

# New Jersey Judiciary

# Temporary Restraining Order Process



See “CN 12968 - What is Domestic Violence?” if you need help knowing if you qualify for a domestic violence restraining order.

## **How Does Someone Apply for a Restraining Order at the Local Police Department?**

The police officer will interview the person applying and complete a domestic violence civil complaint for a restraining order. The person applying is known as the plaintiff in the case. The defendant is the person who is alleged to have committed the act of domestic violence. The police officer will contact a municipal court judge for a telephone hearing, which is recorded. The judge will question the plaintiff about the current and prior domestic violence events. The plaintiff should let the judge know if the defendant has access to any firearms. The judge will enter a decision to either grant or deny the request for a restraining order. This hearing is held without the defendant.

## **What Happens After the Municipal Court Judge Issues a Decision?**

If the judge **grants** the application, the judge will sign a temporary restraining order (TRO). The plaintiff will receive a copy of the order and date for a final restraining order (FRO) hearing, which will take place in 10 days. The defendant will be served with the TRO and the FRO hearing date by the local police department. The plaintiff and defendant must appear on the scheduled day of the final hearing.

If the judge **denies** application for a restraining order, a request can be made for an immediate review of the TRO denial with a Superior Court judge. The Superior Court judge will conduct a hearing on the TRO complaint by telephone and decide to grant or deny the TRO request. If the judge denies the request for the TRO, an appeal of the denial can be filed in the Appellate Division.

## **How Does Someone Apply for a Restraining Order in the Superior Court?**

A domestic violence staff member in the family division will interview the plaintiff and ask specific questions about the incident that has brought them to the 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 held without the defendant. The plaintiff should let the judge know if the defendant has access to any firearms.

If the judge **grants** the application, the judge will sign a temporary restraining order (TRO). The plaintiff will receive a copy of the order and date for a final restraining order (FRO) hearing, which will take place in 10 days. The defendant will be served with the TRO and the FRO hearing date by the local police department. The plaintiff and defendant must appear on the scheduled day of the final hearing.

If a domestic violence hearing officer conducts the hearing and does not recommend the TRO, the plaintiff can request to have the matter heard before a Superior Court judge that same day. If the judge denies the request for the TRO, an appeal of the denial can be filed in the Appellate Division.

## **Can a TRO be Changed?**

The TRO application can be changed prior to the final restraining order hearing. If the plaintiff wants to change the application for the following reasons, they can complete the required forms and no new hearing is required:

- Add more information about the incident that led the plaintiff to file a complaint for a restraining order.
- The defendant violated the restraining order and/or committed additional acts of domestic violence and the plaintiff wants to add the new acts to the complaint.
- Add more information about prior history of domestic violence between the plaintiff and the defendant that was not on the original complaint.
- Add the names of the children that the plaintiff and the defendant have in common that were not included on the original domestic violence complaint that was filed in this matter.

If the plaintiff wants to change the application and/or the TRO for other reasons than listed above, such as to seek additional relief for visitation or financial support, call the family division office in the county where the restraining order was issued for additional instructions.

### **What Does the Defendant Do Once Served with a TRO?**

Once a TRO is granted by a Superior Court or Municipal court judge, a final restraining order hearing is scheduled. The hearing date will be on the order. The defendant **must** attend the court hearing. The defendant has the right to bring an attorney; the court cannot provide an attorney. Failure to appear at the hearing could result in the court entering an FRO against the defendant.

The defendant should be aware that any violation of any of the conditions listed in the TRO could be either a civil or criminal contempt and could result in an arrest, prosecution, and possible incarceration. It is important that the defendant abide by the conditions of the order.

If the defendant wants to appeal the TRO, an Application for Appeal and Order can be filed in the county where the TRO was entered by the court. [Application for Appeal and Order \(njcourts.gov\)](https://www.njcourts.gov)

See the brochure “Final Restraining Order Process” (CN 12970) for more information.