



# Understanding Domestic Violence Laws in New Jersey



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Domestic violence occurs frequently in New Jersey and across the country, probably more than most people realize. Fortunately, in New Jersey, a statutory system is in place to provide quick and effective relief for the victims of domestic violence.

When an act of domestic violence occurs, there are two ways for the victim to take legal action. First, the victim may take action in the civil context by filing for a domestic violence restraining order in Family Court. Some states refer to these orders as Protection From Abuse Orders, or PFA's. If a victim is successful in obtaining a Final Domestic Violence Restraining Order, the abuser will be restrained from coming in contact with the victim and from returning to the victim's residence and place of employment. The Order may also provide provisions for child custody and support, use of personal property, among other things.

Second, many times when domestic violence occurs, there is a violation of criminal law allowing the victim to file criminal charges against the abuser. If the abuser is found to have committed a crime, they may be sentenced to jail, pro-

bation and/or be required to pay a fine. In fact, if the police observe evidence of domestic violence, they are required by law to file criminal charges against the abuser, even if the victim does not want to proceed with such a request.

## What is Domestic Violence in New Jersey?

In the civil context, New Jersey has a specific act which addresses domestic violence called the Prevention of Domestic Violence Act. This Act protects New Jersey residents not only from physical abuse, but also from sexual and emotional abuse. Under this Act, domestic violence includes any of the following criminal acts: harassment, assault, terrorist threats, stalking, criminal restraint, sexual assault, criminal sexual assault, burglary, kidnapping, false imprisonment, lewdness, criminal mischief, criminal trespass and homicide.

Even if the behavior of the abuser does not rise to the level of violating criminal law, the Court may still issue a restraining order based upon an abusive course of conduct.

## Who is Protected by the Prevention of Domestic Violence Act?

You may be protected under the Act if you are 18 years or older, or an emancipated minor who has been subject to domestic violence by a spouse, former spouse, or any other person who is a present or former household member. Additionally, you may be protected if you are a person, regardless of age, who has been subject to domestic violence by a person with whom you have a child in common, if one of the parties is pregnant by the other party, or by a person with whom you have had a dating relationship. The abuser must be 18 years old or older or an emancipated minor.

## What Should I do if I feel I am a Victim of Domestic Violence in New Jersey?

If you feel you are a victim of domestic violence, you should immediately apply for a Temporary Restraining Order with the Family Court. On the weekends or during non-business hours you may ask the police to help you obtain a Temporary Restraining Order. You may also file a criminal complaint with the police.

When you apply for a Temporary Restraining Order, you must be sure to include all acts of domestic violence you believe occurred, together with any past acts of domestic violence, regardless of the result of those acts and regardless of whether you previously requested a restraining order. If you do not mention a specific act of domestic violence, whether it is a recent or past act, the Judge may not allow you to discuss those acts during the trial.

Once you apply for a Temporary Restraining Order, the Court will hold a limited emergency hear-

ing, usually with only the victim present. If the Court believes that an act of domestic violence may have occurred, the Court will issue a Temporary Restraining Order, which will immediately offer protection to the victim. Because the first hearing is held without the abuser present, the matter must then be scheduled for a final hearing within 10 days. At the final hearing, both parties should appear and may present testimony, witnesses and evidence regarding the alleged act or acts of domestic violence and any defenses. If after hearing all of the testimony and viewing the evidence presented, the Court finds that an act, or acts, of domestic violence have been committed and that the victim requires protection, the Court will issue a Final Restraining Order.

## How does a Final Restraining Order Protect Victims?

Final Restraining Orders will usually protect the victim from all contact with the abuser. When a

Final Restraining Order is entered, the abuser is fingerprinted, photographed and a fine is usually imposed. Additionally, all weapons which must be surrendered by the abuser at the time of the Temporary Restraining Order, must be forfeited.

Often a Final Restraining Order will restrict the abuser from having contact with a victim's employer, friends and family. In addition, the Final Restraining Order may provide for exclusive possession of a residence, child custody, visitation, support and any other provisions the Court feels are necessary to protect the victim.

Domestic violence is a serious problem in New Jersey, and throughout the country. If you feel you may be a victim of domestic violence, New Jersey has enacted a system that can help protect you from abuse. If you have any questions about domestic violence in your home, you should seek the advice of counsel so that you can be certain of your rights, duties and obligations.



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Prior to joining Trace and Jenkins, LLC, Ms. Ferreri served as law clerk to the Honorable Eugene J. McCaffrey, Jr., J.S.C., Chancery Division, Family Part, Salem County, New Jersey. She also served as a judicial intern for The Honorable John T.J. Kelly, Jr., Superior Court of Pennsylvania in Philadelphia, Pennsylvania.

Michelle graduated from Bishop Eustace Preparatory School in Pennsauken, New Jersey and then went on to Lehigh University in Bethlehem, Pennsylvania where she earned a B.A. in Journalism and Public Relations in 2002. She received her Juris Doctor in 2005 from the University of Pittsburgh School of Law in Pittsburgh, Pennsylvania.

Ms. Ferreri is affiliated with the New Jersey State Bar Association, Gloucester County, Camden County, and Salem County Bar Associations. She is also a member of the Thomas S. Forkin Family Law American Inn of Court where she received the Associate of the Year Award in 2007. In her spare time, she is an avid equestrian, animal lover and snow skier.