

NEW JERSEY STATE BAR ASSOCIATION

Statement On A1475 (Lopez) /S1809 (Ruiz) Assembly Judiciary Committee October 17, 2022

The New Jersey State Bar Association is supportive of protecting the rights of victims of domestic violence, and appreciates the intent of A1475 (Lopez)/S1809 (Ruiz), which attempts to redefine criminal coercion in the realm of domestic violence. This definition would differentiate and contradict the definition as it already exists in Title 2C. The Prevention Against Domestic Violence Act, <u>N.J.S.A.</u> 2C:25-17, *et seq.* (PDVA) already contains "criminal coercion" as a predicate act warranting the issuance of a restraining order. <u>N.J.S.A.</u> 2C:15-19(a)(15). To the extent that this bill seeks to create a new definition which would contradict the definition already contained in the statute, the Association has concerns that such addition creates confusion between what already exists under the criminal statutes versus what is being proposed here. <u>See N.J.S.A.</u> 2C:13-5, which defines criminal coercion.

To be clear, the NJSBA supports the continued inclusion of criminal coercion as currently defined in A1475/S1809. However, creating specific offenses for coercive conduct or coercive control leaves out a multitude of other acts and offenses that may constitute such behavior as raised in individual cases. Domestic violence comes in many forms and is specific to individual situations based on the specific relationship of the parties. To the extent that this bill attempts to enumerate instances of coercive control, it has the potential to either eliminate a myriad of other instances or – in the alternative – inadvertently sweep under its definition behaviors that are in fact not coercive at all.

Family law practitioners see an unfortunate number of unintended consequences from well-intended laws. What was once regular activity among families or between couples is now harassment in a highly contentious divorce. Calendar sharing apps that were once a regular part of a couple's livelihood become fodder for accusations of illicit tracking of another. A seemingly innocuous budget that was enforced during a couple's relationship may now be deemed financial control over another upon the threat of separation or divorce if this bill passes. An argument between spouses or a couple where unfortunate names are uttered would fall within this new proposed definition, and largely encompass "domestic contretemps" within the purview of domestic violence. To expand the definition to include these scenarios trivializes the plight of true victims of domestic violence, renders the act a "sword" and not a "shield", and allows determinations on custody, parenting time and possession of a marital residence to be based on allegations such as this. There are a number of other examples that can be identified, or are yet to be identified because relationships are as unique as the factual bases for such claims. For these reasons, statutes should be broad enough to allow factfinders – judges – to enter orders that apply to the specific cases presented before them utilizing their discretion.

To ensure that coercive control as defined in the bill is already incorporated in the PDVA, the criminal coercion is defined as:

A person guilty of criminal coercion, if, with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct, he threatens to:

(1) Inflict bodily injury on anyone or commit any other offense, regardless of the immediacy of the threat;

(2) Accuse anyone of an offense;

(3) Expose any secret which would tend to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute;

(4) Take or withhold action as an official, or cause an official to take or withhold action;

(5) Bring about or continue a strike, boycott or other collective action, except that such a threat shall not be deemed coercive when the restriction is demanded in the course of negotiation for the benefit of the group in whose interest the actor acts;

(6) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(7) Perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

Furthermore, criminal coercion is currently listed on the Temporary Restraining

Order form that is completed by the court staff based on an applicant's complaint for the

judge to consider in issuing such an order.¹ While not specifically called "coercive

control," the current statutes encompass the acts sought to be prohibited under the

PDVA.

In order to effectuate the aim of this bill and ensure the consideration of coercive

control, he NJSBA proposes amending N.J.S.A. 2C:25-29 to include "criminal coercion"

¹A redacted TRO is attached here for your review.

New Jersey Law Center • One Constitution Square • New Brunswick, New Jersey 08901-1500 (732) 214-8510 • Fax (732) 249-2815 • lchapland@njsba.com

to section (a)(1) to guide the court to analyze the specific allegation of criminal coercion when determining whether a final restraining order should issue in a specific matter.

