

Looking Out For Your Legal Rights®

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If you are a victim of domestic violence, you may be able to get protection in the form of a temporary restraining order that can later become final. *Page 1*

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October is Domestic Violence Awareness Month. *Page 10.*

October is
Domestic Violence
Awareness Month



PROTECTION FOR DOMESTIC VIOLENCE VICTIMS: How to Obtain a Temporary Restraining Order

IF YOU ARE A VICTIM of domestic violence, you may be able to get protection in the form of a temporary restraining order that can later become final. A restraining order is a civil order from the Family Part of the Superior Court. It prohibits the abuser from having any contact with you, including over the telephone, in person, or electronically. That means no phone calls, text messages, or e-mails.

Who qualifies for a domestic violence restraining order?

You can get a domestic violence restraining order if:

- You are or were married to the abuser.
- You share child(ren) with the abuser.
- One of you is pregnant.
- You are over 18 and are currently living with or previously lived with the abuser.
- Regardless of your age, you are having or did have a dating relationship with an abuser over the age of 18.

Also, to qualify for a temporary restraining order, the abuser must have done something that meets the definition of at least one of the 18 crimes of domestic

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violence (see article on page 4). The person you file a restraining order against must be at least 18 years old.

When and where should I go to get a domestic violence restraining order?

It is always best to try to get a restraining order as soon as possible after an act of domestic violence has occurred. If you wait, you may have to explain to the court why you waited. Sometimes victims may wait because they do not know about restraining orders, or because they cannot get to a telephone or to a court. If you continue to live with the abuser after the act of domestic violence, a judge may decide that you are not in danger and do not need a final restraining order.

You may seek a temporary restraining order at the police department 24 hours a day in the town where you live, where the act of domestic violence occurred, where the defendant lives, or where you

Physical proof may help you prove your case, but it is not required.

are presently sheltered. Or you may visit the Superior Court (during business hours) in the county where you live, where the act of domestic violence occurred, where the defendant lives, or where you are presently sheltered.

What do I tell the judge?

It is important for you to give the Municipal Court judge, Superior Court judge, or hearing officer details about the most recent incident of domestic violence. This includes a description of threats, names you were called, or ways you were physically abused or inappropriately touched. If you are specific, your case will be stronger. You should also report any prior incidents of domestic violence between you and the abuser, giving at least three of the more recent and more severe incidents that you have experienced. This is important, even if you did not tell anyone about the prior domestic violence incidents. Tell the judge if you

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reported the incidents, if another person witnessed them, if you got medical treatment for injuries, or if someone took pictures of those incidents. Physical proof may help you prove your case, but it is not required.

What relief may I request in a temporary restraining order?

When requesting a temporary restraining order, you may request many types of relief along with protection, including the following:

- Physical custody of any children that you and the abuser have together. (The law presumes that a victim who gets a restraining order gets physical custody of the children.) You may also request that the abuser's parenting time be suspended until after the final hearing.
- Possession of the home where you currently live (even if you are not the owner of the home or do not pay any of the bills).
- Possession of and keys for a vehicle (even if you are not the owner or do not pay bills for the car).
- Possession of any important documents relating to you or the children, such as passports, birth certificates, etc.
- Cash or other emergency support, such as payment of a mortgage and household bills.

If you are allowed to stay in the home, the abuser is not allowed to come to the home without police supervision until the final restraining order hearing. If you are granted a final restraining order, the abuser might be out of the home even longer.

After you provide all of this information to either a police officer or a staff member of the Superior Court domestic violence unit, they will create a five-page temporary restraining order. It is very important that you review this entire document to make sure it is correct. If anything has been left out or is not accurate, you must ask for it to be included or changed. After you sign the first page of this document, you will speak to either the Municipal Court judge (probably over the telephone) if you have gone to the police station or a domestic violence hearing officer or a judge (in person) if you have gone to the Superior Court. The judge or hearing officer will ask you to explain why you feel you need the order. You should repeat the information in the written document. After you answer the questions, the judge or hearing officer will decide whether or not to give you a temporary restraining order.

What happens after I get my temporary restraining order?

If you receive a temporary restraining order, you should keep it with you at all times. Make extra copies and keep one in your home, your car, and your purse, and give one to your local police. The court and/or police must try to immediately give the abuser notice by serving him/her with a copy of the order. Once the abuser has notice of the restraining order, the law prohibits him or her from having any contact with you.

