

2C:25-3 et al

LEGISLATIVE HISTORY CHECKLIST

(Prevention of Domestic Violence Act"-various amendments)

NJSA 2C:25-3 et al

LAWS 1982 CHAPTER 82

Bill No. S1515

Sponsor(s) Lipman and DiFrancesco

Date Introduced June 10, 1982

Committee: Assembly

Senate Judiciary

Amended during passage Yes No

Date of Passage: Assembly June 28, 1982

Senate June 17, 1982

Date of approval July 23, 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 No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

7-23-82
T. J. ...

6/22/81

APR 1981

CHAPTER 82 LAWS OF N. J. 1982
APPROVED 7-23-82

SENATE, No. 1515

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1982

By Senators LIPMAN and DiFRANCESCO

Referred to Committee on Judiciary

AN ACT to amend the "Prevention of Domestic Violence Act,"
approved January 9, 1982 (P. L. 1981, c. 426).

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

1 1. Section 3 of P. L. 1981, c. 426 (C. 2C:25-3) is amended to read
2 as follows:

3 3. As used in this act:

4 a. "Cohabitants" means emancipated minors or persons 18 years
5 of age or older of the opposite sex who have resided together or
6 who currently are residing in the same living quarters [or],
7 persons who together are the parents of one or more children,
8 regardless of their marital status or whether they have lived
9 together at any time, or persons 18 years of age or older who are
10 related by blood and who currently are residing in the same living
11 quarters.

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

- | | | |
|----|-----------------------------|-------------------------|
| 14 | (1) Assault | N. J. S. 2C:12-1 |
| 15 | (2) Kidnapping | N. J. S. 2C:13-1 |
| 16 | (3) Criminal restraint | N. J. S. 2C:13-2 |
| 17 | (4) False imprisonment | N. J. S. 2C:13-3 |
| 18 | (5) Sexual assault | N. J. S. 2C:14-2 |
| 19 | (6) Criminal sexual contact | N. J. S. 2C:14-3 |
| 20 | (7) Lewdness | N. J. S. 2C:14-4 |
| 21 | (8) Criminal mischief | N. J. S. 2C:17-3 |
| 22 | (9) Burglary | N. J. S. 2C:18-2 |
| 23 | (10) <i>Harassment</i> | <i>N. J. S. 2C:33-4</i> |

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

24 c. "Law enforcement agency" means [the Division of State
25 Police of the Department of Law and Public Safety, any county
26 prosecutor's office or a municipal or county police department of
27 the State] *a department, division, bureau, commission, board or*
28 *other authority of the State or of any political subdivision thereof*
29 *which employs law enforcement officers.*

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, investigator or detective of a county prose-
33 cutor's office or of a municipal or county police department of the
34 State] *a person whose public duties include the power to act as*
35 *an officer for the detection, apprehension, arrest and conviction of*
36 *offenders against the laws of this State.*

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

1 2. Section 5 of P. L. 1981, c. 426 (C. 2C:25-5) is amended to
2 read as follows:

3 5. A law enforcement officer may arrest a person:

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

10 b. A victim exhibits signs of injury or there is other probable
11 cause to believe that an act of domestic violence has been com-
12 mitted.

1 3. Section 6 of P. L. 1981, c. 426 (C. 2C:25-6) is amended to
2 read as follows:

3 6. [a] *A law enforcement officer or a member of a domestic crisis*
4 *team shall not be held liable in any civil action brought by any*
5 *party for an arrest based on probable cause, enforcement in good*
6 *faith of a court order, or any other act or omission in good faith*
7 *under this act.*

1 4. Section 7 of P. L. 1981, c. 426 (C. 2C:25-7) is amended to
2 read as follows:

3 7. [A victim shall have the rights in and an] *A law enforcement*
4 *officer shall [read and] disseminate to the victim the following*
5 *notice, which shall be written in both English and Spanish:*

6 "You have the right to go to the [municipal,] juvenile and
7 domestic relations [or superior] court and file a complaint re-
8 questing [any of the following applicable orders for temporary

9 relief: (1) relief including but not limited to the following: an
 10 order restraining your attacker from abusing you; (2) an order
 11 or directing your attacker to leave your household; (3) an order
 12 awarding you custody of a minor child; (4) an order directing
 13 your attacker to pay you for losses suffered as a result of the
 14 abuse, including medical, dental and moving expenses, loss of
 15 earnings or support, attorneys fees and other out-of-pocket losses
 16 for injuries sustained. You may request that the clerk of the
 17 court assist you in applying for this order. You also have the
 18 right to go to court and file a criminal complaint.

