

### **What if the plaintiff appears for court and the defendant fails to appear?**

The judge may issue an FRO against the defendant if there is proof of service or testimony that the defendant was aware of the hearing date. If there is no proof that the defendant has been served, a new date may be scheduled and the TRO will remain in effect. A law enforcement officer will serve the defendant with a copy of the final order.

### **What if the defendant is not abiding by the order?**

Enforcement occurs when the plaintiff seeks to have the defendant comply with provisions outlined in an existing order. The restraining order is divided into two parts. Part 1 contains restraints against contact and Part 2 primarily deals with financial and parenting issues. If the defendant is not complying with any provision outlined in Part 1 of the restraining order, the plaintiff may go to the police station and sign criminal charges. If the defendant is not complying with Part 2 of the order, it must be enforced through Family Court.

Domestic violence matters are serious in nature and if at any time either party is unsure about court procedures he or she should call the police or contact Family Court.

### **What happens if the plaintiff wants to dismiss or modify an existing restraining order?**

An order can be modified when one party seeks to add or change provisions of an order. Any request to dismiss or make changes to an existing order must be done in person and heard before a judge. Restraining orders cannot be dropped or modified by telephone. If the plaintiff reconciles with the defendant, it does not

mean an automatic dismissal of an order. If the plaintiff wishes to reconcile with the defendant the plaintiff must appear before a judge in the Family Division of Superior Court to request a dismissal. Contact between the plaintiff and defendant in advance of a court order subjects the defendant to criminal prosecution. If the restraining order is dismissed, there still may be pending criminal charges that need to be addressed separately in the appropriate Municipal or Criminal Court.

### **What happens to child support if the plaintiff asks for the Final Restraining Order to be dismissed?**

If the FRO is dismissed, child support can be continued on a new order if requested.

### **What if the parties want to attend counseling?**

The parties may not attend counseling together if there is an order in effect. There is no mediation of any kind if there is a restraining order in effect or a history of domestic violence.

### **Does the Final Restraining Order expire?**

FROs do not expire in New Jersey. Additionally, the Full Faith and Credit provisions of the Federal Violence Against Women Act requires all states, US territories and commonwealths to enforce restraining orders. This means if you leave New Jersey, your order is enforceable in every state, US territory, and commonwealth. Keep the order with you at all times.

This pamphlet provides general information about the court's role in domestic violence cases. This information is not a substitute for legal advice. Court employees may provide information about court procedures, but cannot give legal advice.

Chief Justice, Stuart Rabner

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Acting Administrative  
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Domestic violence related inquiries  
please call **609-984-4228**, or  
[njcourtsonline.com](http://njcourtsonline.com)

Statewide Domestic Violence Hotline:  
(Womanspace Inc.)  
24 Hour Hotline: **1-800-572-SAFE**  
TTY: **1-888-252-7233**

National Domestic Violence Hotline  
**1-800-799-SAFE**

New Jersey Coalition  
For Battered Women:  
**609-584-8107**  
TTY: **609-584-0027**  
[njcbw.org](http://njcbw.org)



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## **THE PREVENTION OF DOMESTIC VIOLENCE ACT**

*A Guide To The Most Frequently Asked Questions*

### **What is domestic violence?**

Domestic violence is the occurrence of one or more of the following 14 criminal offenses upon a person protected under the Prevention of Domestic Violence Act (PDVA) of 1991: homicide, assault, terroristic threats, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief, burglary, criminal trespass, harassment or stalking. In domestic violence cases the plaintiff is a person who seeks or has been granted relief under the PDVA. The defendant is a person at least 18 years old or emancipated who is alleged to have committed or who has been found to have committed an act of domestic violence under the PDVA. The parties must have had a specific relationship at present or in the past. The gender of the parties is not a factor.

The relationship must be one of the following: marriage; separation; divorce; living together in the same household at present or in the past; a person whom the plaintiff has dated or a person with whom the plaintiff has a child in common or anticipates having a child in common. The defendant must be 18 or older or be an emancipated minor. Under the PDVA, a minor is considered emancipated from his or her parents when the minor is or has been married, has entered military service, has a child or is pregnant, or has been previously declared by the court or an administrative agency to be emancipated.