How do I prepare for my final hearing?

As soon as you get your temporary restraining order, you should look for the

date, time, and place of your final restraining order hearing, listed on page four of the restraining order. Before the hearing, think about what your testimony will be and what evidence you may have to prove your testimony.

For more information about preparing for a final restraining order hearing, see our website, www.lsnjlaw.org. □

By Monica C. Gural, Chief Counsel, Legal Services of New Jersey's Domestic Violence Representation Project

The 18 Crimes of Domestic Violence

LIFE CHANGES dramatically for someone who is the victim of domestic violence. A domestic violence victim may feel isolated, alone, and scared.

Help through the courts

Victims of domestic violence may get help through the courts. A victim who has been in a violent relationship and feels unsafe may be able to take steps to keep the abuser away by filing a restraining order. A judge may grant a restraining order if the victim proves that he or she has been subjected to one of 18 crimes set forth in the New Jersey Prevention of Domestic Violence Act (N.J.S.A 2C:33 et al.) and is in need of the protections of that order.

The explanations below are only interpretations of New Jersey's criminal statutes. To better understand each crime, you may look up the New Jersey statutes listed in parentheses by the name of each crime. If you think you have been a victim of any of these crimes, you should contact an attorney or your local domestic violence agency.

Harassment (N.J.S.A. 2C:33-4)

In order to commit the crime of harassment, a person

must intend to harass another person. An example of harassment is where someone communicates with you at inconvenient hours or uses rude and profane language. A person may harass you by using email, regular mail, phone calls, texting, face-to-face communications, or any other way that sends a message from the abuser to you. The communication must annoy or alarm you.

A person may also be guilty of harassment if that person contacts you in an offensive way. Offensive contact includes acts that are annoying, insulting, or embarrassing to you, such as hitting, kicking, pushing, and touching. This type of act may be considered to be harassment whether or not you have been injured. Threatening to do any of these acts may also be considered harassment.

If someone does things that are meant to scare or seriously annoy you, and these actions are repeated, that person may also be guilty of harassment.

Assault (N.J.S.A. 2C:12-1)

The most common example of an assault is when an abuser hits a victim. An abuser may harm a victim or try to harm a victim. The



An abuser who is keeping you somewhere you do not want to be and will not let you go may be guilty of false imprisonment.

harm may be done with or without a deadly weapon. If an abuser threatens to harm you, this may also be considered an assault. For example, an abuser may knowingly have threatened you with a gun, whether or not it was loaded, and may not have cared that you could have been hurt. In any of these cases, an abuser may be guilty of assault.

In cases where you have actually been harmed, you must feel a sensation of pain for it to be an assault. It does not have to be very painful—it can be as simple as the sting felt when someone slaps you.

Terroristic threats (N.J.S.A. 2C:12-3)

An abuser who threatens to commit any violent crime with the purpose of terrorizing you may be guilty of terroristic threats. An abuser may also be guilty of terroristic threats if the abuser threatens to kill you or someone else and you believe that the abuser can and will do it. A conditional threat (“If you do X, then I will kill you.”) may not meet the standard for a terroristic threat.

Criminal mischief (N.J.S.A. 2C:17-3)

An abuser who breaks any of your belongings on purpose may be guilty of criminal mischief. The property that the abuser breaks must belong only to you. It cannot be property that you and the abuser own together. If an abuser tampers with your property in a way that puts

you or your belongings in danger, the abuser may be guilty of criminal mischief. Common examples of criminal mischief include someone keying your car, punching a hole in the wall of your home, or breaking your cell phone.

Criminal restraint (N.J.S.A. 2C:13-2)

An abuser who keeps you in a place that puts you at risk of serious bodily injury or keeps you somewhere and will not allow you to leave may be guilty of criminal restraint. For example, if you are locked in a room and the abuser begins attacking you, that is criminal restraint. Serious bodily injury means any injury that could be deadly or cause long-term disability. Criminal restraint may also exist if you are subjected to a life of servitude (being treated like a slave) against your will.

