

How to Obtain Protection for a Victim of Domestic Violence

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What is a Temporary
Restraining Order (TRO)?

- Order entered by Municipal Court Judge or Family Part Judge
- Obtained *Ex Parte*
- Entered to protect the “life, health or well-being of a victim”

What is the standard for
the issuance of a TRO?

- Good cause

What type of relief
can a TRO contain?

- **Possession of the home:** defendant is barred from returning to the scene of the domestic violence;
- **Safety at Work:** Prohibition on defendant from appearing at certain locations;
- **Stay Away from My Family and Me:** Prohibition on defendant having contact with victim or other protected parties;

- Financial relief;
- Risk / Mental health evaluations;
- Weapons-related relief;
- Relief regarding custody;
- Relief regarding pets; and
- Any other relief necessary to protect the victim.

How does a Victim
Obtain a TRO?

PRE-COVID

- **Regular Court hours:** Family Division of the Superior Court
- **After hours:** Municipal Court via contacting the Police

POST-COVID

- **Regular Court hours:** **Calling** the Family Division of the Superior Court via telephone
 - There is an outgoing message required in each vicinage if staff are unavailable
- **Regular Court hours and After hours:** Municipal Court via contacting the Police

Who Can Obtain
a TRO?

N.J.S.A. 2C:25-19(d) - a "victim of domestic violence"

- 18 years old or older or an emancipated minor;
- Person subjected to domestic violence
- Person who inflicted the domestic violence was a spouse, former spouse, or present/former household member OR there was a present/former dating relationship;
- No age limit if there is a child in common or pregnant with child.

What is a
Final Restraining Order
(FRO) &
How is an FRO Obtained?

A Mini-Trial without Discovery

- Hearing within **10 days** of the issuance of the TRO
- Must be Valid Service on Defendant
- Burden of Proof - Preponderance

What is the Judge
looking for at an FRO
hearing?

SHOW THE DYNAMIC THAT EXISTS BETWEEN THE DEFENDANT AND THE VICTIM

- Commission of a Predicate Act
- Is there a History of Domestic Violence?
- Was and is there an immediate danger to person or property;
- The financial circumstances of the plaintiff and defendant;
- The best interests of the victim and any child?

Practice Tips

- No right to discovery, but
 1. you can subpoena witnesses; and
 2. you can ask for leave on a showing of good cause
- Explain why a FRO is necessary
- Take your time with the direct testimony/**know your client**

The Virtual Domestic Violence Trial

Your Client's Direct Examination

- Resolve Technical Issues in Advance
 - Connection (test connection; test software; "drive the route before the first day on the job")
 - Camera Set Up (i.e., I need to see your face, not the top of your head)
- Supporting the Victim pre/post-testimony
- **Don't Assume** that it is easier for your client to testify virtually versus testifying at the courthouse? (Childcare, interruptions, is it the location where the violence occurred?)

Cross-Examination

- Protect the Record (cross-talk; make sure that the judge can see the exhibits; can you screen share?)
- Who is in the room and what is on the screen?
- Show the Defendant for who he/she is (e.g., assault – make sure that the physicality of the Defendant is clear/on the record; harassment – make sure that the Defendant's temper/attitude comes across)
- Defendant: "My internet connection just went down (as you were making your critical point)."