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Administrative Office of the Courts

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Acting Administrative Director of the Courts

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Directive # 23-20
[Questions or comments may be directed to
(609) 815-2900, ext. 55300 (Criminal Division)
or 55350 (Family Division).]

TO: **Assignment Judges**
Trial Court Administrators

FROM: **Glenn A. Grant, J.A.D.**

SUBJ: **Criminal/Family – Procedures for Petitions to Dissolve the Statutory Prohibition against Victim Contact Pursuant to L. 2020, c. 111**

DATE: **November 6, 2020**

This Directive promulgates a process to be used to request dissolution of the prohibition against victim contact imposed by statute when a defendant or juvenile is released from custody before the scheduled release date due to the award of public health emergency credits pursuant to L. 2020, c. 111. The Directive also promulgates a form Petition to Dissolve the Prohibition Against Contact and a form order.

L. 2020, c. 111, effective November 4, 2020, provides that whenever a public emergency has been declared by the Governor under the "Emergency Health Powers Act," N.J.S.A. 26:13-1 et seq., the Commissioner of the Department of Corrections (DOC), the Executive Director of the Juvenile Justice Commission (JJC), and the Chair of the Parole Board shall each award public health emergency credits to certain inmates and parolees to allow for their early release from custody or term of supervision.

Additionally, the law provides that individuals released following an award of public health emergency credits shall be prohibited from purposely or knowingly making contact with any victim of the crime for which the individual was serving the sentence. The law further provides that a violation of this prohibition against victim contact is a fourth-degree crime. It is important to note that this statutory prohibition against victim contact is separate and distinct from other no contact provisions that may have been ordered by the court in the specific case, which provisions remain in effect until vacated by the court. This statutory prohibition against victim contact pursuant to L. 2020, c. 111 expires on the date that the inmate was scheduled to be released prior to the award of public health emergency credits, unless the court grants a petition to dissolve it earlier.

Under the law, the Administrative Director of the Courts is required to provide procedures for those petitions for early dissolution of the statutory prohibition against victim contact, with those procedures to be posted by DOC, JJC, and the Attorney General on their websites. Accordingly, this directive sets forth procedures for a released defendant/juvenile to file a petition in the county where the conviction or adjudication occurred. The form "Petition to Dissolve the Prohibition Against Victim Contact" (CN 12699) is available on the Judiciary's website at http://www.njcourts.gov/forms/12699_petition_dissolve_proh_against_contact.docx. The petition will also be translated and posted on the Judiciary's website in the near future. A form "Order to Dissolve the Prohibition Against Victim Contact" (CN 12698) for use by the court will be available on the InfoNet Forms page (under Criminal and Family).

The procedures to file a petition to dissolve the prohibition against victim contact are as follows:

1. A petition may be filed by the defendant/juvenile (parent or guardian), the victim, or counsel on their behalf in the county where the conviction or adjudication occurred.
2. For juvenile matters, all petitions and objections must be filed through the Judiciary Electronic Document Submission (JEDS).
3. For criminal matters, self-represented litigants must file through JEDS, and attorneys must file in eCourts.
4. Court staff will schedule the hearing date to be held within 30 days. Notice of the hearing date will be provided to the petitioner and to the county prosecutor's office.
5. The county prosecutor's office will also receive notice of all petitions. If the petition is filed by the defendant/juvenile, the prosecutor's office will serve the victim with a copy of the petition and notice of the hearing date. If the victim cannot be served, the prosecutor's office shall immediately inform the court.
6. If the petition is filed by the victim, court staff will provide the petition and notice of the hearing date to the defendant/juvenile at their address as provided by DOC/JJC.
7. An objection to the petition may be filed no later than 10 days prior to the hearing date.
8. The court may require the county prosecutor to provide information and/or appear at the hearing.
9. Because these records will include information on victims and information in juvenile delinquency records for juvenile matters, all records related to these proceedings shall be deemed confidential pursuant to R. 1:38-3.