False imprisonment (N.J.S.A. 2C:13-3)

If an abuser is keeping you somewhere you do not want to be and will not let you go, the abuser may be guilty of false imprisonment. False imprisonment is different from criminal restraint in that false imprisonment does not require risk of serious bodily injury. For example, if a woman is restrained from leaving a particular area because of an abuser’s actions but is not injured in any way, the abuser may be found guilty of false imprisonment, not criminal restraint.

Burglary (N.J.S.A. 2C:18-2)

Burglary may be committed in two ways. If someone breaks into a house or other secured building and has the intent to commit a crime inside, that person's actions may be considered to be burglary. If a person secretly hides out in a house or other secured building without permission to be there with the intent to commit a crime inside that house or building, that person may have committed an act of burglary.

Criminal sexual contact (N.J.S.A. 2C:14-1, 2C:14-3)

A person who uses force or coercion (such as bullying or threatening violence) to have sexual contact with another person may be guilty of criminal sexual contact. Without freely given consent to the sexual activity, the contact may be considered to be by force or coercion. Criminal sexual contact may also include situations where the abuser physically overpowers the victim. Sexual contact is defined as intentionally touching the victim's thigh, groin, buttocks, or breast without the victim's consent. The abuser must be doing this for personal sexual pleasure or to humiliate or degrade the victim.

Sexual assault (N.J.S.A. 2C:14-1, 2C:14-2)

Sexual assault is any instance where an abuser uses force or coercion to sexually penetrate another person. Force or coercion may mean a time where the victim does not provide freely given consent to the sexual activity but may also include the abuser physically overpowering the victim.

Sexual penetration means vaginal sex, anal sex, oral sex, or putting fingers or objects into the vagina or anus. It does not matter if the penetration was done by the abuser personally or if the abuser ordered the victim to commit the penetration.

Kidnapping (N.J.S.A. 2C:13-1)

Kidnapping is when an abuser takes a victim from where he or she is presently located to another location. To commit a kidnapping, it must be done by force, threat, or deception. Kidnapping may be defined as the act of an abuser confining a victim as a hostage or for ransom. Kidnapping may also be defined as when an abuser keeps a victim somewhere for a long time to hurt or scare the victim.

Stalking (N.J.S.A. 2C:12-10, 2C:12-10.1)

A person is a stalker if that person, more than once, stares at another person for a long time, follows someone or sends other people to follow someone, interferes with the belongings of another person, harasses another person, or sends threats in any way to another person. The stalker must have done any of these actions on purpose or must have known that it was likely to make the victim feel scared or uncomfortable. A stalker may also stalk another person in order to scare you.

If an abuser is convicted of stalking in criminal court, the victim may receive a separate criminal restraining order. Parents may file a complaint for a restraining order based on stalking on behalf of their children.

Lewdness
(N.J.S.A. 2C:14-4)

Lewdness is when a person does something “flagrantly lewd and offensive” in front of another person who would not want to see the offensive act. A common example of this is a person who exposes his or her private parts for their own gratification to a non-consenting person.

Criminal trespass
(N.J.S.A. 2C:18-3)

If someone enters or hides out in a house or other building and does not have permission to be there, that person may be guilty of criminal trespass. The person must also know that he or she needed permission or did not have permission to be there.

Some places will not allow people to enter. There might be a guard keeping people out of a building or part of a building, a sign telling people not to enter, or a fence or locked door blocking people from entering. If a person ignores restrictions such as signs, locked doors, fences, or a security guard and enters anyway, that person may be guilty of criminal trespass.

There are times when people do not expect to have anyone watching them, such as when they are sleeping or in the bathroom. If someone is peeking in through windows to watch another person in a home and the person being watched did not reasonably expect to be watched, the person peeking may also be guilty of criminal trespass.

Homicide
(N.J.S.A. 2C:11-1 to 2C:11-4)

Homicide is the crime of one person causing the death of another person. An

attempted homicide may be part of a final restraining order hearing.

Criminal Coercion
(N.J.S.A. 2C:13-5)

Criminal coercion means that someone tries to make you do something or tries to stop you from doing something by threatening you that s/he will hurt you or someone else, commit a crime, accuse someone else of committing a crime, expose a secret that would damage your reputation or your credit, testify or not testify in court, or do something to damage your health, safety, career, or personal relationships. Criminal coercion is more than just a threat. The threat must be connected to trying to force you into doing something.

