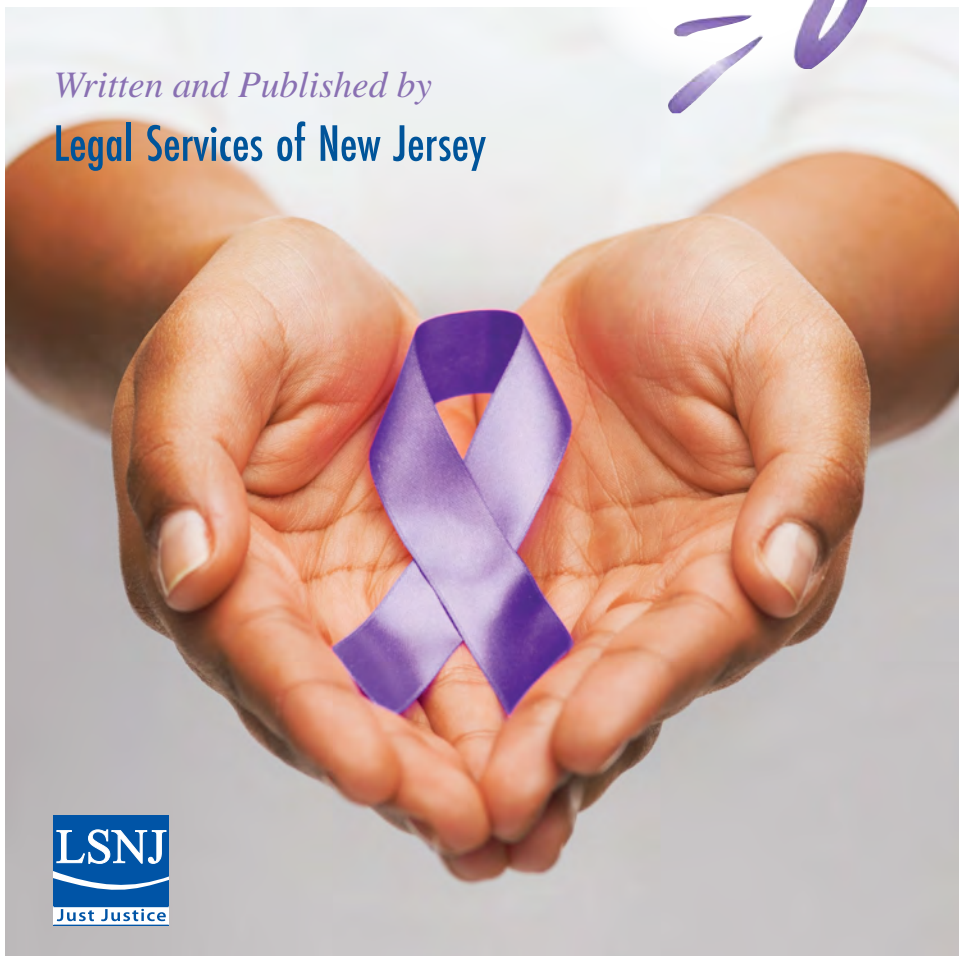


Domestic Violence

*A Guide to the Legal Rights
of Domestic Violence Victims in New Jersey*



Written and Published by
Legal Services of New Jersey



The New Jersey Legal Services Programs

State Coordinating Program

Legal Services of New Jersey
100 Metroplex Drive, Suite 101
P.O. Box 1357
Edison, NJ 08818-1357
732-572-9100
LSNJLAWSM statewide, toll-free legal Hotline:
1-888-LSNJ-LAW (1-888-576-5529)

Regional Legal Services Programs

Central Jersey Legal Services

Mercer County	609-695-6249
Middlesex County	732-249-7600
Union County	908-354-4340

Essex-Newark Legal Services

973-624-4500

Legal Services of Northwest Jersey

Hunterdon County	908-782-7979
Morris County	973-285-6911
Somerset County	908-231-0840
Sussex County	973-383-7400
Warren County	908-475-2010

Northeast New Jersey Legal Services

Bergen County	201-487-2166
Hudson County	201-792-6363
Passaic County	973-523-2900

South Jersey Legal Services

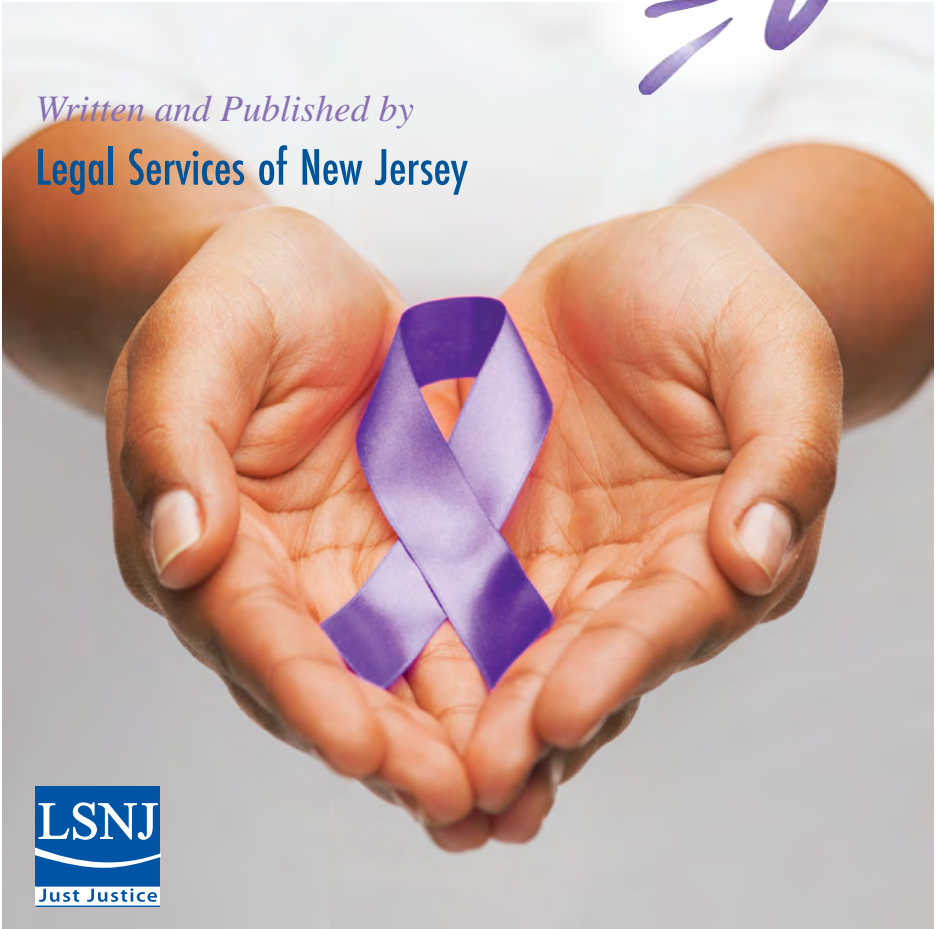
<i>Centralized Intake for SJLS</i>	800-496-4570
Atlantic County	609-348-4200
Burlington County	609-261-1088
Camden County	856-964-2010
Cape May County	609-465-3001
Cumberland County	856-691-0494
Gloucester County	856-848-5360
Monmouth County	732-414-6750
Ocean County	732-608-7794
Salem County	856-691-0494

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Preface

For more than 55 years, Legal Services of New Jersey (LSNJ) has coordinated the statewide Legal Services system in New Jersey, providing free legal assistance to low-income people in civil matters. Part of Legal Services' mission is to make people more aware of their legal rights. Awareness allows people to resolve some problems on their own, without the need for lawyers. Informed people also are able to make better use of lawyers when they are needed.

A word of caution about using this handbook

This handbook does not give advice about a particular legal problem that you may have, and it is not a substitute for seeing a lawyer when you need one. Talk to a lawyer if you think you need the help.

The information in this handbook is accurate as of April 2023, but laws often change. Please check our website, www.lsnjlaw.org, for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

Acknowledgments

The first edition of this handbook was written by Donna Hildreth and published by LSNJ in 1986. The revisions for this edition have been drafted by Mary McManus-Smith, Shoshana Gross, and Monica C. Gural, attorneys with LSNJ's Domestic Violence Representation Project.

This handbook is available in English, Spanish, Creole, Portuguese, Korean, Arabic, and Hindi on our website, www.lsnjlaw.org. Contact publications@lsnj.org for information on getting printed copies in those languages. Thanks to Al Moreno, Lina Tocora, Jean Milfort, and Catarina Pedreiro of LSNJ's Language Services Unit for translating the English text into Spanish, Creole, and Portuguese. Thanks also to Maha Ramadan, Manmohan Kaur, and Sean Lee for translating the text into

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Special thanks also to everyone at LSNJ whose contributions made this handbook possible: Attorneys Sarah Hymowitz, Raquiba Huq, and Maura Sanders; Outreach Coordinator Alayna Berg; Writer/Editor Li-Anne Wright; and Chief Content Officer Tricia Simpson-Curtin.

*Dawn K. Miller, President
Legal Services of New Jersey
Edison, New Jersey
April 2023*



Introduction

Domestic violence is a frequently committed crime. The FBI estimates that a woman is abused every 15 seconds in the United States. The FBI also estimates that 2 million (others say possibly 6 million) women in the United States are abused annually. Some researchers believe that violence will occur in at least two-thirds of all marriages; that perhaps as many as 50% of women are subjected to domestic violence at some time in their lives. The Surgeon General of the United States found that domestic violence is the “single largest cause of injury to women.” No one knows precisely how often domestic violence occurs, or how many people are affected. That information is scattered among divorce statistics, medical reports, school records, and police and government documents, many not publicly or easily accessible. Some domestic violence victims do not tell anyone about the abuse they suffer. It is clear that domestic violence is prevalent, and that it is a serious problem with tremendous social and economic costs and tragic consequences.

This handbook reviews the New Jersey Prevention of Domestic Violence Act. It suggests some of the measures you can take to protect yourself from abuse, including getting a restraining order to keep the abuser away. In addition to using the protection offered by the domestic violence law, you may have to use other services and means to ensure your safety and peace of mind. You understand better than anyone how dangerous your situation is, and you must decide the best way to ensure your safety.

Legal remedies and social services are available regardless of the

gender of the abuser or the victim. The Prevention of Domestic Violence Act applies to everyone regardless of gender, including people in same-sex relationships.

Before 1981, New Jersey had no specific law protecting victims of domestic violence. In 1981, when the New Jersey Legislature passed the Prevention of Domestic Violence Act, it recognized that domestic violence is a serious crime affecting all of society and that it could no longer be ignored, excused, or tolerated. The Prevention of Domestic Violence Act has been amended many times to strengthen the protection offered to victims.

In 1996, Congress passed the Violence Against Women Act (VAWA), a national law addressing the problem of domestic violence and sexual assault. VAWA has a number of important and helpful provisions. For example, VAWA requires all states to enforce valid restraining orders from other states, allowing victims to keep their protective orders when they relocate. VAWA is an important first step in creating a comprehensive, nationwide response system to deal with domestic violence. The discussion of VAWA in this handbook is limited to how VAWA can help immigrants who have experienced domestic violence and their children apply for valid legal status without the cooperation of their abusers (see page 55).

In New Jersey, there are two primary legal options to gain protection from abuse:

- One option is to use the civil justice system and family court to get a restraining order under the Prevention of Domestic Violence Act. A restraining order is a court order that will attempt to control the abuser's behavior by forbidding him/her to enter your home or to contact you in any way. A restraining order can also contain provisions regarding child custody, child support, parenting time, and support for you, among other things. You can find information about getting a restraining order on page 30.
- The second option is to charge the abuser with a crime, such as assault, and go through the criminal justice system. An abuser who is found guilty of the crime can be sentenced to jail or probation, and/or ordered to pay a fine. You can find information about the criminal law system on page 29.

