



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, N.J.S.A. 2C:25-17, *et seq.* (PDVA) already contains “criminal coercion” as a predicate act warranting the issuance of a restraining order. N.J.S.A. 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. See N.J.S.A. 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, the NJSBA proposes amending N.J.S.A. 2C:25-29 to include "criminal coercion"

¹A redacted TRO is attached here for your review.

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	
<input type="checkbox"/> TRO <input checked="" type="checkbox"/> Amended TRO							N.J.S.A. 2C:25-17 et seq.	
<input checked="" type="checkbox"/> Superior Court, Chancery Division, Family Part, <u>SOMERSET</u> County <input type="checkbox"/> Municipal Court of _____								
Docket Number FV-18-			Police Case Number					
In the Matter of Plaintiff (Victim)					Plaintiff's Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		Plaintiff's Date of Birth	
Defendant Information		Last Name _____		First Name _____		Initial _____	Defendant's Sex <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	Race _____
AKA _____			Defendant's Social Security Number _____		Date of Birth _____	Height 5 06	Weight 125	
Home Address *** CONFIDENTIAL ***		City *****		State **	Zip *****		Eye Color BROWN	Hair Color BROWN
Home Phone Number *****		Work Phone Number _____			Distinguishing Features (Scars, Facial Hair, Etc.)			
Employer _____					Driver's License Number _____			
Work Address _____					State _____	Driver's License Expiration Date _____		
The undersigned complains that said defendant did endanger plaintiff's life, health or well being (give specific facts regarding acts or threats of abuse and the date(s) and time(s) they occurred; specify any weapons):								
ON (Date)		AT (Time)		BY (Details; specify any weapons)				
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)):								
<input type="checkbox"/> Homicide	<input type="checkbox"/> Terroristic Threats	<input type="checkbox"/> Criminal Restraint	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Lewdness	<input type="checkbox"/> Burglary	<input checked="" type="checkbox"/> Harassment		
<input checked="" type="checkbox"/> Assault	<input type="checkbox"/> Kidnapping	<input type="checkbox"/> False Imprisonment	<input type="checkbox"/> Criminal Sexual Contact	<input checked="" type="checkbox"/> Criminal Mischief	<input type="checkbox"/> Criminal Trespass	<input type="checkbox"/> Stalking		
<input type="checkbox"/> Criminal Coercion	<input type="checkbox"/> Robbery	<input type="checkbox"/> Contempt of a DV Order	<input type="checkbox"/> Any Other Crime Involving Risk of Death or Serious Bodily Injury		<input type="checkbox"/> Cyber Harassment			
1. Any prior history of domestic violence reported or unreported? If Yes, explain:				<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No			
2. Does Defendant have a criminal history? (If Yes, submit any available criminal history report)				<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No			
3. Any prior or pending court proceedings involving parties? (If Yes, enter docket number, court, county, state)				<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No			
4. Has a criminal complaint been filed in this matter? (If Yes, enter date, docket number, court, county, state)				<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No			
5. If Law Enforcement Officers responded to a domestic violence call:								
Were weapons seized? If Yes, describe: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				Was Defendant arrested? If Yes, describe: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
6. (A) The Plaintiff and Defendant are 18 years old or older or emancipated and are: (select one)								
<input checked="" type="checkbox"/> Married / Civil Union		<input type="checkbox"/> Divorced		<input type="checkbox"/> Present Household Member		<input type="checkbox"/> Was at Any Time a Household Member OR		
(B) The Defendant is 18 years old or older or emancipated and Plaintiff and Defendant are: (select one)								
<input type="checkbox"/> Unmarried		<input type="checkbox"/> Co-Parents		<input type="checkbox"/> Expectant Parents		<input type="checkbox"/> Plaintiff and Defendant have had a dating relationship		
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 Complaint and Temporary Restraining Order

Docket Number FV-18-	Defendant's Name
8. The Plaintiff and Defendant:	<input checked="" type="checkbox"/> Presently; <input type="checkbox"/> Previously; <input type="checkbox"/> Never: Resided Together
	<input checked="" type="checkbox"/> 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.**

Docket Number FV-18	Defendant's Name
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Part 1 - RELIEF - Instructions: Relief sought by Plaintiff

DEFENDANT:

- | TRO | FRO | TRO Granted | |
|---|-------------------------------------|-------------------------------------|---|
| 1. <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> | You are prohibited from returning to the scene of violence. |
| 2. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are prohibited from future acts of domestic violence. |
| 3. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are barred from the following locations: <input checked="" type="checkbox"/> Residence(s) of Plaintiff <input checked="" type="checkbox"/> Place(s) of employment of Plaintiff
<input type="checkbox"/> Other (Only list addresses known to Defendant): |
| 4. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are prohibited from having <u>any</u> oral, written, personal, electronic, or other form of contact or communication with Plaintiff.
<input type="checkbox"/> Other(s): |
| 5. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are prohibited from making or causing anyone else to make harassing communications to: Plaintiff
<input type="checkbox"/> Other(s) - Same as item 4 above or list names: |
| 6. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are prohibited from stalking, following or threatening to harm, stalk or follow: Plaintiff
<input type="checkbox"/> Other(s) - Same as item 4 above or list names: |
| 7. <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | You must pay emergent monetary relief to (describe amount and method):
<input type="checkbox"/> Plaintiff:
<input type="checkbox"/> Dependent(s): |
| 8. <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | You must be subject to intake monitoring of conditions and restraints:
<input type="checkbox"/> Other (evaluations or treatment - describe): |
| 9. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Psychiatric evaluation: |
| 10. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | 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.
ANY AND ALL WEAPONS AND/OR FIREARMS ID CARDS |

PLAINTIFF:

- | | | | |
|---|-------------------------------------|-------------------------------------|--|
| 11. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are granted exclusive possession of (list residence or alternate housing only if specifically known to defendant): |
| 12. <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | You are granted temporary custody of: |
| 13. <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Other relief for - Plaintiff:
<input type="checkbox"/> 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):
- | | | | |
|-------------------------------------|-------------------------------------|-------------------------------------|------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Plaintiff: |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | 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:25-30* 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.**

Docket Number
FV-18

Defendant's Name

Warrant to Search for and to Seize Weapons for Safekeeping

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:

1. 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:
2. You are hereby ordered in the event you seize any of the above described weapons, to give a receipt for the property so seized to the person from whom they were taken or in whose possession they were found, or in the absence of such person to have a copy of this Order together with such receipt in or upon the said structure from which the property was taken.
3. You are authorized to execute this Order immediately or as soon thereafter as is practicable:
 Anytime Other: _____
4. You are further ordered, after the execution of this Order, to promptly provide the Court with a written inventory of the property seized per this Order.

Part 2 - RELIEF - DEFENDANT:

- | TRO | FRO | TRO Granted | |
|-------------------------------------|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | No parenting time / visitation until further ordered; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Parenting time / visitation pursuant to _____ suspended until further order: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Parenting time / visitation permitted as follows: |
| 2. | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> Risk assessment ordered (specify by whom, any requirements, dates): |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | You must provide compensation as follows: |
| | <input type="checkbox"/> | <input type="checkbox"/> | Emergent support for Plaintiff: _____ |
| | <input type="checkbox"/> | <input type="checkbox"/> | for Dependent(s): _____ |
| | N/A | <input type="checkbox"/> | Ongoing support for Plaintiff: _____ |
| | N/A | <input type="checkbox"/> | for Dependent(s): _____ |
| | <input type="checkbox"/> | <input type="checkbox"/> | Compensatory damages to Plaintiff: _____ |
| | N/A | <input type="checkbox"/> | Punitive damages to Plaintiff: _____ |
| | N/A | <input type="checkbox"/> | to Third Party(ies) (describe): _____ |
| | <input type="checkbox"/> | <input type="checkbox"/> | Medical coverage for Plaintiff: _____ |
| | <input type="checkbox"/> | <input type="checkbox"/> | for Dependent(s): _____ |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Rent <input type="checkbox"/> Mortgage payments (specify amount(s) and recipient(s)): |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> You must participate in a batterers intervention program: |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> You are granted temporary possession of the following personal property (describe): |

Part 2 - RELIEF - PLAINTIFF:

You are granted temporary possession of the following personal property (describe):

Comments:

Docket Number FV-18	Defendant's Name
Return of Service	
<input checked="" type="checkbox"/> Plaintiff was given a copy of the Complaint / TRO by: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Print Name</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Time and Date</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Signature / Badge Number / Department</div> </div>	
<input checked="" type="checkbox"/> I hereby certify that I served the within Complaint / TRO by delivering a copy to the Defendant personally: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Print Name</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Time and Date</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Signature / Badge Number / Department</div> </div>	
<input type="checkbox"/> I hereby certify that I served the within Complaint / TRO by use of substituted service as follows: <div style="border-bottom: 1px solid black; margin-top: 5px; height: 15px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Print Name</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Time and Date</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Signature / Badge Number / Department</div> </div>	
<input type="checkbox"/> Defendant could not be served (explain): <div style="border-bottom: 1px solid black; margin-top: 5px; height: 15px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Print Name</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Time and Date</div> <div style="width: 30%; border-bottom: 1px solid black; text-align: center;">Signature / Badge Number / Department</div> </div>	
<div style="display: flex; justify-content: space-between; align-items: center;"> <p>The Courthouse is accessible to those with disabilities. Please notify the Court if you require assistance.</p> </div>	
Distribution: Family Part, Plaintiff, Defendant, Sheriff, Other _____	