Robbery
(N.J.S.A. 2C:15-1)

Robbery occurs when someone steals something from you while at the same time hurting you, threatening to hurt you, using force, or committing or threatening to commit certain other crimes.



Peeking in through windows to watch another person in a home when the person being watched did not reasonably expect to be watched may be criminal trespass.

Contempt of a domestic violence restraining order (N.J.S.A. 2C:29-9)

If you already have a temporary restraining order or a final restraining order and the defendant/abuser calls, emails, texts, shows up at your home or work, or in any way contacts you, that is a violation of the restraining order. The violation should result in the arrest of the defendant. In the case of a temporary restraining order, the violation would allow you to go to court to amend (add information to) the temporary restraining order by including contempt of a domestic violence order as an additional crime for the court to consider in the trial for the final restraining order.

Any other crime involving risk of death or serious bodily injury

If someone has committed a crime against you that involves risk of death or serious bodily injury, that may constitute an act of domestic violence. Arson and neglect of an elderly person are two examples of crimes that may put someone at risk of death or serious bodily injury.

Where can I get more information or legal help?


Many victims of domestic violence need additional support, safe housing,

or legal help. Help is available for victims of domestic violence. You can contact the following organizations for additional assistance.

The New Jersey Domestic Violence Hotline provides 24-hour confidential service, seven days a week, and can be reached at 1-800-572-SAFE (7233) or the National Coalition Against Domestic Violence website.

See *New Jersey Laws About Domestic Violence* on www.lsnjlaw.org for additional information about domestic violence rights, including access to Legal Services of New Jersey's comprehensive guide to domestic violence law.

See LSNJLAW's Restraining Orders Videos page for videos explaining how to file a temporary restraining order, and videos explaining how to represent yourself at a final restraining order hearing.

If you have questions or need legal help, call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529), Monday through Friday, from 8 a.m. to 5:30 p.m. You may also apply online at www.lsnjlawhotline.org. Someone will get back to you within two business days. 

By Monica C. Gural, Chief Counsel, Legal Services of New Jersey's Domestic Violence Representation Project

LSNJ on YouTube, Facebook, and Twitter

Legal Services of New Jersey's YouTube channel features client stories about legal disputes and how LSNJ has helped, self-help videos in many languages that explain the law and actions you can take, and information on closing the justice gap.

www.youtube.com/user/LegalServicesNJ

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NJ SAFE Act Offers Protection for Victims of Physical Violence

DEALING WITH the aftermath of a trauma can be overwhelming. When an act of physical violence ends, the to-do list for a victim is only beginning. In this vein, New Jersey now offers another protection for victims. The New Jersey Security and Financial Empowerment Act (NJ SAFE Act) provides employment protections for victims of domestic and sexual violence. The NJ SAFE Act allows 20 days of unpaid leave for victims of violence to deal with the aftermath of the abusive act.

The 20 days of leave must be used within 12 months of the act of violence. Leave must be taken in no less than one-day intervals. The leave has to be related to the act of violence. Leave should be taken to:

- Seek medical attention for physical or psychological injuries
- Obtain services from a victim services organization
- Obtain psychological or other counseling
- Participate in safety planning
- Seek legal assistance or other necessary remedies to ensure health and safety
- Attend criminal or civil court proceedings

An employee who has paid leave available to take can choose to take it. The employer may require the employee to take any available paid leave time. If the employee takes the paid leave, it counts towards the 20 available days under the NJ SAFE Act. If the employee is aware of the leave prior to

needing it, the employee should provide written notice to the employer as far in advance as is reasonably possible.

The employer may ask for documentation related to the abuse, but they are not required to do so. Documentation may be:

- A temporary or final restraining order
- Paperwork from the municipal or county prosecutor
- Proof of conviction of the offender
- Medical records of the offense
- A certification from a certified Domestic Violence Specialist or director of a domestic violence agency/rape crisis center
- From a social worker, clergy member, or other professional who has assisted the victim

Any documentation provided must be kept confidential by the employer. The employee may choose to authorize its release in writing.

A victim or his/her child, parent, spouse, domestic partner, or civil union partner may seek leave. An employee is



Leave under the NJ SAFE Act may be taken to obtain psychological or other counseling.

someone who has been employed for at least 12 months (having worked at least 1,000 base hours) prior to requesting to take the leave. An eligible employer is someone who employs at least 25 employees for at least 20 weeks of the year.