Domestic violence includes, but is not limited to, physical and sexual abuse. Domestic violence also includes actions that, while not yet physical, put you at risk or in fear. The following are some examples of common forms of abuse that, depending on the circumstances, may be domestic violence:

- Threatening to hurt or kill you or a member of your family.
- Threatening you to prevent you from leaving.
- Physically keeping you from leaving by doing such things as blocking a doorway, taking your car keys, or disabling your car.
- Forcing you to go somewhere against your will.
- Harming a pet or threatening to harm a pet.
- Purposely or repeatedly following or stalking you by doing things such as staking out your home or place of employment, or using a GPS device to monitor your movements.
- Coming to your home uninvited or after telling the abuser not to do so.
- Purposely or recklessly damaging your property or possessions by doing such things as punching holes in the walls, ripping up personal journals, tearing your clothing, or throwing items.
- Purposely and repeatedly annoying or alarming you by making hang-up calls, calling your home or place of employment, or deliberately preventing you from sleeping.
- Trying to control your daily activities, such as where you go, what you do, or who your friends are.

Under New Jersey's domestic violence law, you may be able to get a restraining order if you were abused by your spouse, former spouse, dating partner, a person with whom you share a child, or someone who you live with now or lived with in the past. You cannot file a temporary restraining order against someone under 18 unless they have been married, parented a child, entered the military, or were declared emancipated by a court. If a minor has committed a

crime, that should be reported to your local police station.

For most victims, trying to leave an abusive partner involves risk, including the risk of being seriously injured. Those who stay can face increased abuse, which is one reason thousands decide to leave abusive partners and start new lives. Because leaving an abusive partner can be dangerous, it requires careful thought and planning for safety measures, in addition to getting legal help. See page 72 for a list of domestic violence service providers who can help you with safety planning.

This handbook touches on the most basic elements of the law and the services you may be able to receive. In addition to explaining your legal options, this handbook highlights some of the support services available in New Jersey and explains how you can get more information about those services. At the end of the handbook, you will find the current addresses and phone numbers of shelters and other agencies that provide services or information to domestic violence victims and their families.

Getting Legal Help

If you need the advice of a lawyer but cannot afford one, you may be eligible for Legal Services. Contact the regional Legal Services program that serves your county. See the inside front cover of this handbook for a list of New Jersey programs and telephone numbers. You also can find a list of programs, addresses, telephone numbers, and office directions by clicking on *Get Legal Help* on our website, www.lsnjlaw.org.

You may also contact LSNJ's statewide, toll-free legal hotline, LSNJ-LAWSM, at 1-888-LSNJ-LAW (1-888-576-5529) or apply online for legal help at www.lsnjlawhotline.org. The hotline provides information, advice, and referrals to low-income New Jersey residents who have civil legal problems. This service is provided at no charge to applicants who are financially eligible.

LSNJ's Domestic Violence Representation Project (DVRP) provides representation and legal advice to eligible domestic violence victims, free of charge. Call LSNJ's statewide legal hotline at 1-888-LSNJ-LAW

(1-888-576-5529) to find out if you are eligible for help from the DVRP. Help for immigrants who are battered may be available through LSNJ's Immigration Representation Project (IRP). You can reach the IRP through LSNJ's hotline at 1-888-LSNJ-LAW (1-888-576-5529).

LSNJ's website, www.lsnjlaw.org, provides legal information, publications, forms, resource directories, benefits calculators, and more.

If you do not qualify for Legal Services, contact your local lawyer referral service. You can get the telephone number for the lawyer referral service in your area by contacting your county bar association or by accessing the New Jersey State Bar Association's website at lsnj.pub/NJSBA-lawyer-referral.



1. Safety Measures

Planning Ahead for an Emergency

You may wish to develop a safety plan with the goal of reducing the risk to yourself and your children. Safety plans seek to reduce the immediate risks of physical violence and injury but also include strategies to maintain your freedom from violence. Each plan will vary, depending on whether you are separated from the abuser, plan to leave, or decide to stay, as well as what resources are available to you.

If you are still living with the abuser, some safety steps to consider taking to reduce the threat of physical violence to you and your children are the following:

- Plan how you will get out of the house safely in an emergency. Which door will you use? Can you climb out windows? Is there a fire escape? Where will you go once you are out of the house? What if you cannot go there?
- Pack clothes for yourself and your children, and a list of addresses and telephone numbers of relatives and close friends who may be able to help you. Keep the suitcase in the home of a friend or neighbor, or hide it in your home or car where you can get to it easily.
- Have an extra set of keys to your home and car. Keep these hidden in your suitcase.
- Teach your children how to use the phone to reach the police or fire department.

- Collect and save evidence (such as names and addresses of witnesses, pictures of your injuries, and police and medical reports). Do not keep these items in the home if it is not safe. Keep them with a friend, or possibly a domestic violence agency.
- Develop a code word that you can use with your children or a friend so they can call for help when you cannot.
- Take extra cash, savings books, checkbooks, credit cards, and any other special valuables.
- Take something comforting for the children, such as a favorite toy or book.
- If possible, try to take legal documents such as identification, birth certificates, Social Security card, driver's license, marriage certificate, restraining order, passports, immigration documents, documentation of car ownership, medication, court papers, and other legal documents. Keep these where you can get to them easily and quickly. You may need these documents for a number of reasons, and replacing them can be time-consuming and sometimes costly. If you cannot take the original document with you, and it is safe for you to do so, you should make copies of these documents.
- Call a domestic violence hotline for help with your plan and any problems that arise.

If you are not living with the abuser, some safety steps to consider to reduce the threat of physical violence to you and your children are the following:

- After you get a restraining order, make copies of the order and take one to your local police for their files. Give a copy to the following people: your children's school, early childhood education center, or babysitter; a neighbor or nearby relative; and someone where you live and work, such as a security guard.
- Keep a copy of your restraining order with you at all times.
- If you remain in the home, try to change the locks, get a security system, and put in bright or motion-sensitive lights outside.

- Get someone at work to screen your calls on the job if you can.
- Avoid stores, restaurants, banks, and other places that you used previously, where the partner may go looking for you.
- Take advantage of services offered by domestic violence service providers listed on page 72.

Strategies to stay safe and independent from the abuser might include how to maintain income, housing, health care, food, child care, and education for the children.

You may wish to call a domestic violence service provider in your community to discuss safety planning.

Using Hotlines

Hotlines are excellent resources. Most hotlines are staffed 24 hours a day. The staff is trained to deal with people in crisis. By discussing your problem with someone independent and unbiased, you may be able to see the solution to your problem more clearly. In any event, you will have a chance to talk through your problem and discuss some of your options so that you will be prepared for whatever steps you decide to take. Staff members can provide you with information and referrals. You can find a list of hotline numbers in the appendix on page 72.

Calling the Police

When domestic violence occurs, you may want to call the police. For emergencies, call 911 or your local police. Tell the police dispatcher your location, what has happened, and stress the emergent nature of your situation. Be sure to tell the police whether anyone is injured or armed and, if so, where the weapons are located. Once the police arrive, ask to talk to the officers alone so that you can speak freely about what happened and what legal options are available to you.

You can ask the police to help you get a temporary restraining order (TRO) right away. (A TRO is a temporary court order that may

provide several forms of relief. See page 30 for more information about TROs.) It is hard to make decisions about your life and the lives of your children when you are living in fear. A TRO may be helpful because you will have some time to be free of fear, allowing you to think through your plans.

You can apply for a temporary restraining order in person or by phone between 8:30 a.m. and 3:30 p.m. at the Superior Court, Family Division, in your county. Many courts stop taking domestic violence complaints at 3:30 p.m. This may vary, however, depending on the county. Call ahead to your Family Court to find out what time they stop accepting complaints. You can also go to your town's municipal court when it is open to get a TRO. The police can help you get a TRO through the municipal court at any hour and on weekends, holidays, and other times when the courts are closed. A police officer can help you get in touch with a municipal judge.

The police will provide you with a victim notification form, written in English and Spanish, telling you about your rights under the Prevention of Domestic Violence Act. If your primary language is something other than English or Spanish, you should request an interpreter to make sure you understand your rights. They will explain the notice to you if you don't understand it. The form will describe what help is available with a restraining order. A restraining order can:

- Temporarily forbid the abuser from entering your home, even if it is not rented or titled in your name.
- Temporarily forbid the abuser from having any contact with you, your relatives, or anyone else you identify.
- Provide for the seizure of any weapons the abuser has.
- Allow you to use the family car, even if it is not in your name.
- Temporarily forbid the abuser from going to your job.
- Require the abuser to pay temporary child support or support for you.
- Grant you temporary custody of your children.
- Require the abuser to pay you back any money you spend for medical treatment or repairs because of the violence.

There also are other things the court may order. The court clerk or police will explain the procedure to you and help you fill out the papers for a TRO. For more information on restraining orders, see page 30.

You also have the right to file a criminal complaint against the abuser in addition to obtaining a restraining order. A police officer can tell you how to file a criminal complaint.

You should know that, although the law requires the police to make an arrest in some situations, the police may not arrest the abuser in every situation. The law requires an officer to make an arrest when the victim shows signs of injury, when a weapon is involved or its use is threatened, or when the abuser has violated the terms of a restraining order. The law gives an officer the choice about an arrest if the victim does not show signs of injury but there is a good reason for the officer to believe an act of domestic violence has been committed. For more information on filing a criminal complaint, see page 45.

You might ask the police to help you call relatives or a local domestic violence shelter if they are not going to arrest the abuser and you do not feel safe staying in your home with the abuser after the police leave. You can also ask the police for transportation to a safe place or to court to get a restraining order.

You may want to ask the officers for their names and badge numbers. Write this information down. You may need this information when you go to court, particularly if you need to call the police officers as your witnesses.

Getting Medical Attention

Many people are understandably depressed and confused after being physically abused. They often feel ashamed about what happened or have been threatened, so some people do not seek medical help. However, it is important to see a doctor because injuries can be severe even though they do not appear so. This is especially true of internal injuries. A pregnant woman should see her obstetrician immediately.

Whether you choose to get care at an emergency room or from a

private physician, it is important that you receive treatment. Give the doctor a detailed description of what happened. Tell the doctor what parts of your body received the physical abuse. Be very specific about exactly where you were hit or hurt. This includes strangulation and direct, strong hits to the head, stomach, or chest, which can create internal injuries. You may request that the doctor write down your injuries and insist that your visit remain confidential. You also have the right to speak with the doctor alone; this means the abuser should leave the immediate area and not be allowed to stand immediately outside the curtain.

If the doctor you see is not your personal physician, be sure to give him or her some medical history. Tell the doctor about any allergies you have. If the doctor prescribes medication, be sure that you understand what the medication is and what the side effects may be. If you are going to a hospital emergency room, you may want to ask a friend or relative to go with you for emotional support. Emergency rooms are usually hectic, and you may have to wait a long time before being examined.

Ask about other services available in the hospital or in the community that may be of help to you. The hospital may have a nurse or social worker who works with domestic violence victims. Hospital personnel may also be able to refer you to a domestic violence program to get information about emergency shelters, counseling, and emotional support. You may be able to get a restraining order at the hospital.

If you have been sexually assaulted, you should get medical attention immediately and take steps to preserve the evidence of the sexual assault. Many of the steps you should take to preserve evidence are likely to be difficult for you, but the evidence will be important in getting the abuser convicted if you decide that you want to press criminal charges against him/her. You may wish to call a friend or relative to be with you as you go through some difficult procedures.

The following information will allow you to gather the most evidence after a sexual assault so you can have the injuries treated and preserve evidence that will be helpful should you decide to file criminal charges.

- You should get medical attention as soon as you can, preferably at an emergency room. If at all possible, before seeking medical attention, you should not shower, bathe, wash, douche, change clothes,

eat, drink, smoke, or urinate. Ask the treating physician to conduct a rape kit.

- You should not throw away the clothes you were wearing or any other item involved in the sexual assault.
- You may also ask to speak with a rape crisis counselor at the hospital.

Hospital personnel may try to convince you to speak with the police right away. You do not have to do this. If you are pressured to file a police report, know that it is up to you to make this decision, when you are ready. If you are undecided, you can just tell them that, at the moment, all you want to do is to preserve the evidence so it will be available if you decide to press charges.

