reported, the agency shall dispatch a domestic crisis
13 team or specially trained officer, if available, to the scene of the
14 incident.

1 5. (New section) The primary duty of a law enforcement officer
2 when responding to a domestic violence call is to enforce the laws
3 allegedly violated and to protect the victim.

1 6. a. (New section) When an officer responds to a domestic
2 violence call and has probable cause to believe that a crime has
3 been committed, the officer may exercise arrest powers without a
4 warrant if the officer has probable cause to believe that the person
5 committed an act of domestic violence.

6 b. A law enforcement officer has probable cause to arrest a
7 person when:

8 (1) That person has violated the terms of an order issued pur-
9 suant to sections 11, 12, 15 or 16 of this act and served on the person
10 either personally or by substituted service. The officer may verify,
11 if necessary, the existence of an order with the appropriate law
12 enforcement agency in accordance with subsection d. of section 9
13 of this act; or

14 (2) A victim exhibits signs of injury or there is other probable
15 cause to believe that an act of domestic violence has been com-
16 mitted out of the presence of the officer.

1 7. (New section) A law enforcement officer shall not be held liable
2 in any civil action brought by any party for an arrest based on
3 probable cause, enforcement in good faith of a court order, or any
4 other act or omission in good faith under this act arising from an
5 alleged incident of domestic violence.

1 8. (New section) A victim shall have the rights in and an officer
2 shall read and disseminate the following notice, written in English
3 and Spanish to the victim:

4 "You have the right to go to the juvenile and domestic rela-
5 tions or superior court and file a complaint requesting any of
6 the following applicable orders for temporary relief: (1) an
7 order restraining your attacker from abusing you; (2) an order
8 directing your attacker to leave your household; (3) an order
9 awarding you custody of a minor child; (4) an order directing
10 your attacker to pay you for losses suffered as a result of the
11 abuse, including medical, dental and moving expenses, loss of
12 earnings or support, attorneys fees and other out-of-pocket
13 losses for injuries sustained.

14 You have the right to go to court and file a criminal com-
15 plaint. On weekends, holidays, and other times when the courts
16 are closed, you may go to the municipal court for an emer-
17 gency order granting the relief set forth above.

18 If you are in need of medical treatment, you have the right
19 to demand that the officer present drive you to the nearest
20 hospital or otherwise assist you or accompany you to a place
21 of safety or shelter.

22 If you believe that police protection is needed for your
 23 physical safety, you have the right to demand that the officer
 24 present remain at the scene until you or your children can
 25 leave or until your safety is otherwise insured."

1 9. a. (New section) It shall be the duty of a law enforcement
 2 officer who responds to a domestic violence call to complete a
 3 domestic violence offense report. All information contained in the
 4 domestic violence offense report shall be forwarded to the appro-
 5 priate county bureau of identification and the bureau of identifica-
 6 tion in the Division of State Police in the Department of Law and
 7 Public Safety.

8 b. The domestic violence offense report shall be on a form pre-
 9 scribed by the supervisor of the State bureau of identification which
 10 shall include, but be limited to, the following information:

- 11 (1) The relationship of the parties;
- 12 (2) The sex of the parties;
- 13 (3) The time the complaint was received;
- 14 (4) The time the officer began investigation of the complaint;
- 15 (5) Whether children were involved, or whether the alleged act
 16 of domestic violence had been committed in the presence of
 17 children;
- 18 (6) The type and extent of abuse;
- 19 (7) The number and type of weapons involved;
- 20 (8) The amount of time involved in handling the case and the
 21 action taken by the law enforcement agency;
- 22 (9) The effective date and terms of an order issued pursuant
 23 to sections 11, 12, 15 or 16 of this act concerning the parties;
- 24 (10) Any other data that may be necessary for a complete
 25 analysis of all circumstances leading to the alleged incident
 26 of domestic violence.

27 c. It shall be the duty of the Superintendent of the State Police
 28 to compile and report annually to the Governor, the Legislature
 29 and the Advisory Council on Shelters for Victims of Domestic
 30 Violence on the tabulated data from the domestic violence offense
 31 forms. The report shall include, but not be limited to, the following
 32 information:

- 33 (1) The total number of domestic violence calls received;
- 34 (2) The number of calls made by victims of each sex;
- 35 (3) The number of domestic violence calls investigated;
- 36 (4) The average time-lapse in responding to these calls;
- 37 (5) The number of calls received from victims who have filed
 38 civil or criminal complaints with regard to domestic violence
 39 on more than one occasion with a classification according to
 40 charges brought; and,

41 (6) The types of police actions taken in disposition of these cases,
42 including the number of arrests.

43 d. The supervisor of the State bureau of identification shall assist
44 all law enforcement agencies in the establishment of procedures to
45 insure that dispatchers and officers at the scene of an alleged in-
46 cident of domestic violence are informed of any verified order in
47 force concerning the parties issued pursuant to sections 11, 12, 15
48 or 16 of this act or of any prior recorded incident of domestic
49 violence involving the parties.

1 10. (New section) The court in domestic violence actions:

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

6 b. Shall not require proof that either party is seeking a dissolu-
7 tion of a marriage prior to institution of criminal proceedings;

8 c. Shall waive any requirement that the victim's location be dis-
9 closed to any person; and

10 d. Shall identify by any reasonable means those criminal actions
11 arising from acts of domestic violence.

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

9 b. The written court order releasing the defendant shall contain
10 the court's directives restricting the defendant's ability to have
11 contact with the victim. The clerk of the court shall provide a
12 certified copy of this order to the victim within 5 days of the
13 issuance thereof.

1 12. (New section) When a defendant is found guilty of a crime or
2 offense involving domestic violence and a condition of sentence
3 restricts the defendant's ability to have contact with the victim, that
4 condition shall be recorded in an order of the court and a written
5 certified copy of that order shall be provided to the victim by the
6 clerk of the court. In addition to restricting a defendant's ability
7 to have contact with the victim, the court may require the defendant
8 to receive professional counseling from either a private source or
9 a source appointed by the court and, in that event the defendant
10 shall provide the court at 4 week intervals with documentation of
11 attendance at the professional counseling.