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

22 If you are in need of medical treatment, you may ask the officer
 23 present to assist you or arrange for you to go to the nearest
 24 hospital or otherwise assist you or accompany you to a place of
 25 safety or shelter.

26 If you believe that police protection is needed for your physical
 27 safety, you may ask the officer present to remain at the scene until
 28 you or your children can leave or until your safety is otherwise
 29 insured.”

1 5. Section 8 of P. L. 1981, c. 426 (C. 2C:25-8) is amended to read
 2 as follows:

3 8. a. It shall be the duty of a law enforcement officer who re-
 4 sponds to a domestic violence call to complete a domestic violence
 5 offense report. All information contained in the domestic violence
 6 offense report shall be forwarded to the appropriate county bureau
 7 of identification and the State bureau of records and identification
 8 in the Division of State Police in the Department of Law and
 9 Public Safety.

10 b. The domestic violence offense report shall be on a form pre-
 11 scribed by the supervisor of the State bureau of records and identi-
 12 fication which shall include, but not be limited to, the following
 13 information:

14 (1) The relationship of the parties;

15 (2) The sex of the parties;

16 (3) The time the complaint was received and date of the in-
 17 cident;

18 (4) The time the officer began investigation of the complaint
 19 The number of domestic violence calls investigated;

20 (5) Whether children were involved, or whether the alleged act
 21 of domestic violence had been committed in the presence of children;

22 (6) The type and extent of abuse;

23 (7) The number and type of weapons involved;

24 (8) The [amount of time involved in handling the case and the]
25 action taken by the law enforcement officer;

26 (9) The [effective date and terms of an order] *existence of any*
27 *prior court orders* issued pursuant to sections 10, 11, 13 or 14 of this
28 act concerning the parties; and

29 (10) Any other data that may be necessary for a complete anal-
30 ysis of all [circumstances] *circumstances* leading to the alleged in-
31 cident of domestic violence.

32 c. It shall be the duty of the Superintendent of the State Police
33 *with the assistance of the Division of Systems and Communica-*
34 *tions in the Department of Law and Public Safety* to compile and
35 report annually for a period of 5 years to the Governor, the Legis-
36 lature and the Advisory Council on Shelters for Victims of
37 Domestic Violence on the tabulated data from the domestic violence
38 offense reports. [The Advisory Council on Shelters for Victims of
39 Domestic Violence may request the Legislature to continue the
40 reports for another 5 years. The report shall include, but not be
41 limited to, the following information:

42 (1) The total number of domestic violence calls received;

43 (2) The number of calls made by victims of each sex;

44 (3) The number of domestic violence calls investigated;

45 (4) The average time-lapse in responding to these calls;

46 (5) The number of calls received from victims who have filed
47 civil or criminal complaints with regard to domestic violence on
48 more than one occasion with a classification according to charges
49 brought;

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

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

53 d. The supervisor of the State bureau of identification shall assist
54 all law enforcement agencies in the establishment of procedures to
55 insure that dispatchers and officers at the scene of an alleged in-
56 cident of domestic violence are informed of any verified order in
57 force concerning the parties issued pursuant to sections 10, 11, 13,
57 or 14 of this act or of any prior recorded incident of domestic
58 violence involving the parties.]

1 6.- Section 9 of P. L. 1981, c. 426 (C. 2C:25-9) is amended to
2 read as follows:

3 9. The court in *a criminal complaint arising from domestic vio-*
4 *lence actions:*

5 a. Shall not dismiss any charge or delay disposition of a case
6 because of concurrent dissolution of a marriage, other civil pro-

7 ceedings, or because the victim has left the residence to avoid
8 further incidents of domestic violence;

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

11 c. Shall waive any requirement that the victim's location be dis-
12 closed to any person.

1 7. Section 13 of P. L. 1981, c. 426 (C. 2C:25-13) is amended to
2 read as follows:

3 13. a. A hearing shall be [scheduled] held in juvenile and do-
4 mestic relations court within 10 days of the filing of a complaint
5 pursuant to section 12 of this act. *A copy of the complaint shall be*
6 *served on the defendant in conformity with the rules of court. If a*
7 *criminal complaint arising out of the same incident which is the*
8 *subject matter of a complaint brought under P. L. 1981, c. 426 (C.*
9 *2C:25 et seq.) is filed, notice of any hearing on the complaint shall*
10 *be given to the prosecuting attorney so that he may be heard with*
11 *respect to a stay of that proceeding pending disposition of the*
12 *criminal proceeding. At the hearing the standard for proving the*
13 *allegations in the complaint shall be by a preponderance of the*
14 *evidence. The court shall consider but not be limited to the follow-*
15 *ing factors:*