### **What is a restraining order?**

A restraining order is an order issued by the court that is intended to protect a victim of domestic violence. The provisions contained in this type of court order are based upon the circumstances and vary from case to case.

### **Who can qualify for a restraining order?**

A victim of domestic violence is a person who is 18 years of age or older, or who is an emancipated minor, and who has been subjected to domestic violence by: a spouse, former spouse, present or former household member OR who, regardless of age, has been subjected to domestic violence by a person: with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant, OR who regardless of age, has been subjected to domestic violence by a person with whom the victim has had a dating relationship. A defendant must be 18 or emancipated.

### **How does a person apply for a restraining order?**

A person may file where the domestic violence occurred, where the defendant resides, where the plaintiff resides, or where the plaintiff is sheltered or temporarily staying. A domestic violence complaint can be filed at the Domestic Violence Unit of the Superior Court/Family Division Monday through Friday, 8:30 a.m. to 3:30 p.m. On weekends, holidays and weekdays after 3:30 p.m. and other times when the Superior Court is closed, a plaintiff may file a complaint at the local police department.

### **What are criminal charges?**

In addition to requesting a restraining order, the plaintiff can file a criminal complaint arising from the same incident. The plaintiff can file criminal charges, request a restraining order, or both. If there are visible signs of injury, the police officer must sign a criminal complaint. When the plaintiff is seeking a TRO, a companion criminal complaint may be filed where the alleged act occurred, where the defendant resides, where the plaintiff resides, or where the plaintiff is sheltered or temporarily staying. Criminal charges are filed in the town where the incident occurred and are heard in either Municipal Court or the Criminal Division of Superior Court.

### **What happens when the restraining order is requested at the courthouse?**

A domestic violence staff member will interview the plaintiff and ask specific questions that pertain to the incident that has brought them to court and about past incidents of domestic violence. After the interview, there will be a hearing with a domestic violence hearing officer or judge. This hearing is without notice to the defen-

dant. If the restraining order is granted, the plaintiff will be issued a temporary restraining order (TRO). If the hearing officer does not recommend a TRO, the plaintiff may request to have the matter heard before a judge.

If the court issues a TRO, the plaintiff will be given a date to return for a final restraining order (FRO) hearing within 10 days.

Copies of the TRO will be sent to law enforcement for personal service on the defendant. The plaintiff and defendant need to appear on the scheduled day of the final hearing.

### **What happens at the Final Restraining Order hearing?**

In the hearing, the judge will hear testimony from both parties. The judge will decide whether an act of domestic violence occurred, whether a final restraining order (FRO) should be issued and if so, what types of relief will be granted.

If a judge finds that an act of domestic violence has occurred, the defendant may be prohibited against future acts of domestic violence. He or she may be barred from the plaintiff's residence, place of employment or other places; prohibited from having any oral, written, personal or electronic form of contact or communication with the plaintiff or others; and prohibited from making or causing anyone else to make harassing communications to the plaintiff or others. The defendant may be prohibited from stalking, following or threatening to harm, stalk or follow the plaintiff or others. The defendant may be ordered to pay child support, emergent monetary relief, attend

substance abuse counseling or other evaluations. The defendant will be prohibited from possession of weapons.

The plaintiff may be issued exclusive possession of the residence, temporary custody of children, support, medical coverage, damages and other items.

If the FRO is issued, the defendant will be photographed and fingerprinted and will be ordered to pay a penalty of \$50 to \$500 payable through the courts finance department.

A copy of the FRO will be given to both parties. It is important to review the order before leaving the building to ensure accuracy.

The Family Division will forward a copy of the order to the police department in the municipality where the plaintiff resides. The plaintiff should also provide copies to work, daycare centers, schools and any other places of significance.

The plaintiff should keep the FRO in his or her possession at all times. If lost, additional copies may be requested at the Domestic Violence Unit where the order was entered.

### **Should the parties bring anything to the Final Restraining Order hearing?**

Parties should bring photos of injuries and property damage, witnesses, medical documents, receipts from property damage and financial information if requesting rent/mortgage payments, spousal or child support, or any other important documents. Bring anything you want the court to consider. Bring an attorney if you have retained one.