1 13. (New section) A prosecutor shall advise a victim whether or
2 not the person alleged to have committed the act of domestic
3 violence will be prosecuted within 5 days of the date the matter is
4 referred to the prosecutor, and prior to making that decision shall
5 advise the victim of the status of the case. Notification to the
6 victim that charges will not be filed shall include a description of
7 the procedures available to the victim to initiate a proceeding on
8 the victim's own behalf.

1 14. a. (New section) A victim or any parent or guardian ad
2 litem on behalf of a minor may file a complaint alleging the com-
3 mission of an act of domestic violence with the juvenile and
4 domestic relations court in conformity with the rules of court. The
5 court in domestic violence actions shall not dismiss any complaint
6 or delay disposition of a case because of concurrent dissolution of a
7 marriage, other civil proceedings, or because the victim has left the
8 residence to avoid further incidents of domestic violence. Filing a
9 complaint pursuant to this section shall not prevent the filing of a
10 criminal complaint for the same act.

11 b. The juvenile and domestic relations court shall waive any
12 requirement that the petitioner's place of residence appear on the
13 complaint.

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

17 d. Summons and complaint forms shall be readily available at
18 the clerk's office and the municipal courts.

1 15. a. (New section) A hearing shall be scheduled in juvenile and
2 domestic relations court within 10 days of the filing of a complaint
3 pursuant to section 14 of this act.

4 b. At the hearing the juvenile and domestic relations court may
5 issue an order granting any or all of the following relief:

6 (1) An order prohibiting the defendant from having contact with
7 the victim including, but not limited to, restraining the defendant
8 from entering the plaintiff's residence, place of employment or
9 business, or school. The court shall prohibit the defendant from
10 harassing the plaintiff or plaintiff's relatives in any way;

11 (2) An order granting possession to the plaintiff of the residence
12 to the exclusion of the defendant. The court may amend its order
13 at any time upon petition by either party. Sole ownership of the
14 real property constituting the residence of the parties in the name
15 of the defendant shall not bar the court from entering an order
16 restraining the defendant from entering the residence. No order
17 shall affect any interest in the residence held by either party;

18 (3) An order granting the plaintiff child support, child custody,
19 or establishing visitation rights. In a situation involving domestic
20 violence, the court shall protect the safety of the plaintiff by
21 specifying a place of visitation away from the plaintiff or take any
22 other appropriate precaution necessary to protect the safety and
23 well-being of the plaintiff and minor children;

24 (4) An order requiring the defendant to pay to the victim
25 monetary compensation for losses suffered as a direct result of the
26 act of domestic violence. Compensatory losses shall include, but
27 not be limited to, loss of earnings or support, out-of-pocket losses
28 for injuries sustained, moving expenses and reasonable attorney
29 fees;

30 (5) An order requiring the defendant to receive professional
31 counseling from either a private source or a source appointed by
32 the court and, in that event, the defendant shall provide the court
33 at 4 week intervals with documentation of attendance at the pro-
34 fessional counseling.

35 c. In addition to the relief sought in subsection b. of this section
36 a plaintiff may seek emergency, *ex parte* relief in the nature of a
37 temporary restraining order. The court may enter *ex parte* orders
38 when necessary to protect the life, health or well-being of a victim
39 on whose behalf the relief is sought.

40 Whenever emergency relief is sought by the plaintiff the clerk
41 of the court shall immediately transmit the complaint to the presid-
42 ing juvenile and domestic relations court judge for consideration.
43 A decision shall be made by the judge regarding the emergency
44 relief sought by the close of business on the day relief is sought.
45 An order granting emergency relief shall immediately be forwarded
46 to the appropriate law enforcement agency for immediate service
47 of the order for emergency relief upon the defendant.

48 d. An order for emergency relief shall be granted upon good
49 cause shown.

50 e. Emergency relief may constitute all relief available under this
51 act together with any other appropriate relief. A temporary
52 restraining order shall remain in effect until further order of the
53 court.

54 f. Notice of orders issued pursuant to this section shall be sent to
55 the appropriate chiefs of police, members of the State Police and
56 any other law enforcement agency for verification purposes.

57 g. All pleadings, process, and other orders filed pursuant to this
58 act shall be served upon the defendant in accordance with the rules
59 of court. If personal service cannot be effected upon the defendant,
60 the court may order other appropriate substitute service.

1 16. a. (New section) On weekends, holidays, evenings, or when-
 2 ever the clerk of the juvenile and domestic relations court is other-
 3 wise unavailable, a municipal court judge shall be available to issue
 4 a temporary restraining order pursuant to this act in the jurisdic-
 5 tion where the plaintiff resides.

6 b. If it appears that the plaintiff or the plaintiff's children are
 7 in danger of domestic violence, the municipal court judge shall,
 8 upon consideration of the plaintiff's affidavit, order emergency
 9 relief in the nature of a temporary restraining order. A decision
 10 shall be made by the judge regarding the emergency relief sought
 11 by the close of business on the day relief is sought. An order grant-
 12 ing emergency relief shall immediately be forwarded to the appro-
 13 priate law enforcement agency for immediate service of the order
 14 for emergency relief upon the defendant.

15 c. An order for emergency relief shall be granted upon good
 16 cause shown.

17 d. Emergency relief may constitute all relief available under this
 18 act together with any other appropriate relief.

19 e. Notice of temporary restraining orders issued pursuant to this
 20 section shall be sent to the appropriate sheriffs, chiefs of police,
 21 and members of the State Police and any other law enforcement
 22 agency for verification purposes.

23 f. An application for a temporary restraining order pursuant to
 24 this section shall upon filing and issuance be immediately forwarded
 25 to the clerk of the juvenile and domestic relations court for transfer
 26 and disposition by the court. Pending disposition by the juvenile
 27 and domestic relations court, the municipal court order shall
 28 remain in effect.

1 17. a. (New section) Upon the issuance of an order pursuant to
 2 sections 11, 15 or 16 of this act the court may order a law enforce-
 3 ment officer to accompany either party to the residence to supervise
 4 the removal of personal belongings in order to insure the personal
 5 safety of the plaintiff.

6 b. Violation of an order issued pursuant to sections 11, 15 or
 7 16 of this act shall constitute a crime of the fourth degree and each
 8 order shall so state.