Any leave granted through these protections will not conflict with rights provided by the Family Leave Act, Family and Medical Leave Act of 1993, or the Temporary Disability Benefits Law. Notice of this law must be properly provided by employers. Employers are not allowed to discriminate against employees who

take this leave. If an employee feels discriminated against, the employee may seek relief in the Superior Court.

If you have questions about your rights as a domestic or sexual violence victim, please visit www.lsnjlaw.org. You may also call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). You may also apply online at www.lsnjlawhotline.org. □

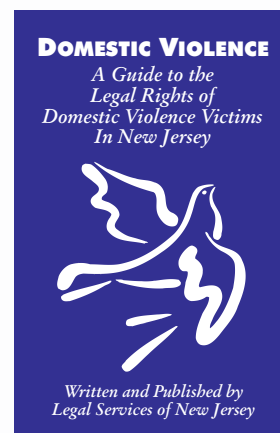
By Monica C. Gural, Chief Counsel, Legal Services of New Jersey's Domestic Violence Representation Project

October is Domestic Violence Awareness Month

OCTOBER IS Domestic Violence Awareness Month. If you know someone who is a victim of domestic violence, or if you need help for yourself, call the statewide domestic violence hotline at the New Jersey Coalition for Battered Women, 1-800-572-SAFE (1-800-572-7233), for advice or a referral to a local program. Many victims of domestic violence feel isolated and alone, but there is expert help available. A phone call to the hotline can help victims become aware of options and services within their local communities.

Legal Services of New Jersey's Domestic Violence Representation Project (DVRP) provides legal representation, referral, and advice to low-income New Jerseyans who suffer abuse from a spouse or former spouse, present or former household member, or someone with whom they have been in a dating relationship or share a child, and cannot afford to pay for the services of a private lawyer. To find out if you are eligible for help, call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529) or 732-572-9100 if you are calling from outside of New Jersey. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. You may also apply online at www.lsnjlawhotline.org.

Legal Services of New Jersey publishes a handbook, *Domestic Violence: A Guide to the Legal Rights of Domestic Violence Victims in New Jersey*, which is available on our website, www.lsnjlaw.org, in English, Spanish, Portuguese, and Korean. LSNJ also has a series of self-help videos about restraining orders available on YouTube. You may find them by going to www.youtube.com and searching for LSNJ and *restraining order*.



Cuáles Son Sus Derechos Legales

Octubre 2016

Publicado por Los Servicios Legales de Nueva Jersey

18 delitos catalogados como violencia doméstica

Octubre es el mes para enterarnos de lo que es la violencia doméstica, en inglés *Domestic Violence Awareness Month*.

Looking Out For Your Legal Rights:
Flip over for English edition

Octubre es el mes para aprender sobre la violencia doméstica



18 delitos catalogados como violencia doméstica

LA VIDA de una persona que ha resultado siendo víctima de violencia doméstica cambia inmensamente, por lo que es posible que se sienta aislada, sola y asustada.

Ayuda a través de los tribunales

Los tribunales pueden ayudar a las personas que se sientan en peligro por estar involucradas en una relación abusiva y una de las medidas para alejar al agresor, es auxiliándose en una orden de restricción; la cual solo puede ser emitida por un juez. La Ley de

continúa en la página 2

El boletín de educación jurídica para los habitantes de Nueva Jersey



continúa de la página 1

Prevención Contra la Violencia Doméstica en Nueva Jersey (N.J.S.A. 2C:33 et al.) ampara legítimamente a las víctimas que puedan probar que han sufrido, cualesquiera de los supuestos previstos en los 18 delitos calificados dentro de este grupo de conductas.

Las explicaciones expuestas a continuación, solamente son interpretaciones de los estatutos penales en Nueva Jersey para que usted entienda mejor en qué consiste cada uno de los delitos; busque el estatuto mencionado, entre paréntesis, a continuación del nombre del delito. Si cree que usted ha sido víctima de alguno de los delitos descritos, llame a un abogado o a la agencia local para víctimas de violencia doméstica.