16 (1) *The previous history of domestic violence between the co-*
17 *habitants including threats, harassment and physical abuse;*

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

19 (3) *The financial circumstances of the cohabitants;*

20 (4) *The best interests of the victim and the child;*

21 (5) *In determining custody and visitation the protection of the*
22 *victim's safety; and*

23 (6) *Whether the application was made in a reasonable time*
24 *after the alleged act of domestic violence occurred.*

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

27 (1) An order prohibiting the defendant from having contact
28 with the victim including, but not limited to, restraining the de-
29 fendant from entering the plaintiff's residence, place of employment
30 or business, or school. The court shall prohibit the defendant from
31 harassing the plaintiff or plaintiff's relatives in any way;

32 (2) An order granting possession to the plaintiff of the residence
33 to the exclusion of the defendant when the residence or household
34 is jointly owned or leased by the parties *provided that this issue*
35 *has not been resolved nor is being litigated between the parties in*
36 *another action. The court may amend its order at any time upon*
37 *petition by either party*. Sole ownership in the name of the de-

38 defendant of the real property constituting the residence of the
39 parties shall not bar the court from entering an order restraining
40 the defendant from entering the marital residence. No order shall
41 affect any interest in the residence held by either party];

42 (3) When the defendant has a duty to support the plaintiff or
43 minor children living in the residence or household and the defend-
44 ant is sole owner or lessee of the residence, an order granting
45 possession to the plaintiff of the residence or household to the ex-
46 clusion of the defendant may be issued or, upon consent of the
47 parties, allowing the defendant to provide suitable, alternate hous-
48 ing *provided that this issue has not been resolved nor is being*
49 *litigated between the parties in another action;*

50 (4) *When the parties are married, sole ownership in the name*
51 *of the defendant of the real property constituting the residence of*
52 *the parties shall not bar the court from entering an order restrain-*
53 *ing the defendant from entering the marital residence. No order*
54 *shall affect any interest in the residence held by either party;*

55 [(4)] (5) An order determining child support, child custody, or
56 establishing visitation rights, provided that [this issue has] *these*
57 *issues have not been resolved nor [is] are being litigated between*
58 *the parties in another action.* The court shall protect the safety of
59 the plaintiff by specifying a place of visitation away from the
60 plaintiff or take any other appropriate precaution necessary to
61 protect the safety and well-being of the plaintiff and minor children;

62 [(5)] (6) An order requiring the defendant to pay to the victim
63 monetary compensation for losses suffered as a direct result of the
64 act of domestic violence. Compensatory losses shall include, but not
65 be limited to, loss of earnings or support, out-of-pocket losses for in-
66 juries sustained, moving expenses [and] reasonable attorneys fees
67 *and compensation for pain and suffering. Where appropriate,*
68 *punitive damages may be awarded in addition to compensatory*
69 *damages;*

69 [(6)] (7) An order requiring the defendant to receive pro-
70 fessional counseling from either a private source or a source
71 appointed by the court and, in that event, at the court's discretion
72 requiring the defendant to provide the court at specified intervals
73 with documentation of attendance at the professional counseling.
74 *The court may order the defendant to pay for the professional*
75 *counseling.*

76 c. In addition to the relief sought in subsection b. of this section
77 a plaintiff may seek emergency, *ex parte* relief in the nature of a
78 temporary restraining order. The juvenile and domestic relations
79 court may enter *ex parte* orders when necessary to protect the life,

80 health or well-being of a victim on whose behalf the relief is sought.
81 *A hearing shall be held on an ex parte order within 10 days of the*
82 *issuance thereof.*

83 Whenever emergency relief is sought by the plaintiff the clerk of
84 the court or other person designated by the court shall immediately
85 transmit the complaint to the presiding juvenile and domestic rela-
86 tions court judge regarding the emergency relief sought by the close
87 of business on the day relief is sought. An order granting emer-
88 gency relief shall immediately be forwarded to the sheriff for im-
89 mediate service of the order for emergency relief upon the defen-
90 dant.

91 d. An order for emergency relief shall be granted upon good
92 cause shown.

93 e. Emergency relief may constitute all relief available under this
94 act together with any other appropriate relief. A temporary re-
95 straining order shall remain in effect until further action by the
96 court.

97 f. Notice of orders issued pursuant to this section shall be sent
98 by the clerk of the juvenile and domestic relations court or other
99 person designated by the court to the appropriate chiefs of police,
100 members of the State Police and any other *appropriate* law en-
101 forcement agency.