Getting Out—Finding Housing

Emergency housing—shelters. The only way some people can ensure their safety is by leaving home to stay with friends or relatives, or by staying in a safe house or domestic violence shelter. If you have children, you may wish to take them with you when you leave. All counties offer free emergency shelter for victims of domestic violence. A list of agencies offering shelter services appears on page 72. Most shelters keep their locations confidential so that residents will be safe from pursuit by the abuser. Often, arrangements can be made with shelter staff to pick you up from a safe place (the police station, for example) and transport you to the nearest shelter. Many shelters are open 24 hours a day, seven days a week.

Shelter staff conduct counseling sessions and provide other support services for residents. Some people stay in shelters for one night; others may stay longer. The shelter usually provides a group living situation where people share cooking and cleaning chores. Playgroups and other supervised activities are often available for children. Arrangements with local school systems permit children to enroll in school for short periods of time so they will not miss classes during the shelter stay. If

your local shelter is full, they may refer you to another shelter outside of your county. If you do not want to stay at a shelter, you might consider staying with family members or friends.

Remember to try to safeguard knowledge of your location if you fear the abuser will follow you and try to hurt you or the people with whom you are staying. If you cannot think of someone who will help, you might try contacting a church or civic leader. They can sometimes arrange for emergency housing.

Even if you do not stay in the shelter, ask the staff about their support services. A domestic violence service worker or a peer support group can help you make difficult and important decisions.

Permanent housing. Once at the shelter or other emergency housing, you will probably begin to think about finding permanent housing. You may decide to stay in your own home by getting a restraining order against the abuser from the Family Court under the Prevention of Domestic Violence Act (see page 30).

On the other hand, you may decide to look for a new place to live if you feel that you would not be safe in your home. Your new home might be in the same city or community, or in an entirely new city or state. You should know that if you want to leave the state with the children you have with the abuser, you should first get the other parent's permission or an order from the court. Without that, the abuser could report the children missing, claim that you kidnapped them, or try to have you arrested for interfering with the abuser's right to see the children. There are ways to protect yourself against the abuser's claims and to prevent yourself from getting arrested for taking your children to another state. (See *Relocation and removing the children from New Jersey* on page 52.) If you are moving within the state of New Jersey, you do not need permission.

You may have trouble finding well-maintained, affordable housing. The classified ad section of your local newspaper and the Internet provide some information, but you should also ask friends if they know of any vacancies in the area. You can call the rental offices of large apartment complexes to ask about vacancies or to be put on a waiting

list. Avoid the use of finders' services such as home locators or home seekers where you are charged a fee for a list of places. Such services often are not helpful.

If you receive welfare, your caseworker may be able to supply you with a list of local landlords. Your county welfare office may have a housing unit that can help you find housing. You may also be eligible for temporary rental assistance, which will help you to pay your rent. (See *Public Assistance* on page 62.)

If you find a place and are offered a written lease to sign, be sure to read the lease carefully. If possible, have the lease reviewed by a lawyer before you sign it so that all of the legal language is explained to you. Never sign a document you did not read or do not understand.

You may be eligible for a federally subsidized Section 8 house or apartment. Getting a Section 8 grant would mean that you could rent a place suitable for yourself and your children and the federal government would pay a portion of your rent. Call or write to your local rental assistance office for information. You can find a listing of public housing authorities by county on the federal government's Housing and Urban Development (HUD) website at www.hud.gov/states/new_jersey/renting/haweb sites.

It is illegal for a landlord to refuse to rent an apartment to you because of the source of your income, such as welfare, a Section 8 grant, or child support. (**Note:** This law does not apply to owner-occupied, two-unit dwellings.) Also, it is illegal for a landlord to refuse to rent to you because you have children. (**Note:** This law does not apply to senior citizen housing.)

Keeping Your Location Confidential

The New Jersey Address Confidentiality Program. If you are a victim of domestic violence and move to a new address that you wish to conceal from your batterer, the New Jersey Address Confidentiality Program can help you. You may apply to use this substitute address (usually a post office box) to keep your actual address private.

The program allows victims of domestic violence to apply for a

designated address that only the Division on Women and its employees will know. When the state receives mail for you, the mail will be forwarded to you at your actual address. The program allows you to use the designated address when applying for any type of public assistance, such as welfare or unemployment. You can also request that any state or local agencies through which you already receive assistance use the designated address. The agency must accept the designated address unless it can show the program that your actual address is necessary and required by law.

To qualify for the Address Confidentiality Program, you must give a sworn, written statement that you are a victim of domestic violence and that you fear further violent acts from the abuser. You must have reported domestic violence to a law enforcement agency or a court. There is no requirement that you must have reported the incident immediately after it occurred. You may still report the incident when you decide to apply for the program. You do not need a restraining order to participate in the program.

Your statement must provide the work and home address(es) and telephone number(s) you wish to keep confidential. You must also give the name of a contact person with whom the program can leave a message for you.

When you participate in the program, you cannot reveal your actual address to others and must use your designated address for all purposes. Give your designated address to the New Jersey Motor Vehicle Commission, the welfare office, or any other government agencies.

To get an application, contact the Address Confidentiality Program, toll-free, at 1-877-218-9133, or write to:

Address Confidentiality Program
P.O. Box 207
Trenton, NJ 08602-0207

You can also speak to your local domestic violence agency about enrollment. Once you have become a program participant, you are automatically enrolled for four years. After four years, you can reapply

for participation, or you can cancel your participation at any time.

Other steps you can take to keep your location secret:

- Inform all agencies you contact, such as the welfare office, that you wish your records to be kept confidential and that no information is to be released without your written consent.
- If you transfer your child's school records, you will need the cooperation of both schools in keeping the name and address of the new school confidential.
- When you register to vote, show the copy of your restraining order to the clerk and ask that your address be kept confidential.
- If you are starting a divorce through a lawyer, tell your lawyer not to publish your address in the divorce proceedings or release your address to your spouse or your spouse's attorney.
- You may file court papers asking to change your name and/or your Social Security number if you feel that it is necessary for your safety.

Technology and Domestic Violence—Stay Safe Online

Acts of domestic violence can be committed in person as well as online. For your safety, protect your computer and your personal information. Remember, cyber-harassment is a crime of domestic violence.

Protect your computer

- Install reputable antivirus/security/firewall software and keep it up-to-date.
 - At a minimum, use the firewall/security software that is installed on a new computer.
 - In addition, there are many free antivirus software products available. Just be cautious that you are dealing with a reputable company. Criminals have tried to trick people into installing software claiming to be security software that will actually steal your information.

- Do not open emails or attachments you were not expecting—especially if they are from addresses you do not recognize.

Protect your online accounts

- Do not use identifying information (like your name or birthday) as part of your username. It is safer to use a gender-neutral username since most victims are female. Do not use the same username for all online accounts.
- Change your password every three months. Make sure your password is a combination of letters, numbers, and symbols. Your password should not contain personal details or words from the dictionary.
- Before you log in to your online account, check the address bar to make sure it has “https” in front (example: <https://www.facebook.com>). If not, the website is not secure, and anyone can easily record your login information.
- Always log out and do not let your browser store your passwords for you. Anyone with access to your computer would then be able to access any sites you have visited.
- Only accept friend requests from people you know and trust.
- Turn on your chat and email logs so all messages you send and receive will be saved in case you need documentation of the stalking or harassing incidents.

Protect your private information

- Check and heighten your privacy settings.
- Do not post information about your location, even accidentally. Do not post photographs that show your location. If you are posting from a mobile device, make sure your device’s GPS function is not posting your location.
- Do not publicly RSVP to events online, and be careful about joining online groups or pages.

- Unless it is necessary and to a trusted source, do not post or email personal and financial information. Also, just because a post or photo has been deleted (even on Snapchat), it doesn't mean that the information is completely erased. Someone could have saved your information without your knowledge.
- Search the web to see what is on the Internet about you. Start by searching your name in Google, social media websites, and websites for groups you are affiliated with (e.g. school, community, church). Delete any information that may be dangerous if it gets into the hands of an abuser, or contact the website administrator to remove that information.
- When browsing the internet for topics that you would not want someone with access to your computer seeing, use the browser's private mode or clear your browser's history. Private mode in Google Chrome is called *Incognito*. In Internet Explorer, it is called *InPrivate Browsing*.

Options if an intimate photo of you has been posted online. This is sometimes called *revenge porn* or *involuntary porn*. In New Jersey, sharing intimate photos of somebody without the person's permission is harassment and cyber-harassment, and you may be able to get a restraining order. Also, taking or sharing intimate images of private parts of the body and/or sexual acts without the person's permission is an illegal invasion of privacy. This means anyone who takes intimate photos or videos of you without your permission has committed a crime. It also means nobody can share intimate images without your permission, even if you gave somebody permission to take them or took them yourself. If this has happened to you, think about reporting it to the police.

You do not need to have a special relationship with the person who posted your photo in order to press charges. Also, you can press charges even if you do not have proof that your ex-partner is the person who posted your photo. (For example, you may know your ex-partner is the only one you shared photos with, but your ex may have posted them online with an anonymous username.) You can find the law that protects

you from invasion of privacy at Title 2C, Chapter 14, sub-section 9 of the *New Jersey Criminal Code*.

Copyrights are relevant to revenge porn because having copyright ownership of your photos makes it easier to have them taken down. A copyright is legal proof that you are authorized to use and share items like photos, drawings, and other creative materials. Normally, the person who takes a photo is the copyright owner. If you took an intimate photo of yourself and sent it to your ex-partner, you are the copyright holder of that photo. However, if your partner took a photo of you, your partner owns the copyright to the photo. So, copyright ownership depends on who took the photo, not who is in the photo. For more information about how to use copyright ownership to have your photo taken down, please see www.lsnjlaw.org.

Unfortunately, there is no law that requires websites to take down your photo. In most cases, getting your photo taken down will depend on the individual policy of the website. Some websites may be very co-operative. Other websites make it more difficult. Below are some steps you can take to have your photos removed:

- Visit the website to see if it has a removal policy. Some websites may have an icon or link that tells you how to ask them to remove a photo. Others have a “frequently asked questions” section that explains how to have a photo removed. In some cases, the information may be difficult to find. Sometimes you can find it by clicking the small print on the bottom or top of the website that says “About Us,” “Contact Us,” or “Privacy Policy.” If the website has a search feature, enter the word “contact” or “removal” to see if it takes you to the information you need. If the website has a removal procedure, follow the steps they provide.
- If the website has no information about removal, find their contact information and tell them you would like your photo removed. It can be difficult to find the website’s contact information. You may have to look for small links at the bottom or top of the page. Sometimes the information is not labeled as contact information but can be found in links to the “Administrator” or “About Us” sections of the website.

- If the website has no contact information or refuses to take down your photo and YOU took the photo you want removed, you may be protected by a federal law called the Digital Millennium Copyright Act. If you did not take the photo and the person who took the photo did not give you rights to the photo, you are not the copyright owner and are not protected by the Digital Millennium Copyright Act.

The only way to completely prevent yourself from being a victim of revenge porn is to not take or share intimate photos of yourself. If you do decide to take intimate photos, think carefully before sharing them. Who are you sending them to? How well do you know the person? Can you really trust them? How would you feel about the photo being online? Unfortunately, an impulsive moment shared with the wrong person can have terrible consequences. A good rule of thumb is to avoid sharing any photos that you would be embarrassed to find on the Internet.

Also, do not trust technology to delete photos. Files that have been deleted can easily be recovered. Also, “apps” like Snapchat that allow you to send messages that “disappear” are not always what they seem. Images sent through Snapchat are not really deleted and can be accessed later. There are apps that allow the person to save the photo without notifying you. It is important to remember that you have the choice to send photos of yourself to anyone you choose. Unfortunately, you can’t choose what that person later decides to do with them. It is also a good idea to create search “alerts” on popular search engines like Google. You can set up an alert to email you whenever material associated with your name appears online.