1 18. (New section) The Administrative Office of the Courts shall
 2 maintain a uniform record of all requests for orders issued pur-
 3 suant to sections 11, 15 or 16 of this act. The record shall include
 4 the following information:

- 5 a. The names and addresses of the parties;
- 6 b. The sex of the parties;
- 7 c. The relationship of the parties;
- 8 d. The nature of the complaint;

9 e. The relief sought;

10 f. The nature of the relief granted, including but not limited to,
11 custody and child support;

12 g. The effective date and terms of each order issued.

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

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

1 19. N. J. S. 2A:4-18 is amended to read as follows:

2 2A:4-18. The juvenile and domestic relations court shall also
3 have jurisdiction concurrently with such other courts as may have
4 jurisdiction over the matter, to hear and determine in a summary
5 manner disputes and complaints:

6 a. Involving the domestic relation or the welfare of children,
7 as to which jurisdiction is vested in any court except the superior
8 court or except with respect to the adoption of children or adults.

9 b. Involving matters of support or temporary custody of chil-
10 dren as to which jurisdiction is vested in the superior court.

11 c. Involving violations of subtitle 12 (disorderly persons law)
12 of this title (§ 2A:169-1 et seq.), and chapter 1 of Title 44, Poor
13 (§ 44:1-1 et seq.), chapter 6 and chapter 17 of Title 9, Children
14 (§ 9:6-1 et seq., and § 9:17-1 et seq.), and article 4 of chapter 5
15 of Title 30, Institutions and Agencies (§ 30:5-33 et seq.), of the
16 Revised Statutes, together with any other laws or future enact-
17 ments covering similar complaints or offenses, where the grava-
18 men of the complaint under such laws or enactments is the failure
19 or neglect of 1 member of the family to satisfy or discharge his
20 legal obligations to another member of the family.

21 d. Against any person who abuses, neglects, cruelly treats or
22 abandons a child or who contributes to the delinquency of a child.

23 e. Involving the domestic relation, where a husband or father
24 deserts his wife or child even though they continue to live in the
25 same household, in which case the court may order adequate
26 support of his wife, child or family.

27 f. Involving the domestic relation, where a husband or father
28 forces his wife or child to leave the home because of his cruel and
29 inhuman conduct, in which case the court may provide by appro-
30 priate order for their support and maintenance.

31 *g. Involving domestic violence where a victim seeks civil relief.*

1 20. This act shall take effect 90 days after enactment.

S3127

Sponsors

STATEMENT

This bill provides training for law enforcement officers in the handling of domestic violence, clarifies the applicability of various criminal statutes, improves record-keeping in order to monitor domestic violence complaints and gives the juvenile and domestic relations court jurisdiction to grant civil relief to a victim of domestic violence. Under the "Prevention of Domestic Violence Act" law enforcement officers must receive training on the handling of domestic violence complaints stressing the enforcement of criminal laws, the protection of the victim and the use of available community resources. Law enforcement agencies must establish domestic crisis teams that may be supplemented by domestic violence experts.

An officer may arrest an alleged abuser without a warrant if there is reason to believe the alleged abuser committed a crime or offense, violated a protection order or if probable cause is present. In addition, the officer responding to a domestic violence call must inform the victim of the right to both civil and criminal relief and provide transportation to a hospital or shelter if necessary. A law enforcement official is immunized from suits for damages for any action taken in a good faith effort to enforce the law.

To monitor the nature and scope of domestic violence an officer must complete a detailed domestic violence offense report form. An annual report on the tabulated data will be sent to the Governor, the Legislature and the Advisory Council on Shelters for Victims of Domestic Violence, thus facilitating the evaluation of the law enforcement response to domestic violence.

The most important provisions of this act are the strengthening of civil and criminal remedies. Traditionally domestic violence has not been treated as a criminal matter; this bill stresses the enforcement of criminal laws. In criminal cases the courts are provided with specific directions, such as prohibiting the victim's location from being disclosed. The court must prohibit an abuser charged with a crime from having contact with the victim and the abuser may be ordered to undergo counseling.

The creation of civil in addition to criminal remedies is important because the civil laws offer broader, more flexible relief. The decision to file for a civil order lies solely with the victim. The juvenile and domestic relations court may issue an order prohibiting the abuser from entering the residence, prohibiting contact with the victim, requiring attendance at a counseling program, granting child support or maintenance, or requiring the abuser to

pay the victim monetary compensation for losses suffered as a direct result of the abuse.

A temporary restraining order may be issued *ex parte* when necessary to protect the safety of the victim. On weekends, holidays or evenings the municipal court may issue a temporary restraining order. Violation of the temporary restraining order is a crime of the fourth degree. The Director of the Administrative Office of the Courts must report annually to the Governor, the Legislature and the Advisory Council on Shelters for the Victims of Domestic Violence on the data tabulated from the records on orders.

The increasing prevalence of domestic violence—particularly battered women—is a critical national problem. The United States Department of Justice report entitled “Crimes in the United States—1979” revealed that 30% of the homicides committed in this country are victims of domestic violence. In the vast majority of these family homicide cases, police had previously been called to the home because of physical violence. Although there are no conclusive statistics on the incidence of domestic violence in New Jersey, a recent New Jersey Advisory Committee report to the United States Commission on Civil Rights, “Battered Women in New Jersey,” did document the problems facing battered women in selected localities. The intent of this bill in many instances closely parallels the recommendations of the Advisory Committee report.

The New Jersey Coalition for Battered Women and Legal Services of New Jersey realized the need for extensive changes in the legal system and presented a proposal to the sponsor of this legislation and the Commission on Sex Discrimination in the Statutes. The commission strongly supports this legislation as consistent with its mandate to eliminate sex-based classification in the statutes. This bill creates urgently needed legal remedies and brings New Jersey up-to-date with the majority of other states that have already enacted similar provisions.