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

1 8. Section 14 of P. L. 1981, c. 426 (C. 2C:25-14) is amended to
2 read as follows:

3 14. a. **[A]** *On weekends, holidays and other times when the court*
4 *is closed a juvenile and domestic relations court judge or a municipi-*
5 *pal court judge shall be [available] assigned to issue a temporary*
6 *restraining order pursuant to this act. The order shall be made*
7 *by the judge of the jurisdiction where the alleged domestic violence*
8 *occurred or the jurisdiction where the plaintiff resides using the*
9 *same procedure now available on other emergent applications.*

10 b. If it appears that the plaintiff **[or the plaintiff's children are]**
11 *is in danger of domestic violence, the municipal court judge shall,*
12 *upon consideration of the plaintiff's [affidavit] domestic violence*
13 *complaint, order emergency relief including ex parte relief, in the*
14 *nature of a temporary restraining order. A decision shall be made*
15 *by the judge regarding the emergency relief forthwith. An order*
16 *granting emergency relief, together with all pleadings, process and*
17 *other orders, shall immediately be forwarded to the sheriff for im-*

18 mediate service of the order for emergency relief upon the de-
19 fendant.

20 c. An order for emergency relief shall be granted upon good
21 cause shown and shall remain in effect [for 72 hours, which may be
22 extended but not for more than 7 days] *until the juvenile and*
23 *domestic relations court issues a final order. The juvenile and*
24 *domestic relations court shall hold a hearing on an emergency order*
25 *within 10 days.* Any order hereunder may be dissolved or modified
26 on 24 hours notice [of] or immediately appealable for a plenary
27 hearing *de novo* not on the record before the [Superior Court,
28 Chancery Division or other] juvenile and domestic relations court
29 of the county in which the plaintiff resides.

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

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

37 f. Notice of temporary restraining orders issued pursuant to
38 this section shall be sent by the clerk of the court or other person
39 designated by the court to the appropriate chiefs of police, mem-
40 bers of the State Police and any other *appropriate* law enforce-
41 ment agency.

42 g. An application for a temporary [restraining] *restraining*
43 order pursuant to this section shall, upon filing and issuance, be
44 immediately forwarded to the clerk of the juvenile and domestic
45 relations court of *the* plaintiff's vicinage *for a final order.*

1 9. Section 16 of P. L. 1981, c. 426 (C. 2C:25-16) is amended to
2 read as follows:

3 16. The Administrative Office of the Courts shall maintain a
4 uniform record of all requests for orders issued pursuant to sec-
5 tions 10, 11, 13, or 14 of this act. The record shall include the
6 following information:

7 a. [The names and addresses of the parties] *The number of com-*
8 *plaints filed by the parties;*

9 b. The sex of the parties;

10 c. The relationship of the parties;

11 d. [The nature of the complaint;] *(Deleted by amendment, P. L.*
12 *....., c.)*

13 e. The relief sought;

14 f. The nature of the relief granted including but not limited to,
15 custody and child support; [and];

16 g. The effective date and terms of each order issued; *and*

17 *h. The number of orders issued;*

18 It shall be the duty of the Director of the Administrative Office of
19 the Courts to compile and report annually to the Governor, the
20 Legislature and the Advisory Council on Shelters for Victims of
21 Domestic Violence on the data tabulated from the records on these
22 orders for a period of 5 years. The Advisory Council on Shelters
23 for Victims of Domestic Violence may request the Legislature con-
24 tinue the reports for another 5 years.

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

1 10. This act shall take effect immediately.

STATEMENT

This bill provides for amendments to the recently enacted "Prevention of Domestic Violence Act." The definitions of law enforcement agency and officer are amended to include all appropriate personnel. It clarifies the procedures the State Police will utilize in tabulating and analyzing the domestic violence offense report forms and exempts domestic crisis teams from liability for any action taken in good faith under this act. Furthermore, it amends the provision allowing the municipal court to issue temporary restraining orders at any time, to specify that the municipal court will only issue orders on weekends, holidays or at any other time when the juvenile and domestic relations court is closed.

51515 (1982)

JULY 23, 1982

- 2 -

S-1515, sponsored by Senator Wynona Lipman (D-Essex), making a number of changes in the Prevention of Domestic Violence Act, including an expansion of the definition of "cohabitants to include adult relatives of the same sex, granting of immunity from civil liability to law enforcement officers, and clarifying the jurisdiction of the courts in civil domestic violence cases.

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