Additional Technology Resources

- National Network to End Domestic Violence’s Safety Net Project has many resources including a Technology Safety Planning Checklist: bit.ly/1KuZW05
- NJ State Police Cyber Crimes unit: 609-584-5051, ext. 5664



2. Overview of the Legal System

Introduction to the Legal System

Domestic violence cases may involve both civil law and criminal law. Your complaint about acts of domestic violence may be heard in civil court, criminal court, and/or municipal court.

The civil law system. The Prevention of Domestic Violence Act, which authorizes restraining orders, is a civil law. Under civil law, one person may sue another person for a private wrong. In a civil domestic violence action, you ask the court to give you protection from the person who is abusing you. You do not ask the civil court to put the person in jail for committing a crime. In a civil case, you are the plaintiff and the opposing party, the abuser, is the defendant. Both parties may hire lawyers. In civil court, the judge cannot appoint an attorney for either party. Other common legal actions brought in civil courts are suits for divorce and suits to recover money for personal injuries or damages.

The criminal law system. The criminal law system handles cases that involve violations of criminal law, such as harassment, assault, murder, theft, etc. Criminal cases may be prosecuted at the county courthouse in the superior court— criminal part, or at a local courthouse in municipal court. Since the state has a duty to protect its citizens, all violations of state criminal laws are considered public wrongs and

crimes against the state. A prosecutor represents the state by prosecuting those accused of committing crimes. You, the victim, are a witness for the prosecutor's case.

A person accused of a crime is called the defendant. The defendant can hire a lawyer to represent him/her in court. A defendant who cannot afford a lawyer may be able to have one appointed. Actions committed by a minor that would otherwise be a crime are called "juvenile delinquency" or "juvenile justice" cases.

You can file both a criminal complaint against the abuser and a civil complaint for a restraining order for the same act of domestic violence. You can also file only one type of complaint and not the other if that is what you choose to do.

Using Civil Law—the Prevention of Domestic Violence Act

The Prevention of Domestic Violence Act is a New Jersey civil law that offers legal help to victims of domestic violence. A temporary restraining order (TRO) is a temporary court order that prohibits the abuser from coming near you or committing further acts of domestic violence against you. It may provide several forms of relief (see *What relief is available with a temporary restraining order*, page 33). When you go to court to file for a TRO (see below), be sure to list every act of domestic violence (see *Acts of domestic violence*, page 31) if there is more than one. The TRO remains in effect until your final hearing, which is generally in about 10 days. At the final hearing, a judge will decide whether your TRO should become permanent by granting you a final restraining order (FRO).

What are the requirements for a temporary restraining order (TRO)? You should be able to secure a TRO if (1) the abuser is at least 18 years old, or meets one of the exceptions; (2) you are in a qualifying relationship with the abuser; (3) you prove that you have been subjected to one of the 19 crimes set forth in the New Jersey Prevention of Domestic Violence Act. (N.J.S.A. 2C:33 et. al.), and (4) you show that you are at risk of being subjected to further domestic violence. Each of these is described in greater detail below.

If the abuser is not yet 18. To be eligible to obtain a restraining order against the abuser under the Prevention of Domestic Violence Act, the abuser must be at least 18 years of age or an “emancipated minor” – which means they have 1) married, 2) entered the military, 3) had a child or are currently expecting a child, or 4) been declared an emancipated minor by a court.

Even if you are not eligible for a domestic violence restraining order because the abuser is under the age of 18 and not an emancipated minor, you may report such acts to your local police. The unlawful behavior may be prosecuted as juvenile delinquency or (in certain situations) as crimes. You may ask the police, prosecutor, or court handling the juvenile or criminal case to enter a restraining order or no contact order in the juvenile delinquency or criminal case. See, *New Jersey Court’s Domestic Violence Procedures Manual*, at §2.1.3C, available at www.njcourts.gov/sites/default/files/courts/family/dvprcman.pdf.

Qualifying relationships. A domestic violence restraining order is only available if you have one of the following types of relationships with the abuser:

- You are presently or were previously dating the abuser, regardless of gender.
- You have a child in common, or your abuser is a person with whom you are expecting a child, if one of the parties is pregnant.
- You are presently or were previously married to the abuser.
- You are presently living with or have previously lived with the abuser. This may include family members, caretakers, roommates, or other adults with whom you live or have lived.

Acts of domestic violence. Nineteen criminal acts are subject to a domestic violence restraining order. You must be able to describe and prove at least one recent instance of such an act, along with any history of such acts (regardless of whether the acts were ever reported to the police) when seeking a domestic violence restraining order. These

crimes include: harassment, terroristic threats, assault, stalking, homicide, lewdness, sexual assault, criminal sexual contact, false imprisonment, criminal restraint, kidnapping, criminal trespass, burglary, criminal mischief, cyber-harassment, robbery, criminal coercion, violation of a restraining order, and any other crime involving risk of death or serious bodily injury.

Some of the more common examples of domestic violence that qualify you for a restraining order are:

- *Harassment*—Harassment occurs when someone intends to harass another person and uses email, regular mail, phone calls, texting, face-to-face communications, or any other way to send messages from the abuser to annoy or alarm you. A person may also be guilty of harassment if that person touches you in an offensive way. Offensive contact includes acts that are annoying, insulting, or embarrassing to you, such as hitting, kicking, pushing, and touching. This type of act may be considered harassment whether or not you have been injured. Threatening to do any of these acts may also be considered harassment. If someone does things that are meant to scare or seriously annoy you, and these actions are repeated, that person may also be guilty of harassment. A judge must consider your history with the defendant in deciding whether harassment has occurred.
- *Terroristic threats*—A terroristic threat is a threat of a crime of violence with the purpose of terrorizing you. It can also be a threat to kill you that puts you in imminent fear of death.
- *Assault*—Assault occurs when one person causes or tries to cause bodily injury to another person (for example, the abuser hits or kicks you, or throws something at you).
- *Criminal mischief*—Criminal mischief occurs when someone intentionally damages your property. Examples include the abuser breaking down your apartment door, breaking your phone, throwing a rock through your window, or slashing your car tires.
- *Stalking*—Stalking occurs when a person purposely and repeatedly follows you or watches you, which causes you emotional distress.

What relief is available with a temporary or final restraining order? When you make your case, and specifically request it, a judge may include in a temporary or final (permanent) restraining order a wide variety of restrictions and provisions about safety, child custody and parenting time, and financial matters. Any of the terms listed on your TRO, as well as additional relief, may become permanent if an FRO is granted after a hearing. A TRO or FRO may include one or more of the following types of relief:

- The abuser's weapons must be seized by the police (see *Weapons* on page 42).
- The abuser shall have no contact with you, your relatives, and other people you identify as being at risk.
- The abuser shall not enter the location where the violence occurred, the home where you live, your place of work or school, and other locations you request.
- You are granted sole possession of a home you shared.
- You are granted custody of shared children.
- The abuser's parenting time with the children is restricted or suspended.
- The abuser must continue to provide financial support for you and your children.
- You have possession of a car, a key, a health insurance card, a checkbook, passport, immigration documents, birth certificates, or other items that you might need.

There are other provisions to protect and help you that can also be included in a restraining order. You can discuss these with a lawyer.

How Can I Get a Temporary Restraining Order (TRO)?

To get a TRO, you may file a complaint by visiting or calling the family part of the superior court from 8:30 a.m. until 3:30 p.m. On

weekends, holidays, and other times when the courts are closed, you should ask the police to help you get a TRO. They can help you apply to a municipal court judge for an emergency TRO.

At the family part of the superior court, an intake worker or court advocate will help you fill out the forms. Your location can be kept confidential. It is important for you to make sure that the most recent act(s) of domestic violence, as well as prior acts of violence against you, are listed on the forms. If an incident is not mentioned, the judge may not allow you to bring it up in court. Prior acts of violence include any incidents of domestic violence that occurred in the past, whether or not they were reported to the police, even if there was a lack of physical evidence, and if the act was physical or verbal.

If you are not able to get to the family court or to speak to the police—for example, if you are in the hospital or if you are bedridden—a friend or a counselor can file a domestic violence complaint and ask the judge for a TRO on your behalf.

How Can I Get a TRO Changed to a Final Restraining Order (FRO)?

If the judge grants you a TRO, the order is only valid until the hearing date. A full hearing should be scheduled at the superior court within 10 days. You must appear in court at that time and tell the judge your side of the story. The abuser will also be there and will have an opportunity to tell the judge their side of the story. If you do not appear in court on the specified day, the complaint may be dismissed. A dismissal leaves you without protection from the abuser and may leave you without legal custody of your children if there is no other order in place.

If you have any witnesses to the violence, they should go to court with you. If possible, you may want to have a lawyer with you in court, particularly if you think the abuser will have a lawyer. When you go to court you should take the following:

- Witnesses
- Pictures of your injuries

- Police reports
- Certified medical reports
- All other evidence you have to prove the incident of domestic violence that is the basis of your complaint
- If you are asking for support from the abuser, proof of your income, your abuser's income, and your expenses (such as pay stubs, tax returns, rent receipts, utility bills, etc.)

In court, you and the abuser will tell your sides of the story and present witnesses. You or your attorney will be able to cross-examine (question) the abuser and the abuser's witnesses. The abuser or the abuser's attorney will also be able to cross-examine you. Based on all the testimony, the judge will decide if a final restraining order should be granted.

What Should I Do Before Court?

Prepare witnesses for the hearing. Witnesses to the domestic violence might include family members, co-workers, friends, neighbors, and police officers. It is best to talk to witnesses before the hearing to find out what they may have seen or heard that will help your case. Remember that any witness who testifies must have personal knowledge of an act of domestic violence committed against you. For example, you may want a neighbor who has helped you during an emergency who can testify about your demeanor and any injuries you have received.

You should think carefully before deciding to have any children testify in court. Courts are also very careful about allowing children to testify in domestic violence hearings. Always tell the judge right away if you want to have a witness under the age of 18 testify. The judge will want to know who the parents of the child are, and exactly what you think the child will testify about. The judge will decide if a child will testify.

Make sure that witnesses appear at the hearing. Any

person who is a witness in your case must come to court or, with permission, participate remotely and testify because the court will only consider live testimony from a witness. The only way to legally order a witness to attend your hearing is to issue and deliver a subpoena to that witness. A subpoena is an order to a person telling that individual that he or she must attend the hearing and give testimony. It is a good idea to do this even if the witness is a friend or family member. The subpoena will show the witness's employer why the witness must miss work on a certain day.

Prepare your own testimony. Testifying in court, telling the judge your story, can be a very stressful experience. It is a good idea to think about what your testimony will be before getting to court. You might also find it helpful to write down your testimony. You want to think not only about your current incident of domestic violence, but also the history of domestic violence that you experienced. After you write down this information, it is a good idea to think about each incident and decide if there are any relevant witnesses or evidence that you can present in court. Please note that you will not be able to read from this paper in court. It is only to help you prepare before you go to court. After you decide what your testimony will be, you should compare it to the contents of your temporary restraining order. If you would like to testify to incidents for which notice is not provided in your temporary restraining order, you may want to amend the temporary restraining order. This can be done remotely or by going to the county courthouse, preferably before the date of your final restraining order hearing, and tell the staff at the family intake unit that you would like to add information to your temporary restraining order. A new temporary restraining order will be created and served on the abuser.

Gather evidence. Also, while preparing for the final restraining order hearing, you should gather your physical evidence. This may include broken items, torn clothing, medical records, or any type of electronic recordings. Remember to take these with you the day of your hearing.

Dress appropriately. Whenever you go before the court to present your case, you should wear professional and modest clothing. This doesn't necessarily mean a suit. However, it is not advisable to wear clothing that is ripped, ill-fitting, bears offensive language, or is otherwise inappropriate for a business setting.

What Happens in Court?

You must show up at the date and time listed on your temporary restraining order so that the matter can be heard by a judge. You are the plaintiff, and the abuser is the defendant.