Domestic violence has a detrimental effect on families; there are alarming correlations between spouse and child abuse and between violent families and delinquencies. This act presents a comprehensive response to the recurrent problem of domestic violence by ensuring victims the maximum protection of the law. It prevents repeated occurrences of violence by facilitating a prompt and thorough response to complaints.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3127

STATE OF NEW JERSEY

DATED: DECEMBER 14, 1981

Senate Committee Substitute for Senate Bill No. 3127 of 1981, the "Prevention of Domestic Violence Act," is aimed at strengthening the criminal and civil remedies available to victims of domestic violence. The provisions of the committee substitute, which are based on recommendations contained in a report entitled "Battered Women in New Jersey" prepared by the New Jersey Advisory Committee to the United States Commission on Civil Rights, resulted from a series of meetings between the sponsor and representatives of the Commission on Sex Discrimination in the Statutes, the New Jersey Departments of Community Affairs and Human Services, the New Jersey Coalition for Battered Women, Legal Services of New Jersey, the Administrative Office of the Courts and the county prosecutors.

The following is a brief description of its provisions:

Section 1

Title—"Prevention of Domestic Violence Act."

Section 2

In section 2, the Legislature finds that domestic violence is a serious problem affecting all social and economic backgrounds and ethnic groups; that domestic violence often is accompanied by child abuse and that the intent of Senate Bill No. 3127 is to provide the victims of domestic violence with protection from abuse. Section 2 also states that societal attitudes have affected the response of law enforcement officers and judges to instances of domestic violence and that Senate Bill No. 3127 through the remedies created is intended to stress enforcement of the law and the protection of the victim.

Section 3

Section 3 defines the terms used in the bill. The key terms defined are "cohabitants" and "domestic violence."

"Cohabitants" are defined as emancipated minors or persons 18 years of age or older of the opposite sex who have or are sharing the same

living quarters or persons who together are the parents of one or more children, regardless of their marital status or whether they have lived together at any time.

"Domestic violence" is defined as any one of the following acts between cohabitants: assault, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief or burglary.

Section 4

Section 4 states that the Police Training Commission shall provide training for law enforcement officers which stresses the enforcement of criminal laws and the protection of the victim in instances of domestic violence. Section 4 also permits law enforcement agencies to establish "domestic crisis" teams.

Section 5

Section 5 states that the primary duty of a law enforcement officer is to arrest a person where the officer has probable cause to believe that an act of domestic violence has occurred or that a person has violated a protective order issued pursuant to the provisions of the bill.

Section 6

Section 6 states that no law enforcement officer shall be liable in any civil suit for any arrest, enforcement of a court order or other good faith act or omission arising from an alleged incident of domestic violence.

Section 7

Section 7 requires a law enforcement officer to read and disseminate notice of the following rights to victims of domestic violence: the right to apply to court for a protective order; the right to file a criminal complaint; the right to have the officer take the victim for treatment or shelter and the right to police protection. These rights shall be written in both English and Spanish.

Section 8

Section 8 requires that each officer responding to a domestic violence call to complete a domestic violence offense report. Such report would include such information as the relationship of the parties; the type and extent of abuse; response time and any official action taken. Additionally, section 8 requires the State Police to assist other law enforcement agencies in establishing procedures to insure that law enforcement officers, in responding to domestic violence calls, are aware of any protective order already issued or of any history of domestic violence concerning the parties.

Section 9

Section 9 states that courts in domestic violence actions shall not dismiss a case because of a pending divorce or because the victim has left the residence and shall not require proof of the institution of a divorce proceeding prior to the institution of a criminal proceeding. Section 9 also requires the court to waive any requirement that the victim's location be disclosed.

Section 10

Section 10 provides that when a defendant is charged with an offense involving domestic violence, the court may as a condition of bail prohibit the defendant from having contact with the victim or harassing the victim's relatives.

Section 11

Section 11 provides that when a defendant is found guilty of a crime involving domestic violence, the court as a condition of sentence may restrict the defendant's contact with the victim. Additionally, the court may order the defendant to receive professional counseling.

Section 12

Section 12 permits a victim of domestic violence to file a civil action in the juvenile and domestic relations court. Filing of such a complaint would not bar the filing of a criminal charge.

Section 13

A hearing on a complaint filed pursuant to section 12 shall be held within 10 days of filing. If the court finds, by a preponderance of the evidence, that allegations in the complaint are true, the court may issue an order containing any or all of the following:

1. Prohibiting the defendant from having contact with the victim.
2. Possession to the plaintiff of the residence to the exclusion of the defendant.
3. Child support, custody or visitation rights.
4. Payment to victim of compensation for losses suffered as a result of the domestic violence.
5. Requiring the defendant to receive professional counseling.

In addition, section 13 would permit the court to issue, *ex parte*, emergency orders when necessary to protect the life, health or well-being of the victim. Such emergency orders may contain any of the relief listed above and would remain in effect until further action by the court.

Section 14

Section 14 allows municipal courts to grant emergency orders in cases involving domestic violence. Section 14, which is modeled on recently enacted P. L. 1981, c. 200, would permit the municipal court to bar a defendant from the place of residence for 72 hours.

Section 15

Section 15 provides that any violation of an order issued under this act shall constitute contempt. Section 15 also provides that upon issuance of an order, the court may direct a law enforcement officer to accompany either party to the residence to supervise the removal of personal belongings.

Section 16

Section 16 requires the Administrative Office of the Courts to maintain a record concerning orders requested under this act. The Administrative Office of the Courts is also required to issue an annual report concerning those orders.

Section 17

Section 17 amends N. J. S. 2A:4-18 which governs the jurisdiction of the juvenile and domestic relations court to reflect the addition of jurisdiction over civil cases involving domestic violence.

Section 18

Section 18 repeals P. L. 1981, c. 200 which is replaced by section 14 of the act.

Section 19

The act takes effect 90 days following enactment.

ASSEMBLY, No. 3790

STATE OF NEW JERSEY

INTRODUCED JANUARY 4, 1982

By Assemblywoman McCONNELL

(Without Reference)

AN ACT concerning the prevention of domestic violence, supplementing Title 2A of the New Jersey Statutes, amending N. J. S. 2A:4-18 and repealing P. L. 1981, c. 200.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

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

14 The Legislature further finds and declares that even though
15 many of the existing criminal statutes are applicable to acts of
16 domestic violence, previous societal attitudes concerning domestic
17 violence have affected the response of our law enforcement and
18 judicial systems, resulting in these acts receiving different treat-
19 ment from similar crimes when they occur in a domestic context.
20 The Legislature finds that battered adults presently experience
21 substantial difficulty in gaining access to protection from the
22 judicial system, particularly due to that system's inability to
23 generate a prompt response in an emergency situation.