With this change, the NJSBA would support this bill.

New Jersey Domestic Violence Civil Complaint and Temporary Restraining Order Page 1 of 6										
TRO Amended TRO N.J.S.A. 2C:25-17 et se						5-17 et seq.				
Superior Court, Chancery Division, Family Part, SOMERSET County Municipal Court of Docket Number Police Case Number										
FV-18-										
In the Matter of Plaintiff (Victim) Plaintiff's Date of Birth Image: Matter of Plaintiff's Date of Birth Image: Matter of Plaintiff's Date of Birth									Date of Birth	
Defendant Information		First Na	me		h	Initial	Defendant's Sex	Race	-	
AKA Defendant's Social Security Number Date of Birth Height Weight									Weight 125	
Home Address City State Zlp Eye Color Hair Color										
Home Phone Number Work Phone Number Distinguishing Features (Scars, Facial Hair, Etc.)										
****** Employer Driver's License Number										
Work Address							State	Driver's Licen	ıse Expi	ration Date
The undersigned complains that said defendant did endan	ger plaintiff's life, health	or well be	eing (g	ive s	pecific facts	s regard	ding acts or thre	ats of abuse a	and the	date(s) and
time(s) they occurred; specify any weapons):										
ON (Date) AT (Time)) זמ	Details	spec	cify any weap	Pous)		1		
									-	
							· · ·			
which constitute(c) the following criminal offenses(s): (Che	rk all applicable boxes. I	aw Enford	emen	t Off	icer: Attach	N.J.S.P.	UCR DV1 offens	se report(s));		
which constitute(s) the following criminal offenses(s): (Check all applicable boxes. Law Enforcement Officer: Attach N.J.S.P. UCR DV1 offense report(s)): Homicide Terroristic Threats Criminal Restraint Sexual Assault Lewdness Burglary Harassment										
Assault KIdnapping False Criminal Sexual Criminal Criminal Sexual Stalking Stalking										
Criminal Coercion Robbery Contempt of a DV Any Other Crime Involving Risk of Death or Serious Bodily Cyber Harassment										
1. Any prior history of domestic violence reported or unreported? If Yes, explain: Ves No										
i										,
2. Does Defendant have a criminal history? (If Yes, submit a	ny available criminal his	tory repor	rt)		Yes		✓ No			
Any prior or pending court proceedings involving parties? (If Yes, enter docket number, court, county, state) Yes Yes										
4. Has a criminal complaint been filed in this matter? (If Yes, enter date, docket number, court, county, state) 📝 Yes 🗌 No										
5. If Law Enforcement Officers responded to a domestic violence call: Were weapons seized? If Yes, describe: Yes Yes Yes Yes Yes No Was Defendant arrested? If Yes, describe: Yes No										
 6. (A) The Plaintiff and Defendant are 18 years old or older or emancipated and are: (select one) 										
7. Where appropriate list children you have with the Defendant, if any (include name, sex, date of birth, person with whom child resides) Child's Name: Last First M.I. Sex Birth Date Resides										

Domestic Violence Civil Compla	aint and Temporary Restraining Order	Page 2 of 6						
Docket Number FV-18-	Defendant's Name							
8. The Plaintiff and Defendant:	✓ Previously; □ Never: Resided Together ✓ Family Relationship: What is your relationship to the defendant?	_(Specify)						
Certification I certify that the foregoing responses made by me are true. I am aware that if any of the foregoing responses made by me are willfully false, I am subject to punishment.								
	Date Signature of Plaintiff							

NOTICE TO DEFENDANT: A violation of any of the provisions listed in this order may constitute either civil or criminal contempt pursuant to N.J.S.A. 2C:25-30 and may result in your arrest, prosecution, and possible incarceration, as well as an imposition of a fine or jail sentence. Only a court can modify any of the terms or conditions of this court order.