If an attorney is representing you, arrange a time and place to meet at court on the day of the hearing. If you are unrepresented, or *pro se*, go to court and have a seat in the waiting area outside the courtroom where your matter will be heard. Some courts have a separate waiting area where domestic violence victims can sit while they wait for their case to be called. Other courts do not have a separate room, so the plaintiff and defendant should take seats as far away from each other as is practical. If you feel threatened, tell the nearest sheriff's officer.

When the sheriff's officer for your courtroom comes out to ask who is present for that judge, you need to check in by letting the sheriff's officer know that you are present. If English is not your native language, you should ask for an interpreter. If you need an interpreter other than Spanish, it is a good idea to call the court to request one beforehand.

Once your case is called. Once you are called in for your case by the sheriff's officer, you will be seated at a table on one side of the courtroom, and the defendant will be seated at another table. If either of you has an attorney present, the attorneys will be seated with you at your tables. An interpreter, if needed, will sit between the two tables, or with the party for whom the interpreter is needed.

After being sworn in, you, the plaintiff, as the party bringing the lawsuit, will present your case first. If you have an attorney, your attorney will ask you questions and you will answer them. If you do not have an attorney, the judge will ask you the questions. This is called direct

examination. You will be given the opportunity to testify (tell your side of the story) and then present any relevant evidence and other witnesses to the domestic violence incident or incidents.

Your obligation during your testimony. During a final restraining order hearing, you have to prove certain elements by what is called a *preponderance of the evidence*. Preponderance of the evidence means that your version of events is more likely to have occurred than the defendant's version.

You must prove three things to meet this standard.

- First, you need to prove to the court that you are in a relationship recognized by the Prevention of Domestic Violence Act. How do you know the defendant? Your relationship with the defendant must fit certain criteria. Were you and the defendant married? Are you married now? Did or do you live together? Do you share a child? Were you or are you in a dating relationship?
- Second, you must prove to the court that an act of domestic violence was committed against you. This act must be one of the 19 crimes that you can see on the first page of your temporary restraining order. These crimes include harassment, terroristic threats, assault, stalking, homicide, lewdness, sexual assault, criminal sexual contact, false imprisonment, criminal restraint, kidnapping, criminal trespass, burglary, criminal mischief, cyber-harassment, robbery, criminal coercion, violation of a restraining order, and any other crime involving risk of death or serious bodily injury. This current incident is captioned on the first page of your temporary restraining order above those 19 listed crimes.
- The judge will decide if a current act of domestic violence has been committed against you. The judge will consider a history of domestic violence that was committed against you (referenced immediately below those 19 crimes on page one of your temporary restraining order).
- The final element you need to prove is that you are in need of a final restraining order—that is, without a final restraining order there will be immediate danger to your person or property.

Proving these elements: general tips on how to testify.

The way you prove the elements of your case to the judge is by testifying. It is very important for your story to be the same every time. You should answer all questions honestly. Remember that if a judge thinks that you have not testified truthfully about even a minor fact, the judge may not believe the rest of your testimony. You must also answer questions from the defendant, defendant's attorney, or the judge simply, honestly, and directly.

Evidence. Evidence might include photographs of your injuries. Even if the police have taken photographs of your injuries, it is a good idea to take your own pictures and take them with you to court. After you testify about receiving a particular injury, you should make the judge aware that you have pictures of your injuries. The sheriff's officer will take those pictures from you to show them to the judge. It is important to tell the judge that the pictures you are providing are true and accurate representations of what you testified they are.

If you sought medical attention because of your incident of domestic violence, it is a good idea to get your medical records. Ask that the records be certified. This means that your records will have a cover sheet on the top that tells the court that the records are true and accurate copies of your medical records. This certification is necessary for the court to consider the contents of your medical records. After you testify about seeking medical treatment, you should ask the court to review these medical records.

There are many different types of evidence, including text messages, voicemails, and phone records. The goal of evidence is to support your testimony and help you to meet your burden, the preponderance of the evidence. With any evidence that you present, it is important for you to authenticate that evidence. This means you must testify that the evidence you are providing is an accurate representation of the facts. You want to tell the court what this evidence is, how you obtained it, and how it helps your case.

After you finish presenting evidence. Once you testify, the

defendant or the defendant's attorney has the right to cross-examine (question) you. Cross-examination is a means of flushing out any inconsistencies in the opposing party's story. If any witnesses testify, they can also be cross-examined. After being cross-examined, the plaintiff will usually have the opportunity to explain any inconsistencies that were raised during cross-examination. This is done through redirect examination. Here, the plaintiff's attorney will ask the plaintiff additional questions to clear up any seeming inconsistencies brought out by the defendant or his attorney. If you do not have a lawyer, you will have one final opportunity to talk about the domestic violence.

Once the plaintiff has finished, the defendant will be given the same opportunity to testify and present witnesses and evidence. Now you will have the opportunity to cross-examine the defendant and object to any testimony or evidence deemed inappropriate.

After all of the evidence has been submitted. When both you and the defendant have finished presenting your cases to the court, the judge will then give their opinion. While the judge is giving the opinion, you are not allowed to speak or present any additional evidence. The judge will inform you whether your temporary restraining order will be dismissed or become final, and provide reasons for their decision.

How Can a Final Restraining Order Help Me?

An FRO will stay in effect permanently unless you or the abuser get the court to dismiss the restraining order. Unlike a TRO, an FRO can provide you with continuing protection, support, and other relief. An FRO may provide one or more of the following types of relief to victims of domestic violence:

- *Restraints*—The abuser can be forbidden from having contact with you, your relatives, and anyone else named in the order. The abuser will also be restricted from going to your home, work, or any other specific location you ask to be included in the order.
- *Exclusive possession of your home*—The abuser can be ordered to

move out of the house or apartment you share. In other words, you can be awarded exclusive possession of the home, regardless of who has title to the property. The judge cannot order “in-house restraints,” which would allow the abuser to share the house with you. The abuser can be required to make rent or mortgage payments and utility payments for your home.

- **Custody**—You can be awarded custody of shared children. The judge is supposed to let you—rather than the abuser— have the children, unless the abuser can convince the judge that you are unfit due to psychological problems, drug/alcohol abuse, etc. This differs from a regular custody case, where both parents stand on the same footing. The judge is required to assume that the children are better off with the parent who is not violent.

If you leave the abuser because of domestic violence, you should take the children with you, if possible. If you want custody of the children in the future, your chances are better if you have them with you.

- **Parenting time**—The judge will usually grant parenting time (previously known as visitation) to the parent who does not have custody. The schedule set up by the court should avoid contact between you and the abuser, to help prevent further abuse. Parenting time should never be set up so that you and the abuser are alone at your home for the pickup and delivery of the children. Such an arrangement is a violation of the restraining order. Ask the judge to specify the parenting time schedule and procedure in the restraining order. For example, the abuser can be required to pick up and return the children at your curb, at the home of a neutral third party, or in a public place such as a police station.

If you are worried about your children’s safety while they are visiting with the abuser, you can ask the judge to order a risk assessment. This is an evaluation of the abuser to determine whether unsupervised visits will endanger the children. You must tell the judge the reasons for your concerns about parenting time (drug or alcohol abuse, or previous abuse or neglect of the children). You can ask

the judge to order that parenting time with the abuser be supervised by a third party, such as a friend or relative, or through a court-run program, until the risk assessment is complete and the court feels that the children are safe. If the abuser mistreats the children during visits after your hearing, you can return to court and file an application for an emergency hearing. You can then ask that the parenting time be suspended immediately.

- **Support for you and your children**—The judge can require the abuser to immediately pay you support to meet your expenses. The judge may order the abuser to pay you emergency support on a temporary basis. The judge may also order ongoing child support, spousal support, and continued financial support for other expenses, such as housing costs, utilities, and other ongoing expenses.

In determining how much support you are entitled to, the judge will want to know about your and the abuser's income and expenses. It is important to take any financial records to court with you. The judge also can order the abuser to keep you and your children on the abuser's health insurance policy, or to provide medical coverage for you and your children.

- **Weapons**—The abuser will be forbidden from possessing a gun or other weapon. The judge can order the police to take the abuser's weapons away and revoke the abuser's weapons permit so the abuser cannot get another gun. When the police seize weapons from the abuser, the prosecutor takes possession of the weapons. A separate *weapons hearing* will be held no later than 60 days from the time the police take the weapons. The prosecutor will represent the state's side of the case. You will be notified of the date of the weapons hearing and may choose to attend. You are not required to attend the weapons hearing. At the weapons hearing, the court will determine whether the weapons should be returned to the abuser. Let the prosecutor know in writing if you would like the weapons to be permanently removed. The court can do this and also take away any and all permits or licenses to possess weapons that the abuser may have. (**Note:** Weapons mean more than just guns; weapons include knives, brass knuckles, swords, etc.)

- **Damages**—The abuser can be required to pay you for any losses related to the domestic violence. This could include moving expenses, counseling costs, lawyer's fees, medical bills, time lost from work, or any money you spent to repair the abuser's damage to you or your property.
- **Counseling**—The abuser can be required to attend professional counseling for domestic violence behavior, drug and alcohol abuse, or any other counseling that might be helpful. The judge can order the abuser to report back to family court with proof of the abuser's attendance at counseling sessions and parenting classes.
- **Property**—You can be given temporary use of property such as a car, a checkbook, a key, a health insurance card, etc.

If the court makes a decision about custody, parenting time, or child support at the domestic violence hearing, either party can seek to modify the decision by filing an application with the court. The judge cannot grant you a divorce at a domestic violence hearing.

Both TROs and FROs are valid everywhere in New Jersey. The local or state police must enforce your restraining order, even outside of the county where you got the order. The orders are also valid in all 50 states. If you move to another state, you can contact the family court and ask for information about how to register your restraining order in the new state. You should also give a copy of your FRO to your local police wherever you may move.

What happens to the defendant when the FRO is granted? When the court grants an FRO, the defendant will be fined. The fine will range from \$50 to \$500, depending on the nature and degree of your injury, and will go to a special fund for domestic violence victims. The fee will be waived only if the defendant demonstrates extreme financial hardship. The abuser will also have to be fingerprinted and photographed. The information regarding the FRO will also be entered into a domestic violence central registry. The information on this registry is not available to the public.

What steps do I have to take after I receive a final restraining order? You will receive a copy of the final order immediately after your hearing. This order is the written document that explains the current legal status of your case. It is very important that you keep a copy of it with you at all times. Someone from the family court staff may also give you an extra copy to take to your local police department. It is important that you also do the following:

- Review the order before you leave the courthouse. If something is wrong or missing, ask the sheriff's officer to correct the order before you leave.
- Take a photo of the restraining order to keep on your phone and make several copies as soon as you can. Keep one copy of the order with you at all times. Also, leave a copy of the order at your home and car in a safe place that is easy for you to get to in an emergency. Give a copy of the final order to each of your children's schools, childcare programs, or babysitters.
- Consider giving a copy of the order to a neighbor or to nearby relatives.
- Give a copy to any of your relatives or friends who are named and protected by the order.
- If the court has not given you an extra copy for your local police, deliver one of your extra copies to them.
- Give a copy to the security guard, supervisor, or person at the front desk where you live and work.

It is important to give copies of your restraining order to all of these people in case the abuser attempts to violate the final order. You (or someone on your behalf) have to be prepared to tell the police that you have a restraining order. The best way to do this is to show the police a copy of your order.

You may also want to consider changing your locks or your telephone number. If the abuser has your telephone number, you may wish to contact your telephone carrier to find out what kinds of services are available for dealing with annoying phone calls.

IF YOU ARE NOT a United States citizen and you need a restraining order. A restraining order is available, as is any relief listed above, regardless of your immigration status. Immigrant victims need protection, shelter, and custody of their children, just like other victims of domestic violence. You may, however, have additional legal concerns. It is very important for victims who are immigrants to speak with an immigration lawyer. You may qualify for lawful permanent residence (LPR) status under a federal law known as the Violence Against Women Act (VAWA) or a U or T visa. For more information, see *Immigration Relief for Victims of Domestic Violence* on page 55.