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

24 It is the intent of the Legislature to stress that the primary duty
 25 of a law enforcement officer when responding to a domestic violence
 26 call is to enforce the laws allegedly violated and to protect the
 27 victim. It is further intended that the official response to domestic
 28 violence shall communicate the attitude that violent behavior will
 29 not be excused or tolerated, and shall make clear the fact that
 30 the existing criminal laws and civil remedies created under this
 31 act will be enforced without regard to the fact that the violence
 32 grows out of a domestic situation.

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

2 a. "Cohabitants" means emancipated minors or persons 18 years
 3 of age or older of the opposite sex who have resided together or
 4 who currently are residing in the same living quarters or persons
 5 who together are the parents of one or more children, regardless of
 6 their marital status or whether they have lived together at any
 7 time.

8 b. "Domestic violence" means the occurrence of one or more of
 9 the following acts between cohabitants:

- | | | | |
|----|-----------------------------|-------|------------------|
| 10 | (1) Assault | | N. J. S. 2C:12-1 |
| 11 | (2) Kidnapping | | N. J. S. 2C:13-1 |
| 12 | (3) Criminal restraint | | N. J. S. 2C:13-2 |
| 13 | (4) False imprisonment | | N. J. S. 2C:13-3 |
| 14 | (5) Sexual assault | | N. J. S. 2C:14-2 |
| 15 | (6) Criminal sexual contact | | N. J. S. 2C:14-3 |
| 16 | (7) Lewdness | | N. J. S. 2C:14-4 |
| 17 | (8) Criminal mischief | | N. J. S. 2C:17-3 |
| 18 | (9) Burglary | | N. J. S. 2C:18-2 |

19 c. "Law enforcement agency" means the Division of State Police
 20 of the Department of Law and Public Safety, any county prose-
 21 cutor's office or a municipal or county police department of the
 22 State.

23 d. "Law enforcement officer" means an officer or trooper of the
 24 Division of State Police of the Department of Law and Public
 25 Safety, or an officer, investigator or detective of a county prose-
 26 cutor's office or of a municipal or county police department of the
 27 State.

28 e. "Victim" means a cohabitant who alleges having been sub-
 29 jected to domestic violence.

1 4. (New section) The Police Training Commission in the Depart-
 2 ment of Law and Public Safety shall provide that all training for
 3 law enforcement officers on the handling of domestic violence com-
 4 plaints shall stress the enforcement of criminal laws in domestic
 5-6 situations, the protection of the victim, and the use of available
 7 community resources. Law enforcement agencies may establish

8 domestic crises teams or individual officers may be trained in
9 methods of dealing with domestic violence. The teams may include
10 social workers, clergy or other persons trained in counseling,
11 crisis intervention or in the treatment of domestic violence victims.
12 When an alleged incident of domestic violence is reported, the
13 agency shall dispatch a domestic crisis team or specially trained
14 officer, if available, to the scene of the incident.

1 5. (New section) A law enforcement officer may arrest a person:

2 a. When the officer has probable cause to believe that a person
3 has violated the terms of an order issued pursuant to sections 10,
4 11, 13 or 14 of this act and that service has been effected either
5 in person or by substituted service. The officer may verify, if
6 necessary, the existence of an order with the appropriate law
7 enforcement agency in accordance with subsection d. of section 8
8 of this act; or

9 b. A victim exhibits signs of injury or there is other probable
10 cause to believe that an act of domestic violence has been committed.

1 6. (New section) a law enforcement officer shall not be held
2 liable in any civil action brought by any party for an arrest based
3 on probable cause, enforcement in good faith of a court order, or
4 any other act or omission in good faith under this act.

1 7. (New section) A victim shall have the rights in and an officer
2 shall read and disseminate to the victim the following notice, which
3 shall be written in both English and Spanish:

4 "You have the right to go to the municipal, juvenile and domestic
5 relations or superior court and file a complaint requesting any of
6 the following applicable orders for temporary relief: (1) an order
7 restraining your attacker from abusing you; (2) an order directing
8 your attacker to leave your household; (3) an order awarding you
9 custody of a minor child; (4) an order directing your attacker to
10 pay you for losses suffered as a result of the abuse, including medi-
11 cal, dental and moving expenses, loss of earnings or support, at-
12 torneys fees and other out-of-pocket losses for injuries sustained.

13 You have the right to go to court and file a criminal complaint.

14 On weekends, holidays and other times when the courts are closed,
15 you may go to the municipal court for an emergency order granting
16 the relief set forth above.

17 If you are in need of medical treatment, you may ask the officer
18 present to assist you or arrange for you to go to the nearest
19 hospital or otherwise assist you or accompany you to a place of
20 safety or shelter.

21 If you believe that police protection is needed for your physical
22 safety, you may ask the officer present to remain at the scene until

23 you or your children can leave or until your safety is otherwise
24 insured.”

1 8. (New section) a. It shall be the duty of a law enforcement
2 officer who responds to a domestic violence call to complete a
3 domestic violence offense report. All information contained in the
4 domestic violence offense report shall be forwarded to the appro-
5 priate county bureau of identification and the State bureau of
6 identification in the Division of State Police in the Department of
7 Law and Public Safety.

9 b. The domestic violence offense report shall be on a form
10 prescribed by the supervisor of the State bureau of identification
11 which shall include, but not be limited to, the following information:

- 12 (1) The relationship of the parties;
- 13 (2) The sex of the parties;
- 14 (3) The time the complaint was received;
- 15 (4) The time the officer began investigation of the complaint;
- 16 (5) Whether children were involved, or whether the alleged act
17 of domestic violence had been committed in the presence of children;
- 18 (6) The type and extent of abuse;
- 19 (7) The number and type of weapons involved;
- 20 (8) The amount of time involved in handling the case and the
21 action taken by the law enforcement officer;
- 22 (9) The effective date and terms of an order issued pursuant to
23 sections 10, 11, 13 or 14 of this act concerning the parties; and
- 24 (10) Any other data that may be necessary for a complete analysis
25 of all circumstances leading to the alleged incident of domestic
26 violence.

