

NOTICE TO THE BAR

Supreme Court Action on the Report of the Ad Hoc Committee on Domestic Violence

Chief Justice Stuart Rabner established the Supreme Court Ad Hoc Committee on Domestic Violence (the Committee) in February 2015 to examine the current system and serve as a forum for all stakeholders to discuss existing domestic violence laws, procedures, and policies. The Committee, chaired by Assignment Judge Georgia M. Curio, included among its members, representatives from all three branches of government, the private sector, advocacy groups, representatives of academia, legal practitioners, and the New Jersey State Bar Association. In June 2016, the Committee issued its report setting out a number of recommendations regarding education, training, resources to victims and batterers, and the interaction between the Municipal and Superior courts regarding domestic violence.

The Supreme Court reviewed all 30 recommendations from the Committee. The Court's actions on those recommendations are set forth in the enclosed Administrative Determinations document. The Court approved the majority of the recommendations for substantially the reasons expressed by the Committee in its report. For those recommendations that are within the Judiciary's area of responsibility, the Court has referred the approved recommendations for development of any necessary rule amendments or other implementing steps to the various divisions within the Judiciary. As to those several Committee recommendations that do not fall within the purview of the Judiciary, they are being referred to the appropriate branches of government and/or other entities for their consideration.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the
Courts

Dated: November 29, 2016

**Administrative Determinations by the Supreme Court
on the Recommendations of the Ad Hoc Committee on Domestic Violence
(Issued November 29, 2016)**

The Ad Hoc Committee on Domestic Violence (Committee), chaired by the Honorable Georgia M. Curio, was constituted by Chief Justice Stuart Rabner in February 2015. The Committee was charged with examining the current system and serving as a forum for all stakeholders to conduct an in-depth review of existing domestic violence laws, procedures, and policies. Membership on the Committee included the three branches of government, the private sector, advocacy groups, representatives of academia, legal practitioners representing both victims and those charged with acts of domestic violence, and representatives of the New Jersey State Bar Association. In June 2016, the Committee issued its report setting out a number of recommendations regarding education, training, resources to victims and batterers, and the interaction between the Municipal and Superior courts regarding domestic violence.

The Supreme Court has reviewed all 30 recommendations and makes the determinations set forth below. As reflected in the balance of this administrative determinations document, the Court approved the majority of those recommendations for substantially the reasons expressed by the Committee in its report. The Court will now refer the approved recommendations for development of any necessary rule amendments or other implementing steps. For those recommendations that are within the areas of responsibility of other branches of government or other entities, the Court is making referrals accordingly.

Recommendation 1.

Bar Associations should develop referral procedures to provide low or no cost legal assistance to parties litigating civil domestic violence cases.

Determination: Recommendation referred to the Attorney General, New Jersey State Bar Association and County Bar Associations.

Recommendation 2.

Law schools should explore the use of law students to provide legal assistance to self or unrepresented parties litigating civil domestic violence cases.

Determination: Recommendation referred to Seton Hall Law School and Rutgers School of Law and to the New Jersey State Bar Association.

Recommendation 3.

The Judiciary should explore the development of court rules and procedures to allow domestic violence victims, in exceptional cases, to testify without being physically present in the courtroom for Final Restraining Order Hearings.

Determination: Approved. Recommendation referred to the Family Practice Committee to develop appropriate court rules and procedures.

Recommendation 4.

The Judiciary should expand the Hospital to Court Safety Assistance Project and the Safe House to Court Safety Assistance Project statewide to facilitate victims obtaining restraining orders.

Determination: The Judiciary continues to support these projects and their expanded use where needed. Will pursue discussions with the New Jersey Hospital Association for possible placement on an upcoming Association agenda.

Recommendation 5.

The Judiciary should ensure that interpreting and translation services are provided to domestic violence litigants in both the Municipal Courts and Superior Courts.

Determination: Approved. The Judiciary will take all appropriate steps to ensure that such services are provided.

Recommendation 6.

The Judiciary should update the current Risk Assessment form and develop training for Judiciary staff on the utilization of the form.

Determination: Approved. Recommendation referred to the Conferences of Family Division Presiding Judges and Family Division Managers for appropriate implementing steps.

Recommendation 7.

The Judiciary should review and support the expansion of the current existing court ordered supervised visitation and safe exchange programs with a view toward standardized statewide availability and protocols.

Determination: Approved. Recommendation referred to the Conferences of Family Division Presiding Judges and Family Division Managers for appropriate implementing steps.

Recommendation 8.

Statewide expansion of therapeutic programs for children exposed to domestic violence.

Determination: Recommendation referred to the Attorney General and to the Division of Child Protection and Permanency in DHS, for their consideration.

Recommendation 9.

The Office of Attorney General and the County Prosecutors should review policies for Domestic Violence Response Teams (DVRT) pursuant to N.J.S.A. 2C:25-20(b)(3)(1) and consider the following: 1) mandate automatic call out policies for accessing DVRT advocates; 2) provide more oversight to police departments with respect to their utilization of DVRTs.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 10.

County Domestic Violence Working Groups should be required to maintain up-to-date information regarding available domestic violence programs and services. Additionally, County Domestic Violence Working Groups should revisit their initial charge and compositions.

Determination: Approved. Recommendation referred to the County Domestic Violence Working Groups for appropriate implementing steps.

Recommendation 11.

Create a Technology Task Force through the Supreme Court State Domestic Violence Working Group to explore all issues of technology related to domestic violence. This task force or Committee should include all stakeholders including law enforcement.

Determination: The Judiciary supports exploring all issues of technology related to Domestic Violence. The State Domestic Violence Working Group currently has a sub-committee that is tasked with that responsibility.

Recommendation 12.