What About Filing Criminal Charges?

The police have the authority to file a criminal complaint against the abuser. The prosecutor may press charges and prosecute, even against the wishes of the victim. You may receive a subpoena, which is a court order to testify about what happened. The prosecutor may suggest the relief that you believe is appropriate in addition to or instead of jail time. If the prosecution is successful, the abuser may be ordered to pay a fine, or placed in jail or on probation. A criminal complaint, however, will not necessarily protect you from the abuser if the abuser is not restrained from contact with you.

A criminal complaint involves charging the defendant with a crime. If the police file a criminal complaint against the abuser, you, as the victim of the crime, should appear in court as the state's witness in order for the case to proceed. It is suggested that you appear in court so you can testify about what happened and suggest the relief that you believe is appropriate in addition to, or instead of, jail time. That relief may include a psychological assessment and treatment and/or alcohol testing and treatment, etc. Without your complaint and testimony in court, the prosecutor may choose not to pursue the case. In some circumstances, where signs of abuse are not visible, the police do not file the complaint. You, however, can still file a criminal complaint and proceed on your own.

Once a criminal complaint has been filed, the defendant can be arrested. If you decide to file criminal charges against the abuser, you

should be aware that, unless the situation is extreme, the defendant will probably be released from police custody/jail on bail or on their own word. The judge may allow the defendant to come home to pick up personal belongings. If this happens, ask the judge to limit the time the defendant can stay in the home and to specify what things the defendant can take. Also ask the judge to require that a police officer be present when the defendant comes to pick up belongings.

As the victim, you may write to the court to indicate why you do not want the abuser released. You should be specific about the serious nature of the acts of violence that have been committed. It is important to give the court and law enforcement officers several addresses and telephone numbers where you can be reached and to update them if you move. Let the court and police know that this information must be kept confidential. You may ask for a victim notification form, requesting that you be notified if the abuser is released from jail.

Eventually, a court hearing will be scheduled at which you must appear and testify. If the defendant is found guilty, the judge will sentence him/her. The sentence may include imprisonment, probation, or a fine. It may also require that the defendant undergo counseling for psychological problems, attend a batterers' intervention program, or receive treatment for drug/alcohol abuse.

Should I Get Legal Advice?

You should talk to a lawyer, particularly if you have children and expect custody or parenting time problems, or if you have an interest in personal or real property. Since time with a lawyer is expensive, prepare for the session in advance by thinking through everything you want to know and writing down your questions. Some domestic violence service providers have legal advocates or volunteer lawyers who conduct legal clinics where you may get legal advice. The legal advocates are not lawyers, but they are specially trained. These advocates can help you prepare to talk to a lawyer and focus your questions. This will help you to save time and money. Never take legal advice from someone who is not a licensed attorney. Well-intentioned friends and relatives

may offer opinions, but they are often misguided. You should only take legal advice from a lawyer.

In addition to writing down the questions you will be asking a lawyer, you should also gather all of the information that may be useful to the lawyer. For example, you may want to take with you previous court orders and other important documents or evidence about your case, such as police reports, photographs of injuries or property damage arising from the domestic violence, copies of your bills for medical care, and your monthly bills for rent, utilities, etc. If you need information about spousal support and child support, take a detailed budget of your day-to-day expenses.

Everything you say to a lawyer is confidential. If you are still living with the abuser when you see a lawyer and you do not want the abuser to know that you talked to a lawyer, tell your lawyer not to call or write to you at your home. Be sure to tell your lawyer how to safely get in touch with you.

Lawyers' fees vary. Don't be shy about discussing fees. If you cannot afford the fee, be honest. In addition to the lawyer's fee for services, there are also costs for filing certain legal papers with the court. There is no cost to file a TRO. The lawyer will probably want this money in advance. Shop around and find a lawyer you can afford. The New Jersey State Bar Association publishes a free directory, listing lawyers who handle issues related to domestic violence. To obtain a copy, call the New Jersey State Bar Association (www.njsba.com) at 732-249-5000. You may also want to contact your county bar association's lawyer referral service.

If you need the advice of a lawyer but cannot afford one, you may be eligible for free legal advice or representation from Legal Services. The addresses and telephone numbers of New Jersey's Legal Services programs are listed on the inside front cover of this handbook. You may also contact Legal Services of New Jersey's statewide, toll-free legal hotline, LSNJLAWSM, at 1-888-LSNJ-LAW (1-888-576-5529) or apply for help online at www.lsnjlawhotline.org. The hotline provides information, advice, and referrals in civil legal matters to eligible low-income residents of New Jersey. You may also qualify for representation

by LSNJ's Domestic Violence Representation Project or Immigration Representation Project (see *Getting Legal Help* on page 12).

If you go to court by yourself, read this handbook carefully. Take notes on what you read and make notes about your situation. Review your notes before you go to court. If you are prepared, you will be more at ease. Be prepared to give the judge a detailed account of the violence and abuse that just occurred and what has occurred in the past. Organize your evidence, such as photographs and medical and police reports. Prepare a list of your expenses if you are going to ask for support.

What Should I Do If the Abuser Violates the TRO or FRO?

To enforce your domestic violence restraining order, you must first determine what part of the court order the abuser is violating. Part I of the order covers the no-contact provisions and the surrender of weapons. Part II addresses, among other things, parenting time and support. The law addresses violations of the two parts differently.

Violations that are criminal. If the abuser violates the no-contact portion of the court order (either the TRO or the FRO), the abuser may be found guilty of criminal contempt. The parts of your domestic violence restraining order that will be enforced by a criminal contempt charge are set forth in Part I of the order.

The most common examples of the crime of contempt of a domestic violence order are when an abuser continues to harass the victim by telephoning, threatening, stalking, or even physically harming the victim. In any of these cases, the abuser should be charged with contempt. If the abuser is doing any of these things to you, and you feel you need help from the police immediately, you should call them. If the police officer who responds to your call has reason to believe that a restraining order has been violated, that officer must arrest the abuser and immediately charge the abuser with contempt.

The abuser may also be charged with whatever crime was committed in violating the order. For example, if the abuser violates the order

by punching the victim, the abuser should be charged with assault in addition to the contempt.

Note: Depending upon the severity of the crime, the criminal proceeding for contempt may be heard in a different court and at a different time from that of the proceeding for the crime.

If the abuser is violating the restraining order but you don't feel you need to call the police for immediate help, you can still file a police report or criminal charge with the police at your earliest opportunity.

When an abuser violates the no-contact provisions of a restraining order, the county prosecutor's office will decide whether to seek to indict the abuser for the crime of contempt. This decision is made primarily by looking at the seriousness of the violation. In those cases where the abuser has violated a restraining order in a particularly serious manner—for example, by committing an aggravated assault—the prosecutor is likely to bring the case before a grand jury to seek an indictment. If the abuser is indicted, the case will proceed before a judge in the superior court, criminal division.

In cases where the abuser has violated the order in a less serious way, such as by continuing to telephone the victim, the prosecutor is unlikely to seek a formal indictment. Instead, the prosecutor will proceed on the criminal charges in a hearing before a municipal court judge, while the contempt hearing will take place before a family court judge. It is important to remember that, even though contempt cases may be heard in the family court, they are still criminal cases. Since the abuser may be sentenced to jail, the abuser has the right to have an attorney represent him/her.

In all criminal cases (including when an abuser is arrested for violating a restraining order), a preliminary decision will be made regarding whether the criminal defendant will be detained in jail prior to the hearing. A defendant may be released on the condition that he or she has no further contact with the victim. Before a defendant is released, an effort is supposed to be made to notify the victim that the abuser is going to be released from jail. For this reason, you must keep the prosecutor's office and the family court notified of any change in your address or telephone number. This information will be kept confidential.

It is important to try to maintain an active role in your case. Try to find out which prosecutor will be handling your case. Familiarize the prosecutor with your case, especially by telling the prosecutor about any witnesses or evidence that you think may be useful in the prosecution of the case.

Sometimes victims who file contempt charges drop the charges because they believe the abuser may go to jail. Although incarceration is possible, it is not the only potential remedy. Sometimes the criminal sentence for contempt of a restraining order may be a period of probation, a fine, or a suspended sentence on the condition that the abuser attend counseling. You should discuss these possibilities with the prosecutor.

Violations that are not criminal. If the abuser violates the portion of your domestic violence restraining order that deals with parenting time, monetary compensation (spousal or child support), rent or mortgage payments, or the distribution of personal property, you may enforce the order by filing an application in the family court. The portions of the court order that are enforced by bringing an application in the family court are set forth in Part II of the order.

Typical violations to be enforced in the family court include the abuser's failure to follow the parenting time schedule by not returning the children home on time, failure to pay child support as ordered, or failure to return certain items of property to the victim as ordered. In all of these cases, the victim has the right to go to family court and file an application to enforce the terms of the order. The desired result in these hearings is to get the abuser to comply with the order, or sometimes even to modify the order. While the abuser is not charged with a crime, a judge in certain situations may feel it necessary to temporarily incarcerate an abuser to gain the abuser's compliance.

Since most child support orders are made payable through the probation division, a victim who is not receiving the support ordered by the court should contact the probation division caseworker. That worker should be able to advise the victim what steps have already been taken by the probation division to enforce the order. The probation division

must assist the victim in obtaining support, including bringing the case back to court for enforcement if necessary.

Dismissing a restraining order. In order to dismiss an FRO so that it no longer applies, the party seeking to dismiss the order must make the request in family court. When a victim seeks to dismiss the order, the judge must make sure that the request is voluntary and not coerced. If a defendant seeks to dismiss the order, the court must determine whether there is good cause. In deciding whether good cause exists, the court will consider a number of factors, including: (1) whether the victim consents, (2) whether the victim fears the defendant, (3) the nature of the current relationship between the parties, (4) whether the defendant has been convicted of contempt for violating the order, (5) whether the defendant abuses drugs or alcohol or has been violent with other people, (6) whether the defendant has engaged in counseling, and (7) whether the victim is acting in good faith when opposing the defendant's request.

Further Legal Options

Divorce. If you are being abused, safety should be your first concern. Your main focus should be on taking steps to stop the violence by seeking shelter, getting a restraining order, or filing criminal charges. After the situation is under control and you are safely settled, you may want to get a divorce. When you do start a divorce, you may find that your spouse becomes violent again. Make sure your safety measures (see page 14) are all in place.

There are several grounds for divorce in New Jersey, one of which is extreme cruelty. Extreme cruelty includes physical and/or mental cruelty that endangers your safety or health and makes it unreasonable for you to continue living with your spouse.

If you are considering a divorce, you should consult a lawyer to discuss your situation, especially if you have children or own property. See also *Divorce in New Jersey: A Self-Help Guide* (Legal Services of New Jersey, 2019 Ed.) (www.lsnjlaw.org/Publications/Pages/Manuals/DivorceGuide.pdf)

Child custody, parenting time, and support. Issues of custody, parenting time, and financial support can be handled at a restraining order hearing, if an FRO is granted, or in a separate family court action, such as a divorce. If these issues are decided at a domestic violence hearing, they will be considered emergency orders and either party can file a divorce case, or a request for these matters to be decided on the basis of a more complete hearing. Custody, parenting time, and child support decisions are always subject to modification if one party can show that the parties' circumstances have changed so that the earlier decision should be reexamined.

- *Child custody*—Without a court order, you do not have legal custody, even if your children have always lived with you and you have been the primary caretaker of the children. Both parents have equal rights and responsibilities regarding the children until a court has determined otherwise and entered an order. If you do not file for a restraining order or for divorce and do not live with the other parent, you may want to file separately for child custody. In a separate custody or divorce action, the judge will base the custody decision on the best interests of the children. Be sure to tell the judge about any history of domestic violence. The abuser's violence towards you is an important factor in a custody case. Again, if you leave your partner because of domestic violence, it is important to take your children with you if you can. You may have a better chance of keeping custody if your children are with you. (**Note:** The custody standard in a separate custody action is different from the standard in a domestic violence case. In a domestic violence case, the judge must assume that the children will be better off with you unless the abuser can prove that the children will not be safer with you.)
- *Relocation and removing the children from New Jersey*—You may not move out of New Jersey with your children who were born in New Jersey, or who have lived here for five years, without the permission of the other parent or a court order allowing you to do so. This is true even if you have legal or residential custody. If you take the children from New Jersey in order to deprive the other parent of custody or parenting time, or to evade jurisdiction of the New Jersey

courts, you may be arrested and charged with interference with custody.

