

THE NEW JERSEY PREVENTION OF DOMESTIC VIOLENCE ACT
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SUMMARY

The Legislature finds and declares that domestic violence is a serious crime against society; that there are thousands of persons in the United States who are regularly beaten, tortured, and in some cases even killed by their spouse or cohabitant; that a significant number of women who are assaulted are pregnant; that victims of domestic violence come from all social and economic backgrounds and ethnic groups; that there is a positive correlation between spousal abuse and child abuse; and that children, even when they are not themselves physically assaulted, suffer deep and lasting emotional effects from exposure to domestic violence. It is therefore the intent of the Legislature to assure the victims of domestic violence the maximum protection from abuse the law can provide.

VICTIMS

A victim of domestic violence means any person protected under this act and shall include any person who has been subjected to domestic violence by:

- a spouse
- a former spouse
- any other person who is a present or former household member

A victim is then any person who:

- is over 18 years old
- is an emancipated minor
- has a child in common with the abuser
- is pregnant by the abuser and the pregnancy is carried to term
- is in a dating relationship with the abuser

An emancipated minor is defined as a person under 18 years old who has been married, entered the military services, has a child or is pregnant, or has been declared by the court or an administrative agency to be emancipated.

“Domestic Violence” means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor:

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| (1) Homicide N.J.S.2C:11-1 et seq. | (2) Assault N.J.S.2C:12-1 |
| (3) Terroristic Threats N.J.S.2C:12-3 | (4) Kidnaping N.J.S.2C:13-1 |
| (5) Criminal Restraint N.J.S.2C:13-2 | (6) False Imprisonment N.J.S.2C:13-3 |
| (7) Sexual Assault N.J.S.2C:14-2 | (8) Criminal Sexual Contact N.J.S.2C:14-3 |
| (9) Lewdness N.J.S.2C:14-4 | (10) Criminal Mischief N.J.S.2C:17-3 |

(11) Burglary N.J.S.2C:18-2
(13) Harassment N.J.S.2C:33-4

(12) Criminal Trespass N.J.S.2C:18-3
(14) Stalking N.J.S.2C:12-10

When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute “domestic violence”, but may be the basis for the filing of a petition or complaint pursuant to the provisions of section 11 of P.L. 1982, c.77 (C.2A:4A-30)

STALKING

The crime of stalking (N.J.S.2C:12-10) has been added for purposes of obtaining a restraining order and so that a judge can specifically retain a defendant for stalking a victim. The 1994 amendment lowers the burden of proof for a victim who is at a specific risk because of an intimate or familial relationship with a stalker. It also allows for speedier intervention by police.

MUST ARREST POLICY

If a law enforcement officer, in Burlington County, responding to an incident of domestic violence finds probable cause to believe that an incident of domestic violence has occurred, the officer must arrest the abuser.

WEAPONS

In addition to a law enforcement officer’s authority to seize any weapons he believes were part of the domestic violence, he has the authority to:

- (1) question anyone present to determine if there are weapons on the premises
- (2) seize any weapons he believes would expose the victim to danger of bodily injury

The court may order the weapons disposed of according to law. The 1994 amendment specifies that a judge can seize weapons anywhere in this State.

ORDERS FOR PROTECTION

There are sixteen (16) different types of restraining orders that the court may impose upon the defendant. A violation of any of these orders is considered contempt.

Any person convicted of a second or more contempt offense shall serve a minimum of 30 days in jail.

1994 amendments to the Prevention of Domestic Violence Act also include:

- a requirement that all contempt matters (i.e., violation of restraining order) be heard on the same speedy trial schedule set out by other criminal offenses. Guidelines require that matters be resolved within 90 or 120 days, depending on severity

- allowing the court to prohibit defendants released from jail from contacting the victim's friends or coworkers
- preventing the issuance of mutual restraining orders when there is no violence on the part of the victim
- initial and in-service training for judges, judicial personnel and law enforcement officers
- prohibiting mediation referrals by court when there is domestic violence in child custody cases
- prohibiting mediation of domestic violence cases
- allowing for a custodial, non-abusive parent to request a risk assessment of a non-custodial parent if he or she believes this person is a threat to the children
- allowing the judge to restrain contact by an abuser through a third party