El hostigamiento (N.J.S.A. 2C:33-4)

Para que se constituya el delito de hostigamiento, un individuo tiene que tener la intención de hostigar a otra persona. Un ejemplo sería cuando una persona, se pone en contacto con usted a

horas inoportunas o utiliza un vocabulario obsceno, repetidamente. El hostigamiento puede manifestarse valiéndose de diferentes vías a través del correo electrónico o postal, llamadas o mensajes de texto u otro medio de comunicación; por contacto directo en persona o cualquier modo en el que el agresor pueda enviarle o hacerle llegar un mensaje que le moleste o alarme.

De igual manera, se puede considerar como hostigamiento si el individuo se pone en contacto con usted de una forma ofensiva; cuando por ejemplo para molestar, insultar o avergonzarle, le propina golpes, patadas, empujones o le toca. Se podría considerar que hubo hostigamiento aunque usted no resulte lesionada o exista la amenaza de llevar a cabo dichos actos.

Si el propósito del agresor es molestarle o asustarle con gravedad y lo hace repetidamente, el agresor también podrá ser culpable de hostigamiento.

La agresión (N.J.S.A. 2C:12-1)

El ejemplo más común de una

Cuáles Son Sus Derechos Legales

Con respecto a *Looking Out*

Looking Out for Your Legal Rights® es publicada 10 veces al año por los Servicios Legales de Nueva Jersey. Si usted es un cliente de los Servicios Legales, puede obtener una copia en la oficina de Servicios Legales de su localidad. También puede leer *Looking Out* en nuestro sitio Web www.lsnj.org/espanol.

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Si se muda, envíenos su nueva dirección y una copia de la etiqueta pegada al último ejemplar de *Looking Out*.

Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

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Este boletín de noticias es sólo una información general. Si tiene un problema jurídico, usted debería ver a un abogado.

Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

agresión es cuando el victimario golpea a la víctima, la lastima o trata de lastimarla aunque no sea con un arma mortífera. También se puede definir como agresión si el agresor amenaza con hacerle daño. Por ejemplo, cuando el agresor a sabiendas y sin importarle que podría hacerle daño, le amenaza con un arma de fuego, esté cargada o no. En cualquiera de estos casos el victimario podría ser culpable de agresión.

En el caso que resulte lesionada, usted tiene que sentir dolor físico para que sea considerado un acto de agresión. No tiene que ser muy doloroso, puede ser el ardor que se siente cuando alguien le da una bofetada.

Las amenazas terroristas (N.J.S.A. 2C:12-3)

Todo aquel que amenace con cometer cualquier delito violento con la finalidad de atemorizar a otras personas, pudiera ser culpable de hacer amenazas terroristas. De igual manera sería culpable de hacer amenazas terroristas el individuo que amenace con matarle a usted o a otra persona y usted cree que lo puede hacer y que lo hará. Una amenaza con una condición, ("si no haces esto, te voy a matar"), quizás no cumpla con dicho criterio.

Los daños a la propiedad ajena (N.J.S.A. 2C:17-3)

El agresor puede ser culpable del delito de vandalismo a la propiedad ajena cuando le daña intencionalmente, sus pertenencias. Estas pertenencias tienen que ser suyas y no un bien común entre usted y el

agresor. También se manifiesta la culpabilidad del agresor cuando al manipular sus pertenencias las destruya o dañe, poniéndole a usted en peligro. Ejemplos de estas acciones delictivas son rayarle el carro con una llave, hacer huecos en las paredes de su vivienda habiendo utilizado los puños o destruir su teléfono celular.

La retención ilícita (N.J.S.A. 2C:13-2)

Se puede culpar al agresor de retener ilícitamente a su víctima cuando la pone en peligro de lesionarse, al encerrarla y no dejarla salir. Un ejemplo de este delito es cuando una persona está encerrada en un cuarto y el victimario empieza a agredirle. Las lesiones físicas graves son aquellas que podrían causar la muerte o una discapacidad de larga duración. También pudiera considerarse como una retención ilícita cuando una persona es sometida, en contra de su voluntad, a llevar una vida de servidumbre.

La privación ilegal de la libertad (N.J.S.A. 2C:13-3)

Un individuo es culpable de cometer el delito de privación ilegítima de la libertad cuando encierra a su víctima, en un lugar en el que no desea estar y no le permite salir del mismo. A diferencia de la retención ilícita, no es un requisito que haya corrido el riesgo de sufrir lesiones físicas graves. Por ejemplo, si la acción del agresor no permite que la persona pueda ir a otro lugar, sin embargo la víctima no resulta lesionada, es posible que se le declare al agresor, culpable del delito de privación ilegal de la libertad y no del delito de retención ilícita.