Image: Part 1 - RELIEF - Instructions: Relief sought by Plaintiff DEFENDANT: Too FRO TRO Granted 1. Ø N/A Ø You are prohibited from returning to the scene of violence. 2. Ø Ø Ø vou are prohibited from future acts of domestic violence. 3. Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø Ø	
DEFENDANT: TRO FRO TRO Granted 1. MA You are prohibited from returning to the scene of violence. 2. You are prohibited from future acts of domestic violence. 3. You are prohibited from the following locations: Residence(s) of Plaintiff Place(s) of employment of Plaintiff - Other (Only list addresses known to Defendant): Other (Only list addresses known to Defendant): Place(s) of the plaintiff. 4. You are prohibited from making or causing any oral, written, personal, electronic, or other form of contact or communication with Plaintiff. 5. You are prohibited from making or causing anyone else to make harassing communications to: Plaintiff - Other(s): 5. You are prohibited from stalking, following or threatening to harm, stalk or follow: Plaintiff - You are prohibited from stalking, following or threatening to harm, stalk or follow: Plaintiff - You must pay emergent monetary relief to (describe amount and method): - Plaintiff: - - - - - - - - - - - - - -	
1. Image: NMA	
2. You are prohibited from future acts of domestic violence. 3. You are barred from the following locations: Residence(s) of Plaintiff You are barred from the following locations: Residence(s) of Plaintiff Place(s) of employment of Plaintiff You are prohibited from having any oral, written, personal, electronic, or other form of contact or communication with Plaintiff. Other(s): 5. You are prohibited from making or causing anyone else to make harassing communications to: Plaintiff Other(s): You are prohibited from stalking, following or threatening to harm, stalk or follow: Plaintiff Other(s) - Same as item 4 above or list names: 7. You must pay emergent monetary relief to (describe amount and method): Plaintiff: Plaintiff: You must pay emergent monetary relief to (describe amount and method): Plaintiff: Plaintiff: Dependent(s): You must be subject to intake monitoring of conditions and restraints:	
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Cher(s) - Same as item 4 above or list names: Other(s) - Same as item 4 above or list names: You are prohibited from stalking, following or threatening to harm, stalk or follow: Plaintiff Other(s) - Same as item 4 above or list names: You must pay emergent monetary relief to (describe amount and method): Plaintiff: Dependent(s): Dependent(s): You must be subject to intake monitoring of conditions and restraints:	
6. Image: Constraint of the state of	
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Conter(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 7. Outher(s) - Same as item 4 above or list names: 8. Outher(s): 8. Outher(s): 8. Outher(s): 8. Outher(s): 9. You must be subject to intake monitoring of conditions and restraints:	
7.	
Plaintiff: Pependent(s): You must be subject to intake monitoring of conditions and restraints:	
Plaintiff: Dependent(s): You must be subject to Intake monitoring of conditions and restraints:	
8. You must be subject to Intake monitoring of conditions and restraints:	
8. You must be subject to Intake monitoring of conditions and restraints:	
Other (evaluations or treatment - describe):	
9. 🗸 📝 Psychlatric evaluation:	
10. 🗸 📝 Prohibition Against Possession of Weapons: You are prohibited from possessing any and all firearms or other weapons and must	
immediately surrender these firearms, weapons, permit(s) to carry, application(s) to purchase firearms and firearms purchaser ID card to the officer serving this Court Order. Failure to do so may result in your arrest and incarceration.	2
ANY AND ALL WEAPONS AND/OR FIREARMS ID CARDS	
PLAINTIFF:	
1. 🔽 📝 You are granted exclusive possession of (list residence or alternate housing only if specifically known to defendant):	
2. 🗸 🖌 You are granted temporary custody of:	
3. C Other relief for - Plaintiff:	
3. C Other relief for - Plaintiff:	
Other relief for - Children:	
LAW ENFORCEMENT OFFICER:	
You are to accompany to scene, residence, shared place of business, other (indicate address, time, duration and purpose):	
Plaintiff:	
\checkmark \checkmark Defendant:	
NOTICE TO DEFENDANT: A violation of any of the provisions listed in this order may constitute either civil or criminal contempt pursuant to N.J.S.A. 2C:25	
and may result in your arrest, prosecution, and possible incarceration, as well as an imposition of a fine or jail sentence. Only a court can modify any of the	;-30
terms or conditions of this court order. New Jersey Domestic Violence Court Order Revised: 2/2021, CN: 10010 (DVTRO)	5-30 ne