It is important that prior to the court's determination, the steps outlined in Directive #17-20, "Co-Occurring No Contact Release Conditions and Domestic Violence or Custody Matters," shall be followed, including but not limited to: (1) court staff should check available systems for co-occurring matters with the defendant/juvenile and the victim and inform the judge of the results of those searches; and (2) the court is to consider any no-contact conditions, domestic violence restraining orders, or visitation ordered by other courts. Communication between the Criminal Division and the Family Division is essential in ensuring that the court has the information it needs to make this

determination and to ensure that the court can clearly articulate to the victim and to the defendant/juvenile what conditions are in effect.

In the event there are other court orders in effect that relate to the victim, the court shall ensure that the parties understand the difference between those court orders and any no contact provisions in those orders and this statutory prohibition against victim contact pursuant to L. 2020, c. 111. Specifically, this statutory prohibition against victim contact expires upon the date that the inmate was scheduled to be released prior to the award of public health emergency credits, unless the court grants the petition to dissolve it. In contrast, those other no contact conditions set forth by the court in its order in the particular case remain in effect until the court enters an order specifically vacating those conditions.

Additionally, the new law also requires DOC, JJC, and the Attorney General to post information on the procedures to request a domestic violence restraining order and resources available to victims of domestic violence. Information concerning domestic violence can be found on the Judiciary's website at https://www.njcourts.gov/selfhelp/selfhelp_domesticviolence.html.

Questions regarding this Directive may be directed to the Criminal Practice Division at 609-815-2900, ext. 55300 or to the Family Practice Division at 609-815-2900, ext. 55350.

Attachments: (1) Petition to Dissolve the Prohibition Against Victim Contact (CN 12699)
(2) Form Order to Dissolve the Prohibition Against Victim Contact (CN 12698)

cc: Chief Justice Stuart Rabner
Criminal Presiding Judges
Family Presiding Judges
Attorney General Gurbir S. Grewal
Public Defender Joseph E. Krakora
County Prosecutors
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Maria Pogue, Chief, Criminal Practice
David Tang, Chief, Family Practice
Criminal and Family Division Managers and Assistants
Jacqueline Augustine, Assistant Chief, Family Practice
Emily Mari, Esq., Family Practice

State/In the Interest of

v.

_____
Defendant/Juvenile

Superior Court of New Jersey
Law Division – Criminal Part
Chancery Division - Family Part
- Select County - County
Ind./Acc. Number: _____
Docket Number: _____

Petition to Dissolve the Prohibition Against Victim Contact

I_____ am the (select one) ☐ Defendant/Juvenile ☐ Victim.

I am requesting that the court dissolve the prohibition against victim contact issued to the defendant/juvenile upon early release from a state correctional facility/confinement in a Juvenile Justice Commission facility due to the awarding of Public Health Emergency Credits pursuant to L. 2020, c. 111.

The defendant/juvenile was convicted or adjudicated delinquent and served a custodial sentence for:

(Name of offense and statute), and the victim of this crime is _____, and my relationship to the victim is _____.

I am requesting to dissolve the prohibition against victim contact, including the circumstances of the conviction or adjudication because:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

I certify that all the statements made above are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

_____ _____
Date Signature

_____ _____
Date Parent/Guardian Signature

Published: 11/2020, CN: 12699

State/In the Interest of

v.

_____
Defendant/Juvenile

Superior Court of New Jersey
Law Division – Criminal Part
Chancery Division - Family Part
- Select County - County
Ind./Acc. Number: _____
Docket Number: _____

Order to Dissolve the Prohibition Against Victim Contact

This matter having been opened to the court by way of a petition filed by _____ to dissolve the prohibition against victim contact imposed pursuant to L. 2020, c. 111.

The court having considered the petition, any testimony, and any related information, having conducted a hearing, and for the reasons set forth on the record,

IT IS HEREBY ORDERED on this __ day of _____, 20__ that the petition to dissolve the prohibition against contacting _____, the victim of the crime committed by the defendant/juvenile is

☐ **Granted.** The prohibition against victim contact is dissolved effective immediately.

☐ **Denied.** The prohibition against victim contact remains in effect until _____, which was the defendant/juvenile's scheduled release date prior to being awarded credits pursuant to L. 2020, c. 111.

(Optional)

_____

_____

_____

_____ s/ _____
Date , J.S.C.

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