Municipal and applicable Superior Court judges and staff are required by statute (N.J.S.A. 2C:25-20(b)(2)) to attend annual domestic violence training. The Judiciary should broaden the content of training provided to judges and staff.

Determination: Approved. Recommendation referred to the Judicial Education Unit and the Office of Organizational Development and Training for implementing steps.

Recommendation 13.

Pursuant to N.J.S.A. 2C:25-20(a)(2) law enforcement officers are required to attend four hours of domestic violence training annually. It is recommended that at least once every three years this training requirement be satisfied through in-person training, as opposed to on-line training. Furthermore, Domestic Violence Liaison Officers (DVLO), a sworn member of the department assigned by the municipal chief/public safety director, shall be required to attend additional annual domestic violence training and be a member of their County Domestic Violence Working Group.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 14.

All Assistant Prosecutors shall receive domestic violence training upon hiring as part of new employee training with refresher training as directed by the County Prosecutor.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 15.

Consideration should be given by the Board on Continuing Legal Education (CLE) to adjust mandatory CLE requirements to provide incentive to private attorneys to obtain domestic violence training.

Determination: Recommendation has been referred to the Supreme Court Board on Continuing Legal Education for its consideration.

Recommendation 16.

Certified matrimonial attorneys should be required to complete a minimum of three hours of domestic violence training as part of their periodic CLE requirement for re-certification.

Determination: Recommendation has been referred to the Supreme Court Board on Continuing Legal Education for its consideration.

Recommendation 17.

N.J.S.A. 2B:25-10 should be modified to allow the Attorney General and respective County Prosecutor to require that municipal prosecutors attend needed training. This training should include, but not be limited to, domestic violence.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 18.

New Jersey should adopt formal standards to govern the operations of Batterers Intervention Programs (BIP).

Determination: Recommendation referred to the Chief Counsel of the Governor for appropriate consideration.

Recommendation 19.

Once BIP standards are established, the New Jersey Judiciary should only make court referrals to BIPs that are in compliance with State standards.

Determination: Any action on this recommendation must be deferred pending action on Recommendation 18. This has been communicated to the Chief Counsel for the Governor.

Recommendation 20.

New Jersey should develop a system wide, coordinated process for assessing risk and danger in domestic violence cases.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 21.

The Judiciary should consider the development of a "Bench Guide of Risk in Domestic Violence Cases" that can aid judges in their decisions impacting alleged batterers and victims of domestic violence.

Determination: Approved. Recommendation referred to the Conference of Family Division Presiding Judges for the development and implementation of such a bench guide.

Recommendation 22.

Domestic Violence cases should be scheduled separately (staggered scheduling), when appropriate, from other municipal offenses.

Determination: Approved. Recommendation referred to the Conferences of Municipal Division Presiding Judges and Municipal Division Managers to develop implementing procedures.

Recommendation 23.

Municipal Courts should expand the use of domestic violence advocates in court proceedings.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 24.

Police should acquire additional and complete contact information on the confidential Victim Notification Form, such as cell phone numbers for victims, since non-appearance by a victim in Municipal Court is often due to communication difficulties, especially where the victim has relocated to avoid further acts of domestic violence.

Determination: Recommendation referred to the Attorney General for consideration.

Recommendation 25.

Municipal Court administrators should be given access to the Domestic Violence Central Registry (DVCR).

Determination: Approved. Recommendation referred to the Conferences of Municipal Division Presiding Judges and Municipal Division Managers for design and establishment of a pilot program.

Recommendation 26.

Consideration should be given to including the acts of cyber-harassment and invasion of privacy as predicate acts under N.J.S.A. 2C:25-19.

Determination: The Judiciary would support such action by the Legislature. Two separate bills have been introduced. One bill (S-1257) would add the act of cyber-harassment to the list of abusive acts that constitute domestic violence under the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.). The second bill (S-1985) would add cyber-harassment as well as the act of invasion of privacy as predicate acts under the "Prevention of Domestic Violence Act of 1991."

Recommendation 27.

Consideration should be given by the court to allow the filing of a Non-Dissolution (FD) complaint for child support, custody, paternity or parenting time (Part II relief section of FRO) when there is an active restraining order. This issue should be referred to the Conference of Family Presiding Judges.

Determination: Approved. Recommendation referred to the Conference of Family Division Presiding Judges for development of the appropriate process and procedures.

Recommendation 28.

The court should be encouraged, in appropriate cases as permitted by law, to enter an order for ongoing child support in a Temporary Restraining Order (TRO) or Amended Temporary Restraining Order. The filing date of the TRO should be preserved for purposes of establishing child support.

Determination: Approved. Recommendation referred to the Conferences of Family Division Presiding Judges and Family Division Managers for implementation.

Recommendation 29.

New Jersey Court Rule 1:38-3(d)(9) should be modified to enable attorneys representing a defendant in a related criminal matter to obtain a copy of the recording or the transcript of the related FRO hearing.

Determination: Staff to the committee is to provide additional research as to the legal authority to provide a domestic violence transcript to a criminal defense attorney who was not the attorney of record at the final restraining order hearing. Subject to that research, the recommendation is being referred to the Advisory Committee on Public Access to Court Records for consideration.

Recommendation 30.

Quasi-criminal matters within the jurisdiction of the Municipal Court, arising out of the same incident, should not be joined with the domestic violence civil restraining order for adjudication in Superior Court. Each court should maintain its current jurisdictional authority over domestic violence matters.

Determination: Approved. No action needed.

The Supreme Court wishes to extend its thanks and appreciation to all of the members of the Ad Hoc Committee on Domestic Violence. Its report and recommendations reflect the results of extraordinary collaborative efforts by all involved.

Dated: November 29, 2016