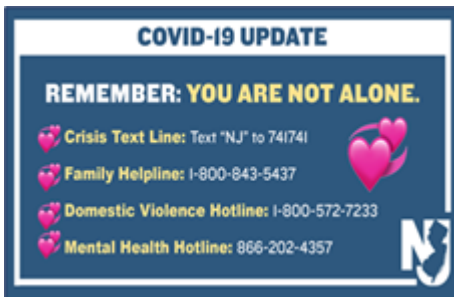


# Domestic Violence Temporary Restraining Order As A Shield And Sword During COVID-19 Pandemic

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April 7, 2020 | by Einhorn Barbarito

On March 21, 2020, NJ Governor Phil Murphy signed Executive Order No. 107 requiring all NJ residents to stay at home until further notice, except for certain exceptions. This stay-at-home directive is intended to help “flatten the curve” as our nation deals with the COVID-19 pandemic. The resounding message is: Stay SAFE. Stay HOME. But, unfortunately for victims of domestic violence, home is the least safe place to be. Within 24 hours of signing the Stay-at-Home Order, Governor Murphy tweeted this COVID-19 update, an important reminder for those who do not feel safe at home.



Experts predict that there will be an increase in domestic violence cases because abuse, in all its forms, continues and even escalates during a pandemic when isolation and financial stress are at their peaks. Victims of domestic violence continue to suffer various forms of abuse at the hands of their abusers –

physical, mental, emotional, financial, etc. Now more than ever, it is important for victims of domestic violence to be reminded that they are NOT ALONE. State and local police departments, municipal courts, and the Family Part of NJ Superior Courts in all 21 counties of NJ continue to handle applications for temporary restraining orders (TROs) notwithstanding the COVID-19 crisis. A TRO may provide the following relief, among other things, to a victim of domestic violence:

- Prohibit abuser from returning to the scene of domestic violence;
- Bar the abuser from the victim's residence, place of employment and/or other locations determined in the TRO;
- Prohibit the abuser from having any oral, written, personal, electronic or any other form of contact or communication with the victim;
- Order the psychiatric evaluation of the abuser;
- Order the abuser to pay temporary financial relief to the victim;
- Order the abuser to surrender his/her firearms, weapons, carry permits and/or applications to purchase firearms; and
- Order the temporary custody of the parties' children.

Victims of domestic violence should not hesitate to seek help from law enforcement and/or the Courts to obtain a TRO because it is intended to shield a victim of domestic violence from abuse.

It is also important to address the ugly reality that sometimes, a TRO is improperly used as a sword by divorce litigants to gain a litigation advantage in a divorce case. This is so because in addition to certain protections afforded by a TRO, the Court also may issue temporary custody of children, child support, spousal support and exclusive possession of the marital residence. With divorce cases also predicted to increase as a result of mandatory lockdowns, it is important for those falsely accused of committing an act of domestic violence to know their rights to defend against the Court making final certain restraints and terms provided for in a TRO. Even if a TRO is issued, it can be dismissed if the Court determines that a Final Restraining Order (FRO) is not warranted. For an FRO to be issued, the Court must find the following:

- That a predicate act of domestic violence occurred;
- That there is a history of domestic violence; and
- That the plaintiff reasonably is in fear of his/her safety and those named as protected parties in the TRO.

The takeaway is that whether you are a victim of domestic violence who needs a TRO to shield yourself from abuse, or you have been falsely accused of committing an act of domestic violence by a plaintiff improperly using a TRO as a sword in a divorce case, an understanding of the Prevention of Domestic Violence Act and the procedures for obtaining/defending against a TRO is of paramount importance.