27 c. It shall be the duty of the Superintendent of the State Police
28 to compile and report annually for a period of 5 years to the
29 Governor, the Legislature and the Advisory Council on Shelters
30 for Victims of Domestic Violence on the tabulated data from the
31 domestic violence offense reports. The Advisory Council on Shelters
32 for Victims of Domestic Violence may request the Legislature to
33 continue the reports for another 5 years. The report shall include,
34 but not be limited to, the following information:

- 35 (1) The total number of domestic violence calls received;
- 36 (2) The number of calls made by victims of each sex;
- 37 (3) The number of domestic violence calls investigated;
- 38 (4) The average time-lapse in responding to these calls;
- 39 (5) The number of calls received from victims who have filed
40 civil or criminal complaints with regard to domestic violence on
41 more than one occasion with a classification according to charges
42 brought;

43 (6) The number of complaints not pursued by the victims; and

44 (7) The types of police actions taken in disposition of these
45 cases, including the number of arrests.

46 d. The supervisor of the State bureau of identification shall
47 assist all law enforcement agencies in the establishment of pro-
48 cedures to insure that dispatchers and officers at the scene of an
49 alleged incident of domestic violence are informed of any verified
50 order in force concerning the parties issued pursuant to sections
51 10, 11, 13, or 14 of this act or of any prior recorded incident of
52 domestic violence involving the parties.

1 9. (New section) The court in domestic violence actions:

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

6 b. Shall not require proof that either party is seeking a dissolu-
7 tion of a marriage prior to institution of criminal proceedings;

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

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

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

1 11. (New section) When a defendant is found guilty of a crime
2 or offense involving domestic violence and a condition of sentence
3 restricts the defendant's ability to have contact with the victim,
4 that condition shall be recorded in an order of the court and a
5 written copy of that order shall be provided to the victim by the
6 clerk of the court or other person designated by the court.
7 In addition to restricting a defendant's ability to have contact
8 with the victim, the court may require the defendant to receive
9 professional counseling from either a private source or a source
10 appointed by the court, and the court may require the defendant to
11 provide documentation of attendance at the professional counseling.

1 12. (New section) a. A victim may file a complaint alleging the
2 commission of an act of domestic violence with the juvenile and
3 domestic relations court in conformity with the rules of court.
4 The court in domestic violence actions shall not dismiss any com-
5 plaint or delay disposition of a case because the victim has left
6 the residence to avoid further incidents of domestic violence. Filing
7 a complaint pursuant to this section shall not prevent the filing
8 of a criminal complaint for the same act.

9 b. The juvenile and domestic relations court shall waive any
10 requirement that the petitioner's place of residence appear on the
11 complaint.

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

15 d. Summons and complaint forms shall be readily available at the
16 clerk's office and at the municipal courts.

1 13. (New section) a. A hearing shall be scheduled in juvenile
2 and domestic relations court within 10 days of the filing of a
3 complaint pursuant to section 12 of this act. At the hearing the
4 standard for proving the allegations in the complaint shall be by
5 a preponderance of the evidence.

6 b. At the hearing the juvenile and domestic relations court may
7 issue an order granting any or all of the following relief:

8 (1) An order prohibiting the defendant from having contact
9 with the victim including, but not limited to, restraining the de-
10 fendant from entering the plaintiff's residence, place of employ-
11 ment or business, or school. The court shall prohibit the defendant
12 from harassing the plaintiff or plaintiff's relatives in any way;

13 (2) An order granting possession to the plaintiff of the residence
14 to the exclusion of the defendant when the residence or household
15 is jointly owned or leased by the parties. The court may amend its
16 order at any time upon petition by either party. Sole ownership
17 in the name of the defendant of the real property constituting the
18 residence of the parties shall not bar the court from entering an
19 order restraining the defendant from entering the marital resi-
20 dence. No order shall affect any interest in the residence held by
21 either party;

22 (3) When the defendant has a duty to support the plaintiff or
23 minor children living in the residence or household and the defend-
24 ant is sole owner or lessee of the residence, an order granting
25 possession to the plaintiff of the residence or household to the
26 exclusion of the defendant may be issued or, upon consent of the
27 parties, allowing the defendant to provide suitable, alternate
28 housing;

29 (4) An order determining child support, child custody, or estab-
30 lishing visitation rights, provided that this issue has not been
31 resolved nor is being litigated between the parties. The court shall
32 protect the safety of the plaintiff by specifying a place of visitation
33 away from the plaintiff or take any other appropriate precaution
34 necessary to protect the safety and well-being of the plaintiff
35 and minor children;

36 (5) An order requiring the defendant to pay to the victim
37 monetary compensation for losses suffered as a direct result of
38 the act of domestic violence. Compensatory losses shall include, but
39 not be limited to, loss of earnings or support, out-of-pocket losses
40 for injuries sustained, moving expenses and reasonable attorneys
41 fees;

42 (6) An order requiring the defendant to receive professional
43 counseling from either a private source or a source appointed by
44 the court and, in that event, at the court's discretion requiring the
45 defendant to provide the court at specified intervals with docu-
46 mentation of attendance at the professional counseling.

47 c. In addition to the relief sought in subsection b. of this section
48 a plaintiff may seek emergency, *ex parte* relief in the nature of a
49 temporary restraining order. The juvenile and domestic relations
50 court may enter *ex parte* orders when necessary to protect the
51 life, health or well-being of a victim on whose behalf the relief is
52 sought.

53 Whenever emergency relief is sought by the plaintiff the clerk
54 of the court or other person designated by the court shall immedi-
55 ately transmit the complaint to the presiding juvenile and domestic
56 relations court judge regarding the emergency relief sought by the
57 close of business on the day relief is sought. An order granting
58 emergency relief shall immediately be forwarded to the sheriff
59 for immediate service of the order for emergency relief upon the
60 defendant.

61 d. An order for emergency relief shall be granted upon good
62 cause shown.

63 e. Emergency relief may constitute all relief available under
64 this act together with any other appropriate relief. A temporary
65 restraining order shall remain in effect until further action by
66 the court.