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Domestic Violence Civil Complaint and Temporary Restraining Order Page 4 of 6								
Docket Nu	mber			Defendant's Name				
FV-18								
To any law enforcement officer having jurisdiction - this Order shall serve as a warrant to search for and to seize any issued permit to carry a firearm, application to purchase a firearm and firearms purchaser identification card issued to the defendant and the following firearm(s) or other weapon(s). Describe the weapons to be seized:								
 You are hereby commanded to search for the above described weapons and/or permits to carry a firearm, application to purchase a firearm and firearms purchaser identification card and to serve a copy of this Order upon the person at the premises or location described as: 								
take	en or in	whose	dered in the event yo possession they were operty was taken.	ou seize any of the above described weapons, to give a receipt for the property so seized found, or in the absence of such person to have a copy of this Order together with such	i to the person from whom they were a receipt in or upon the said structure			
3. You	3. You are authorized to execute this Order immediately or as soon thereafter as is practicable:							
	Anytime Other:							
4. You	are fu	rther or	dered, after the exec	ution of this Order, to promptly provide the Court with a written inventory of the proper	rty seized per this Order.			
Part 2 -	RELIE	F - DE	FENDANT:					
TRO	FRO	TRO GI	anted		·			
1. 🗸	$\overline{\mathbf{A}}$		No parenting time /	visitation until further ordered;				
			Parenting time / vis	itation pursuant tosuspended until further order;	·			
		\checkmark	Parenting time / vis	itation permitted as follows:				
2. 🗸	\checkmark	\checkmark	Risk assessment or	lered (specify by whom, any requirements, dates):				
3. 🗌				ompensation as follows: ort for Plaintiff:				
	Ц							
				nt(s):				
N/A		Ц		rt for Plaintiff:				
N/A				nt(s):				
				damages to Plaintiff:				
N/A			Punitive damag					
N/A				y(les) (describe):				
			Medical covera					
			for Depende					
			Rent	Mortgage payments (specify amount(s) and recipient(s)):				
			You must participa	te in a batterers intervention program:				
			You are granted te	mporary possession of the following personal property (describe):				
Part 2 - RELIEF - PLAINTIFF:								
			You are granted te	mporary possession of the following personal property (describe):				
Comme	Comments:							
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				•				
				•				
				and of the analytic a listed in this order may constitute either civil or criminal cont	another way metter ALLS A 2C-25-30			

NOTICE TO DEFENDANT: A violation of any of the provisions listed in this order may constitute either civil or criminal contempt pursuant to *N.J.S.A.* 2C:25-30 and may result in your arrest, prosecution, and possible incarceration, as well as an imposition of a fine or jail sentence. Only a court *can* modify any of the terms or conditions of this court order.