If you are unable to obtain the consent of the noncustodial parent, you must file an application with the court, asking for permission. The court will focus on whether the move serves the best interests of the child. To make its determination, the court will consider:

- o The reasons given for the move and the reasons the noncustodial parent is opposing it.
- o Whether the children will receive similar health, education, and leisure opportunities.
- o Whether a parenting time and communication schedule can be developed that will allow the noncustodial parent to maintain a full and continuous relationship with the children.
- o The likelihood that you, the custodial parent, will encourage the relationship with the noncustodial parent if the move is allowed.

The court will also look at other factors, such as the child's preference if the child is of age, the effect of the move on extended family relationships, and generally any other factor that has a bearing on the child's interest. In determining the advantage of the move, courts have considered the cost of living in the other state compared to New Jersey.

- *Parenting time restrictions*—If you are granted legal custody of your children, the other parent usually will be granted parenting time. Even if these matters are not decided as part of a restraining order, you can and should still ask the judge to set up parenting time so that you can avoid contact with the abuser. If you think that the abuser may harm the children, you can ask that parenting time be supervised by a third party, that the abuser be investigated for problems such as drug or alcohol abuse, or that the abuser attend parenting classes.
- *Support*—If you do not have a court order for child support, you can file a complaint in family court. A court hearing will take place about your finances, the abuser's finances, and your need for support. The court will then decide how much child support you will

receive for your children. The order will set the amount and method of payment. Most child support orders will require that support payments be withheld from the noncustodial parent's paycheck. It is presumed that child support payments will be made through the New Jersey Child Support Program administered by the probation division in your county of residence instead of directly to you. This is a benefit since the probation division is responsible for tracking payments and enforcement. When child support is collected through the New Jersey Child Support Program, you can obtain current information on your account by contacting the statewide child support hotline at 1-800-621-KIDS (5437). To have your support collected through the New Jersey Child Support Program, contact your local probation division or find the application and detailed instructions at www.njchildsupport.org.

If you are receiving a welfare grant, the county welfare agency will proceed against the noncustodial parent of your children for a child support order on your behalf. If you believe your safety would be at risk if they do that, you can ask for the *family violence option*. See page 62 for more information. The county welfare agency is entitled to keep all but \$100 per month of the child support it collects. Each month, the first \$100 will be passed along to you without affecting your welfare grant. If your child support exceeds your grant, however, your welfare grant may be terminated and you will then receive the entire amount of child support paid for each month.



3. Immigration Relief for Victims of Domestic Violence

Immigrant domestic violence victims may be able to obtain legal residency status (green cards) in several ways. Victims of domestic violence who are or were married to either a United States citizen (USC), legal permanent resident (LPR), or former USC or LPR may be able to obtain legal residency under the federal Violence Against Women Act (VAWA). There are also opportunities to maintain/gain legal residency through a battered spouse waiver or U and T visas.

Legal Residency Through VAWA

If you are an immigrant domestic violence victim, you may be able to file a *self-petition* under VAWA to get legal residency status for yourself and your children if you:

- Were or are married to an abusive USC or LPR.
- Shared a residence with the abusive spouse for any length of time.
- Entered the marriage in good faith.
- Have good moral character.

If your citizen or lawful permanent resident spouse has abused your

child, you may also qualify for VAWA even if you have not been abused yourself.

Filing a self-petition does not require the consent of the USC or LPR spouse. Unmarried children under the age of 21 can be included on your application as derivatives. **Note:** VAWA self-petitions are also available to parents who are abused by their adult USC sons or daughters.

You may still qualify for a VAWA self-petition even if:

- Your spouse lost immigration status within the last two years.
- Your spouse died within the last two years.
- You divorced your spouse within the last two years.

Cancellation of removal under VAWA is another route to legal residency for certain immigrant domestic violence victims. This method is only available to you if you are in deportation/removal proceedings. Spouses of abusive USCs or LPRs may be eligible for cancellation of removal if they:

- Are battered or have suffered extreme cruelty.
- Have good moral character.
- Have resided continuously in the United States for at least three years prior to their application.
- Can show that removal will result in extreme hardship to themselves or children.

If you are the parent of a child who has been battered or who has suffered extreme cruelty by the USC or LPR parent, you may also be eligible for VAWA cancellation of removal.

Battered Spouse Waiver

Domestic violence victims who have obtained two-year conditional residency status through marriage to a USC or LPR may be eligible for a battered spouse waiver if they (or their children) suffered battery or

extreme mental cruelty during the marriage. The waiver allows you to petition for the removal of conditions on your green card without the cooperation of the abusive spouse.

U Visa

The U Visa is another potential avenue to legal residency for immigrant victims of domestic violence. You may be eligible for a U Visa if you have been the victim of a crime such as domestic violence, rape, or sexual assault, and you helped, are helping, or will help with the investigation/prosecution of the crime. This application does not require marriage to the abuser, and the abuser does not have to be a legal resident or United States citizen. **Note:** While the U Visa is available to victims of domestic violence, it also applies to victims of other serious crimes that cause substantial physical or mental harm.

T Visa

Domestic violence victims who are victims of human trafficking may secure immigration status through the T Visa, which is used to grant status to noncitizen victims of severe forms of trafficking. Human trafficking occurs where individuals are tricked, forced, or threatened with serious harm or physical restraint to perform sexual services or other labor. A severe form of trafficking also occurs when a commercial sex act is induced by force, fraud, or coercion, or in situations where the person forced to perform such an act is under 18 years of age. You may be eligible for the T visa if you are a victim of a severe form of trafficking, are currently in the United States or a port of entry *because of trafficking*, and would suffer extreme hardship if you had to leave the United States.

Note: A victim age 15 years or older may be required to contact a federal law enforcement agency and comply with any reasonable request for assistance in investigating or prosecuting trafficking.



4. Employment Rights

Unemployment

You may be eligible for unemployment benefits if you have to leave your work because of domestic violence. You may file a claim over the phone or online. The online application and local phone numbers can be found on the Department of Labor and Workforce Development's website at www.myunemployment.nj.gov. When you file a claim, you must claim that you left work because of domestic violence and be prepared to give the unemployment office at least one of the following items:

- A copy of your restraining order.
- A copy of the police record of any complaints you filed or any calls made to the police on your behalf because of domestic violence.
- Documentation that the abuser has been convicted of one or more of the offenses listed in the Prevention of Domestic Violence Act (see *Overview of the Legal System* on page 29 for a list of these crimes).
- Medical documentation of the domestic violence, such as a doctor's report or a report from an emergency room where you were treated for injuries resulting from acts of domestic violence. (**Note:** When you go to an emergency room for treatment, be sure to explain that you are a victim of domestic violence and ask the medical staff to write that in their report.)

- A written certification or affidavit from a certified domestic violence specialist or the director of a domestic violence agency stating that you are a victim of domestic violence. (See page 72 for a list of domestic violence agencies in New Jersey.)
- Other documentation or certification of the domestic violence that can be provided by a social worker; your minister, pastor, or priest; a shelter worker; or another professional who has helped you to deal with the domestic violence.

If you can produce one or more of these documents, and you are otherwise eligible for unemployment benefits, you should be able to collect benefits.

If you have been turned down for unemployment benefits, you can appeal. You will get a notice explaining how to file an appeal. You must file your appeal within seven days after you receive the notice or within 10 days after the determination was mailed. The appeal period will only be extended if you can show good cause for filing late. Good cause exists only in situations where you can show that the delay was due to circumstances beyond your control.

New Jersey Safety and Financial Empowerment Act

Dealing with the aftermath of a trauma can be overwhelming. When an act of physical violence ends, the to-do list for a victim is only beginning. New Jersey now offers another protection for victims. The New Jersey Security and Financial Empowerment Act (NJ SAFE Act) went into effect on October 1, 2013. This law provides employment protections for victims of domestic and sexual violence. The NJ SAFE Act allows 20 days of unpaid leave for victims of violence to deal with the aftermath of the abusive act.

The 20 days of leave must be used within 12 months of the act of violence. Leave must be taken in no less than one-day intervals. The leave has to be related to the act of violence. Leave should be taken to:

- Seek medical attention for physical or psychological injuries.

- Obtain services from a victim services organization.
- Get psychological or other counseling.
- Participate in safety planning.
- Seek legal assistance or other necessary remedies to ensure health and safety.
- Attend criminal or civil court proceedings.

An employee who has paid leave available to take may choose to take it. The employer may require the employee to take any available paid leave time. If the employee takes the paid leave, it counts towards the 20 available days under the NJ SAFE Act. If the employee is aware of the leave prior to needing it, the employee should give written notice to the employer as far in advance as is reasonably possible.

The employer may ask for documentation related to the abuse but is not required to do so. Documentation may be:

- A temporary or final restraining order.
- Paperwork from the municipal or county prosecutor.
- Proof of offender's conviction.
- Medical records of the offense.
- A certification from a certified Domestic Violence Specialist or director of a domestic violence agency/rape crisis center.
- Documentation from a social worker, clergy member, or other professional who has assisted the victim.

Any documentation provided must be kept confidential by the employer unless the employee authorizes its release in writing.

Employees may seek leave whether they are the direct victim or the victim is their child, parent, spouse, domestic partner, or civil union partner. An employee is someone who has been employed for at least 12 months (having worked at least 1,000 base hours) before asking to take the leave. An eligible employer is someone who employs at least 25 employees for at least 20 weeks of the year.

Any leave granted through the protection of the NJ SAFE Act will not conflict with rights provided by the Family Leave Act, Family and Medical Leave Act of 1993, or the Temporary Disability Benefits Law. Notice of the NJ SAFE Act must be properly provided by employers. Employers are not allowed to discriminate against employees who take this leave. An employee who feels discriminated against may seek relief in the Superior Court.



5. Public Assistance

Welfare

If you have a very low income, you may be able to receive monthly cash assistance from the welfare agency. You can go to your county welfare agency to apply for these benefits. If you need immediate help because you do not have shelter, food, or clothing, let the agency know. If you meet their other eligibility requirements, they must either give you cash right away or refer you to another agency that will provide you food, shelter, clothing, or cash.

You might also want to ask your caseworker to keep your address confidential. If you participate in the Address Confidentiality Program (see page 22), you will only have to give the welfare agency the designated address the program gave you.

When you apply for welfare, tell the welfare agency that you are a victim of domestic violence. There are special welfare rules for domestic violence victims, called the Family Violence Option. The welfare office is supposed to tell you about these rules and offer you a chance to apply for them.

- The welfare agency requires women applying for or receiving welfare to identify the father of their children so that the agency can collect child support. Victims of domestic violence can be excused from this requirement if they fear that providing information will result in harm to themselves or their children.

- Generally, welfare recipients must get work or participate in work activities right away, but domestic violence victims may get some additional time if they need it because of domestic violence.
- Welfare benefits are limited to 60 months, but victims can get additional benefits if they need more time due to domestic violence.

Getting help from the welfare agency. For these exceptions to apply to you, you must let the welfare agency know that you are a victim of domestic violence. You do not have to discuss this with your caseworker. The welfare agency will refer you to a family violence specialist within the welfare agency. The family violence specialist will then refer you to a domestic violence service provider (see page 72) who will determine whether you qualify for an exception to the welfare rules. If so, they will work with you to develop a safety and service plan to help you become self-sufficient. You will work on meeting the plan goals with the domestic violence service provider. The plan and information about services you receive will not be shared with the welfare office and will be confidential.