67 f. Notice of orders issued pursuant to this section shall be sent
68 by the clerk of the juvenile and domestic relations court or other
69 person designated by the court to the appropriate chiefs of police,
70 members of the State Police and any other law enforcement agency.

71 g. All pleadings, process, and other orders filed pursuant to this
72 act shall be served upon the defendant in accordance with the rules
73 of court. If personal service cannot be effected upon the defendant,
74 the court may order other appropriate substitute service.

1 14. (New section) a. A municipal court judge shall be available
2 to issue a temporary restraining order pursuant to this act. The
3 order shall be made by the judge of the jurisdiction where the
4 alleged domestic violence occurred or the jurisdiction where the
5 plaintiff resides using the same procedure now available on other
6 emergent applications.

7 b. If it appears that the plaintiff or the plaintiff's children are
8 in danger of domestic violence, the municipal court judge shall,
9 upon consideration of the plaintiff's affidavit, order emergency
10 relief in the nature of a temporary restraining order. A decision
11 shall be made by the judge regarding the emergency relief forth-
12 with. An order granting emergency relief shall immediately be
13 forwarded to the sheriff for immediate service of the order for
14 emergency relief upon the defendant.

15 c. An order for emergency relief shall be granted upon good
16 cause shown and shall remain in effect for 72 hours, which may be
17 extended but not for more than 7 days. Any order hereunder may
18 be dissolved or modified on 24 hours notice of immediately appeal-
19 able for a plenary hearing *de novo* not on the record before the
20 Superior Court, Chancery Division or other juvenile and domestic
21 relations court of the county in which the plaintiff resides.

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

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

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

33 g. An application for a temporary restraining order pursuant
34 to this section shall, upon filing and issuance, be immediately
35 forwarded to the clerk of the juvenile and domestic relations court
36 of plaintiff's vicinage.

1 15. (New section) a. Upon the issuance of an order pursuant to
2 sections 10, 11, 13 or 14 of this act the court may order a law
3 enforcement officer to accompany either party to the residence to

4 supervise the removal of personal belongings in order to insure
5 the personal safety of the plaintiff.

6 b. Violation of an order issued pursuant to sections 10, 11, 13 or
7 14 of this act shall constitute contempt and each order shall so
8 state.

1 16. (New section) The Administrative Office of the Courts shall
2 maintain a uniform record of all requests for orders issued pur-
3 suant to sections 10, 11, 13, or 14 of this act. The record shall
4 include the following information:

5 a. The names and addresses of the parties;

6 b. The sex of the parties;

7 c. The relationship of the parties;

8 d. The nature of the complaint;

9 e. The relief sought;

10 f. The nature of the relief granted including but not limited to,
11 custody and child support; and

12 g. The effective date and terms of each order issued.

13 It shall be the duty of the Director of the Administrative Office of
14 the Courts to compile and report annually to the Governor, the
15 the Legislature and the Advisory Council on Shelters for Victims
16 of Domestic Violence on the data tabulated from the records on
17 these orders for a period of 5 years. The Advisory Council on
18 Shelters for Victims of Domestic Violence may request the Legisla-
19 ture continue the reports for another 5 years.

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

1 17. N. J. S. 2A:4-18 is amended to read as follows:

2 2A:4-18. The juvenile and domestic relations court shall also
3 have jurisdiction concurrently with such other courts as may have
4 jurisdiction over the matter, to hear and determine in a summary
5 manner disputes and complaints:

6 a. Involving the domestic relation or the welfare of children, as
7 to which jurisdiction is vested in any court except the Superior
8 Court or except with respect to the adoption of children or adults.

9 b. Involving matters of support or temporary custody of children
10 as to which jurisdiction is vested in the Superior Court.

11 c. Involving violations of subtitle 12 (disorderly persons law)
12 of this title (§ 2A:169-1 et seq.), and chapter 1 of Title 44, Poor
13 (§ 44:1-1 et seq.), chapter 6 and chapter 17 of Title 9, Children
14 (§ 9:6-1 et seq., and § 9:17-1 et seq.), and article 4 of chapter 5 of
15 Title 30, Institutions and Agencies (§ 30:5-33 et seq.), of the Re-
16 vised Statutes, together with any other laws or future enactments

17 covering similar complaints or offenses, where the gravamen of
 18 the complaint under such laws or enactments is the failure or
 19 neglect of one member of the family to satisfy or discharge [his]
 19A *the* legal obligations to another member of the family.

19B d. Against any person who abuses, neglects, cruelly treats or
 20 abandons a child or who contributes to the delinquency of a child.

21 e. Involving the domestic relation, where a [husband or father]
 22 *spouse or parent* deserts [his wife] *the other spouse* or child even
 23 though they continue to live in the same household, in which case
 24 the court may order adequate support of [his wife], *the other*
 25 *spouse*, child or family.

26 f. Involving the domestic relation, where a [husband or father]
 27 *spouse or a parent* forces [his wife] *the other spouse* or child to
 28 leave the home because of [his] cruel and inhuman conduct, in
 29 which case the court may provide by appropriate order for their
 30 support and maintenance.

31 *g. Involving domestic violence where a victim seeks civil relief.*

1 18. P. L. 1981, c. 200 (C. 2C:12-4 et seq.) is repealed.

1 19. This act shall take effect 90 days following enactment.

A 3790

Sponsor's STATEMENT

This bill, the "Prevention of Domestic Violence Act", is aimed at strengthening the criminal and civil remedies available to victims of domestic violence. The provisions of this bill, which are based on recommendations contained in a report entitled "Battered Women in New Jersey" prepared by the New Jersey Advisory Committee to the United States on Civil Rights, resulted from a series of meetings between the sponsor and representatives of the Commission on Sex Discrimination in the Statutes, the New Jersey Departments of Community Affairs and Human Services, the New Jersey Coalition for Battered Women, Legal Services of New Jersey, the Administrative Office of the Courts and the county prosecutors.

The following is a brief description of its provisions:

Section 1

Title—"Prevention of Domestic Violence Act".