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Domestic Violence Civil Complaint a	and Temporary Restraining Order	Page 5 of 6				
Docket Number	Defendant's Name					
FV-18 Addendum:						
TRO denied. Complaint dismissed by	Family Part.					
TRO denied by Municipal Court.						
TRO denied by Superior Court Judge a	at De Novo Hearing.					
TRO granted by Superior Court Judge at De Novo Hearing. The Court has established jurisdiction over the subject matter and the parties pursuant to <i>N.J.S.A.</i> 2C:25-17 et seq, and has found good cause that a prima facie act of domestic violence has been established; that an immediate danger of domestic violence exists and that plaintiff's life, health and well being are endangered; that an emergency restraining Order is necessary pursuant to <i>R. 5</i> :7A(b) and <i>N.J.S.A.</i> 2C:25-28 to prevent the occurrence or recurrence of domestic violence and to search for and seize firearms and other weapons as indicated in this order.						
TRO granted. The Court has established jurisdiction over the subject matter and the parties pursuant to N.J.S.A. 2C:25-17 et seq., and has found good cause that a prima facie act of domestic violence has been established; that an immediate danger of domestic violence exists and that plaintiffs life, health and well being are endangered; that an emergency restraining Order is necessary pursuant to R. 5:7A(b) and N.J.S.A. 2C:25-28 to prevent the occurrence or recurrence of domestic violence and to search for and seize firearms and other weapons as indicated in this order.						
Date/Time Via Telecommunications	S/ Hearing Officer					
Date/Time Via Telecommunications	s/	Court / County				
Date/Time Via Telecommunications	Honorable Municipal Court Judge	courty county				
Date/Time Via Telecommunications	Honorable Superior Court Judge	Court / County				
All Law En	forcement Officers Will Serve and Ful	ly Enforce This Order				
This ex parte Domestic Violence Comp	laint and Temporary Restraining Order meets the criteri	a of the federal Violence Against Women Act for				
	ew Jersey upon verification of service of defendant,18 (
This Order Shall Remain ir	n Effect Until Further Order of the Court and S	Service of Said Order on the Defendant.				
	Notice to Appear to Plaintiff and Defe	ndant				
1. 📝 Both the plaintiff and defendant	are ordered to appear for a final hearing on (date)	at (time) at the Superior Court,				
Chancery Division, Family Pa	rt, County, located at (address)					
20 NORTH BRIDGE STREET, SOM	IERVILLE, NJ 08876, 908-332-7700 X13007					
	ation including pay stubs, insurance information, bills a	and mortgage receipts with you to Court.				
2. 🔲 Remote: All parties shall appear f	or a hearing on at					
I. Video Remote Hearing is so	cheduled at the above date and time. You must attend via video	o as scheduled. Please contact the court for further				
details at						
II. Phone Remote Hearing is s	cheduled at the above date and time. You must attend via Pho	ne as scheduled. Please contact the court for further \cdot \cdot				
details at						
IV. The proceeding will be conducted on the papers. Please contact the court for details						
3. The final hearing in this matter shall not be scheduled until:						
4. Interpreter needed. Language:						
Upon satisfaction of the above-noted conditions notify the Court immediately so that a final hearing date may be set.						
IMPORTANT: The parties cannot themselves change the terms of this Order on their own. This Order may only be changed or dismissed by the Superior Court. The named defendant cannot have any contact with the plaintiff without permission of the Court.						
Notice to Defendant						
applications or identification cards ma		29-9(b), and may also constitute violations of other				

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Domestic V	iolence Civil Complaint and Temporary Restrain	ning Order	Page 6 of 6				
Docket Number Defendant's Name							
	I	Return of Service					
✓ PI.	aintiff was given a copy of the Complaint / TRO by:						
	Print Name	Time and Date	Signature / Badge Number / Department				
V 16	I hereby certify that I served the within Complaint / TRO by delivering a copy to the Defendant personally:						
	Print Name	Time and Date	Signature / Badge Number / Department				
Ih	ereby certify that I served the within Complaint / TRO by use	of substituted service as follows:					
	Print Name	Time and Date	Signature / Badge Number / Department				
De	efendant could not be served (explain):						
	Print Name	Time and Date	Signature / Badge Number / Department				
бg	The Courthouse is accessible to those with	disabilities. Please notify the Cou	irt if you require assistance. &				
Distribution:	Family Part, Plaintiff, Defendant, Sheriff,	Other					