Emergency Assistance (EA)

You may feel that it is impossible for you and your family to move away from your abuser because you have little or no money and no one to turn to for help. If you leave your residence and are homeless because of domestic violence, you should be eligible to receive a special public assistance grant, known as Emergency Assistance (EA), to help you pay for emergency shelter or a new residence. You will need to explain your situation to the welfare office. If you have children aged 18 or younger who will be moving with you, you may apply for EA at your county welfare agency. If you do not have children, you should call your county welfare agency to find out whether you need to apply there or at your municipal welfare office. If you have moved from your usual residence to a new county or town, you may apply in the county or town where you are staying, even if your stay is only temporary. The welfare agency will send a caseworker to see you if you cannot go to

the office because you are in the hospital or you fear being harmed.

EA payments are made for a period of up to 12 months. If you still do not have housing at the end of 12 months, you may be eligible for an extension. Assistance may be provided for temporary shelter, rent, food, clothing, security deposits for rent and utilities, and for certain home furnishings, such as beds and kitchen equipment. The amount you are given will depend on the number of people in your household. You should receive Emergency Assistance on the day you apply.

If you meet the income qualifications for welfare assistance, you have the right to receive EA. If the welfare agency denies your application for EA, or unduly delays granting such assistance, you should request an emergency fair hearing. The telephone number to call to ask for a fair hearing is 1-800-792-9773. The emergency hearing will be held within three working days of receipt of the request, and the director of the State Division of Family Development will give a final decision on the case within five working days.

You also may call the regional Legal Services program that serves your county and ask for assistance. A list of Legal Services programs and telephone numbers is on the inside front cover of this handbook. You also may call Legal Services of New Jersey's statewide, toll-free legal hotline, LSNJLAWSM, at 1-888-LSNJ-LAW (1-888-576-5529). An online application is available at www.lsnjlawhotline.org.

SNAP (Food Stamps)

If you are not already receiving SNAP (food stamps), you should also apply for SNAP. If you have less than \$100 in cash and earn less than \$150 per month (gross income, before taxes), or if your total gross monthly household income and available cash are less than your monthly rent and utilities or mortgage, you are entitled to receive "expedited" benefits. This means that your SNAP will be processed and available within seven working days of the day you apply. You will still need to complete the application process and submit documents needed for your application before you can be approved for benefits going forward. It is important that you tell the welfare agency that you

are applying for expedited services. If you do not qualify for expedited services because your income and resources are considered too high, yet you are still found eligible to receive SNAP, your SNAP will be processed and available within 30 days of the day you apply. The amount you receive will depend upon your income, the number of people in your household, and certain expenses that the SNAP office will take into account.

Unfortunately, emergency fair hearings are not available in SNAP cases. If you are denied SNAP or you disagree with the amount granted, you should ask for a fair hearing. You can request a fair hearing by calling 1-800-792-9773. Although you can request that the hearing be held quickly, the process can take up to 90 days.



6. Counseling

Counseling for Yourself

You may feel depressed, helpless, and overwhelmed by your situation. It is very hard to make decisions or changes when you are anxious about or afraid of the consequences of those decisions. It is especially hard to think when you have no one with whom you can talk or share your concerns for yourself and your family. Without someone to help you sort out all of these things, you may continue to feel trapped or too frightened to make any move. A professional counselor can help you find some alternatives or at least provide emotional support for you during very difficult times. Your local domestic violence service provider can refer you to a counselor who understands your domestic violence issues. Please note that, when an FRO is granted, an exception is not created for counseling. Parties are not allowed to go to counseling together since this is a violation of the FRO.

Counseling for Your Children

Many abusers were abused as children or came from violent homes where they learned to think of violence as a normal way to resolve conflicts. Unless children who have grown up with violence are taught that it is not an acceptable or a normal way to behave, they may grow up to imitate their parents and become abusive parents or spouses.

Growing up in a violent home is painful. It is very important to give your children a chance to talk about their experiences and feelings. Many counselors will work with you and your children, together and separately, to help you heal wounds, restore your self-confidence and self-esteem, and to finally break the generation-to-generation cycle of abuse. Call your domestic violence service provider (see page 72) for information about children's services. Specifically ask for information on the program called Peace: A Learned Solution, known as the PALS program.

Counseling for Batterers

Some domestic violence programs now have services for batterers, which are often called batterers' intervention programs. You can find information about these services on page 72. Under the Prevention of Domestic Violence Act, a judge can order a batterer to attend counseling. Many people want their partners to enter these programs and ask for this relief, hoping that their partner will change the violent behavior. There are several things you should know about these intervention programs in order to keep yourself safe or to assess the effectiveness of the treatment as it progresses.

While some batterers have learned to change through intervention or education programs, many have not successfully completed such programs. The key to the success of these treatment programs is the batterer's motivation. There are three critical things to look for:

1. The batterer accepts responsibility for the violence.
2. The batterer enters treatment without you.
3. The batterer goes into treatment with absolutely no expectations from you, such as asking you to stay together if the batterer goes into treatment.

The program should keep you, and any services you're offered, separate from the services given to the batterer. Bear in mind that changing violent behavior takes time—a lot of time. Sadly, very few bat-

terers have the motivation to change or to make the time commitment to change their attitude and behavior. Many batterers agree to treatment because it provides an opportunity to manipulate their partners and family. Under these circumstances, it is not likely that the intervention will succeed. Even when a batterer completes a treatment program, there is no guarantee that the battering will never happen again.

If your partner agrees to enter a treatment program, you should still be mindful of safety measures, as well as the possibility that your partner may be manipulating you. You may also want to stay involved with a support group at the domestic violence prevention program so you can discuss what is going on and get some feedback about any concerns you may have about your partner's nonviolent, but still very controlling, behavior. A manipulative spouse may stay in treatment for a month or two and claim that he or she doesn't need it anymore. It is truly rare that any real change can take place in just a couple of months. In fact, it takes many batterers a year or more of treatment before they learn to change their behavior. So, while your partner is in treatment, do keep all of your safety measures and support systems in place.

Marriage or Couples Counseling

Most domestic violence experts agree that traditional marriage counseling or couples counseling is not appropriate when there has been domestic violence. In fact, it may actually be harmful for you to participate in such counseling. You and your partner will likely need many months of individual counseling before you are ready to be counseled as a couple. Your partner needs to separate himself/herself from you, to confront his or her own behavior and accept responsibility for it. You need to build your self-esteem and independence. One or both of you may have problems with alcohol or drug abuse that must be faced and dealt with before you can work together as a couple. Any counseling you see must understand the dynamics of abuse.

Counseling for Alcohol and Drug Abuse

Many abusers have problems with alcohol or drug addiction. Even though the abuse may be happening more often when the abuser is drunk or high (and may be worse at these times), it does not mean that the situation would be fine if the abuser would only stop drinking or using drugs. Abusers often use being drunk or high as an excuse for their violence. They frequently claim that they did not know what they were doing because they were drunk. Addiction and violent behavior, while they often come together, are separate problems. They are very serious and life-threatening, but each must be dealt with separately. Abusers seldom stop beating their spouses or children just because they get sober or clean. Often, they will only find other excuses to justify their violent behavior once they stop drinking or using drugs. If you insist that the abuser stop drinking or using drugs, you may also want to insist that the abuser get into counseling for batterers.

If you are using alcohol and drugs to help you cope with the stress of living in a violent relationship, or if you have come to think of drinking or getting high with your partner as something you can do together, you may be developing your own alcohol or drug abuse problem.

Alcohol and drugs will only make a bad situation worse. You cannot make good decisions about your future or your children's future if you are not sober or clear-headed, and you risk becoming addicted and damaging your health.

Your children, already living with fear and uncertainty, will have to face the additional burden of dealing with parents who are not quite "there" because they are drunk or high.

Alcohol and drugs (even tranquilizers and other prescription pain-killers or mood-altering drugs) may keep you from thinking clearly enough to free you and your children of violence. If you are dependent on drugs or alcohol, you will have to do something about that dependence before you can find solutions to an abusive relationship. Honestly answering the following questions can show you how dependent you or the abuser may be on alcohol or drugs:

- Has someone close to you expressed concern about your drinking or drug use?

- When faced with a problem, do you use alcohol or drugs for relief?
- Are your responsibilities at home or work left unmet because of alcohol or drugs?
- Has drinking or drug use caused problems in your relationships with family or friends?
- Have distressing physical or psychological reactions occurred when you have tried to stop drinking or taking drugs?
- Have you or your partner ever required medical attention as a result of drinking or drug use?
- Have you experienced blackouts—a total loss of memory while still awake—when you were drinking?
- Have you broken promises to yourself to quit or control drug use or drinking?
- Do you or your partner feel guilty about drinking or drug use and try to conceal it from others?

If you answered yes to any of the above questions, drinking or drug use may be having a major effect on your life. If you come from a family with a history of drug or alcohol abuse, you are at an extremely high risk of becoming an addict or alcoholic yourself. If you answered yes to any of the questions, get help right away. Recognizing that you have a problem is only the first step. Solving the problem takes time. Do not try to do it alone. There are agencies and self-help groups that deal with alcohol and drug abuse. You can find their addresses and telephone numbers in the appendix on page 73.



Conclusion

If your spouse, partner, or a family member has harmed you in the ways we have discussed in this handbook, you may wish to reach out to a domestic violence service provider for information and help in developing a plan to maximize your safety. There are service organizations that may be of help to you listed in the appendix of this handbook.

Also, use the Prevention of Domestic Violence Act. See a lawyer to help you understand the law. You and your family have a right to safety. Do not hesitate to use the criminal and civil laws to protect yourself. For more legal information, call Legal Services of New Jersey's Domestic Violence Representation Project at 1-888-576-5529.

Appendix

Guide to Services for Victims of Domestic Violence

The New Jersey Coalition to End Domestic Violence maintains an up-to-date listing of domestic violence services throughout the state. It is searchable by county.

Website: www.NJCEDV.org

24-HOUR STATEWIDE HOTLINES

New Jersey Hopeline
(855)-NJ-HOPELINE
(654-6735)

**New Jersey Domestic
Violence Hotline**
(800) 572-SAFE (7233)

**Women's Referral Central
Hotline**
(800) 322-8092

Family Helpline
(800) THE-KIDS (843-5437)

**NJ Coalition Against Sexual
Assault (NJCASA) Hotline**
(800) 601-7200

Addictions Hotline of NJ
(800) 238-2333

Additional Helpline Numbers
are listed on the New Jersey Department of Children and Families website
at www.nj.gov/dcf/families/hotlines

NEW JERSEY ALCOHOLICS ANONYMOUS CENTRAL OFFICES AND INTERGROUPS

Central Jersey Intergroup

3525 Quakerbridge Road, Suite 5000
Hamilton, NJ 08619
Office: (609) 586-6902
24-hour hotline: (609) 586-6900
Website: <https://cjjaa.org/>

South Jersey Intergroup

5090 Central Highway, Suite 3
Pennsauken, NJ 08002
Office: (856) 486-4446
24-hour hotline: (856) 486-4444
Website: <https://aasj.org>

Cape Atlantic Intergroup

3153 Fire Road, Suite #1-C
Egg Harbor Township, NJ 08234
24-hour hotline: (609) 641-8855
Website: <https://capeatlanticaa.org>

Northern New Jersey Intergroup

2400 Morris Avenue, Suite 106
Union, NJ 07083
Office: (908) 687-8566
24-hour hotline: (800) 245-1377
Website: <https://nnjaa.org>

WALLET CARD

Cut out the wallet card below and put it in your wallet so you'll always have these important telephone numbers handy.

**Statewide Domestic
Violence Hotline**
800-572-SAFE (7233)

**National Domestic
Violence Hotline**
800-799-SAFE (7233)

For local police, dial 911
or
Your local domestic violence agency

Name: _____

Number: _____

Notes



Legal Services of New Jersey

100 Metroplex Drive, Suite 101

P.O. Box 357

Edison, NJ 08818-1357

732-572-9100

LSNJLAWSM statewide

toll-free legal Hotline:

lsnjlawhotline.org

1-888-LSNJ-LAW

(1-888-576-5529)