Section 2

In section 2, the legislature finds that domestic violence is a serious problem affecting all social and economic backgrounds and ethnic groups; that domestic violence often is accompanied by child abuse and that the intent of this bill is to provide the victims of domestic violence with protection from abuse. Section 2 also states that societal attitudes have affected the response of law enforce-

ment officers and judges to instances of domestic violence and that this bill through the remedies created is intended to stress enforcement of the law and the protection of the victim.

Section 3

Section 3 defines the terms used in this bill. The key terms defined are "cohabitants" and "domestic violence."

"Cohabitants" are defined as emancipated minors or persons 18 years of age or older of the opposite sex who have or are sharing the same living quarters or persons who together are the parents of one or more children, regardless of their marital status or whether they have lived together at any time.

"Domestic violence" is defined as any one of the following acts between cohabitants: assault, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief or burglary.

Section 4

Section 4 states that the Police Training Commission shall provide training for law enforcement officers which stresses the enforcement of criminal laws and the protection of the victim in instances of domestic violence. Section 4 also permits law enforcement agencies to establish "domestic crisis" teams.

Section 5

Section 5 states that the primary duty of a law enforcement officer is to arrest a person where the officer has probable cause to believe that an act of domestic violence has occurred or that a person has violated a protective order issued pursuant to the provisions of the bill.

Section 6

Section 6 states that no law enforcement officer shall be liable in any civil suit for any arrest, enforcement of a court order or other good faith act or omission arising from an alleged incident of domestic violence.

Section 7

Section 7 requires a law enforcement officer to read and disseminate notice of the following rights to victims of domestic violence: the right to apply to court for a protective order; the right to file a criminal complaint; the right to have the officer take the victim for treatment or shelter and the right to police protection. These rights shall be written in both English and Spanish.

Section 8

Section 8 requires that each officer responding to a domestic violence call to complete a domestic violence offense report. Such report would include such information as the relationship of the parties; the type and extent of abuse; response time and any official action taken. Additionally, section 8 requires the State Police to assist other law enforcement agencies in establishing procedures to insure that law enforcement officers, in responding to domestic violence calls, are aware of any protective order already issued or of any history of domestic violence concerning the parties.

Section 9

Section 9 states that courts in domestic violence actions shall not dismiss a case because of a pending divorce or because the victim has left the residence and shall not require proof of the institution of a divorce proceeding prior to the institution of a criminal proceeding. Section 9 also requires the court to waive any requirement that the victim's location be disclosed.

Section 10

Section 10 provides that when a defendant is charged with an offense involving domestic violence, the court may as a condition of bail prohibit the defendant from having contact with the victim or harassing the victim's relatives.

Section 11

Section 11 provides that when a defendant is found guilty of a crime involving domestic violence, the court as a condition of sentence may restrict the defendant's contact with the victim. Additionally, the court may order the defendant to receive professional counseling.

Section 12

Section 12 permits a victim of domestic violence to file a civil action in the juvenile and domestic relations court. Filing of such a complaint would not bar the filing of a criminal charge.

Section 13

A hearing on a complaint filed pursuant to section 12 shall be held within 10 days of filing. If the court finds, by a preponderance of the evidence, that allegations in the complaint are true, the court may issue an order containing any or all of the following:

1. Prohibiting the defendant from having contact with the victim.
2. Possession to the plaintiff of the residence to the exclusion of the defendant.

3. Child support, custody or visitation rights.

4. Payment to victim of compensation for losses suffered as a result of the domestic violence.

5. Requiring the defendant to receive professional counseling.

In addition, Section 13 would permit the court to issue, *ex parte*, emergency orders when necessary to protect the life, health or well-being of the victim. Such emergency orders may contain any of the relief listed above and would remain in effect until further action by the court.

Section 14

Section 14 allows municipal courts to grant emergency orders in cases involving domestic violence. Section 14 which is modeled on recently enacted P. L. 1981, c. 200, would permit the municipal court to bar a defendant from the place of residence for 72 hours.

Section 15

Section 15 provides that any violation of an order issued under this act shall constitute contempt. Section 15 also provides that upon issuance of an order, the court may direct a law enforcement officer to accompany either party to the residence to supervise the removal of personal belongings.

Section 16

Section 16 requires the Administrative Office of the Courts to maintain a record concerning orders requested under this act. The Administrative Office of the Courts is also required to issue an annual report concerning those orders.

Section 17

Section 17 amends N. J. S. 2A:4-18 which governs the jurisdiction of the juvenile and domestic relations court to reflect the addition of jurisdiction over civil cases involving domestic violence.

Section 18

Section 18 repeals P. L. 1981, c. 200 which is replaced by section 14 of the act.

Section 19

The act takes effect 90 days following enactment.

JANUARY 11, 1982

-A-

Governor's Statement

S-3338, sponsored by Senator Matthew Feldman (D-Bergen), permitting any part-time officer or employee of the legislature who is a member of the Public Employees' Retirement System (PERS) to purchase credit in PERS for prior public service with a county or the legislature.

S-3154, also sponsored by Senator Perskie, incorporating numerous recommendations of the County and Municipal Government Study (Musto) Commission regarding voter initiatives on the number of elected representatives and terms of office in municipalities.

Specifically, the bill allows voters to increase the number of commissioners in Commission Government forms from three to five; to increase or decrease the number of councilmen in Manager forms from three to five, seven or nine; to limit the number of wards in towns and increase the mayor's term of office, among other provisions.

S-3178, also sponsored by Senator Weiss, reducing the fee municipalities must pay to counties for recording tax sale certificates, liens, deeds or related documents from \$10.00 to \$3.00.

S-3127, sponsored by Senator Wynona Lipman (D-Essex) and designated the "Prevention of Domestic Violence Act," strengthening the civil and criminal remedies available to the victims of domestic violence. Domestic violence under the bill is defined as violence between people of the opposite sex either living together or together, parents of a child. Child abuse situations are excluded.

The bill requires the Police Training Commission to provide training for officers on the handling of domestic violence complaints, and permits law enforcement agencies to establish domestic violence teams. A court would be authorized to impose as a condition of release or sentence provisions restricting the defendant's contact with the victim, and the victim would be able to seek civil compensation, including a division of property, child support, financial damages, and an order requiring the defendant seek professional counseling.