El allanamiento con fines delictivos (N.J.S.A. 2C:18-2)

Este delito tiene dos formas de manifestarse. Si se fuerza la entrada a una casa u otro edificio, y se tiene la intención de cometer un delito una vez que esté adentro, esta acción se puede determinar como allanamiento con fines delictivos. Cuando una persona se esconde, sin permiso, en una casa u otro edificio con la intención de cometer un delito, es posible que sea culpable de un allanamiento con fines delictivos.

El contacto sexual ilícito (N.J.S.A. 2C:14-1, 2C:14-3)

Una persona puede ser culpable de este delito si, para tener relaciones sexuales con otra, utiliza la fuerza o ejerce la coacción (tal como el acoso o amenazas de violencia). De no haberse dado libremente el consentimiento para el acto sexual, dicho contacto se considerará ser forzado o coaccionado. También se puede incluir las situaciones en las que el agresor ejerce la fuerza física sobre la víctima. Se definirá que hubo contacto sexual cuando el agresor toque



El asomarse por la ventana de una vivienda para ver a otra persona mientras esta no espera que le observen, podría considerarse como una violación de domicilio.

el muslo, ingle, nalga o pecho de la víctima, sin su permiso. El propósito del agresor será el de humillar o degradar a la víctima y darse placer a sí mismo.

La agresión sexual (N.J.S.A. 2C:14-1, 2C:14-2)

Para que se integre el delito de agresión sexual tiene que haber penetración sin consentimiento de la víctima y el agresor debe haber usado la fuerza o la coacción. Se determina que se ejerció fuerza o coacción cuando la víctima no da libremente su consentimiento para que se realice el contacto sexual; también se puede incluir si el agresor fuerza físicamente a la víctima. La penetración se refiere al sexo por vía vaginal, anal u oral o si se introducen los dedos u otro objeto extraño en la vagina o el ano de una persona. Puede darse el caso que el agresor lo haga directamente o que le ordene a la víctima que lo haga por sí misma.

El secuestro (N.J.S.A. 2C:13-1)

El secuestro tiene lugar cuando el agresor lleva a la víctima a otro lugar, por la fuerza, con amenazas o engaño. Se puede definir cuándo una persona retiene indebidamente a otra para exigir dinero por su rescate, o cuando se toma a alguien como rehén. También cuando el agresor pone a la víctima en un lugar por mucho tiempo, con el propósito de herirla o asustarla.

El acecho (N.J.S.A. 2C:12-10, 2C:12-10.1)

El acechador es aquel que de manera reiterada, haya mirado fijamente a una persona por mucho tiempo, persiguiéndola o enviando a otras per-

sonas para que la sigan, entrometiéndose con las pertenencias de otro, importunando o enviándole amenazas. El individuo tiene que haber hecho estas cosas a sabiendas de que esta acción causaría temor o inquietud en la víctima. El acosador puede perseguir a otra persona con el propósito de asustarle.

Si un tribunal penal declara al agresor culpable de acoso, la víctima puede recibir una orden de restricción por separado. Un padre de familia puede entablar, a nombre de un hijo menor de edad, una demanda para pedir una orden de restricción con base a que dicho menor está siendo perseguido.

La lascivia (N.J.S.A. 2C:14-4)

Se integra este delito cuando un individuo comete un acto indecente y ofensivo enfrente de una persona que no desee ver dicho acto. Un ejemplo común de esto es cuando una persona, para su propia satisfacción, exhibe impudicamente sus genitales ante otra persona que no ha dado su consentimiento.

La entrada ilícita (N.J.S.A. 2C:18-3)

Si la persona entra o se oculta en una casa u otro edificio sin permiso, es posible que sea culpable del delito de violación de domicilio o propiedad. La persona también tiene que saber que necesita el permiso o no tenía permiso para estar allí.

Algunos lugares no permiten la entrada. Quizás haya un guardia, un letrero, una cerca o una cerradura prohibiendo la entrada al edificio entero o a una sección del mismo. Si

una persona hace caso omiso de estas restricciones, y de toda forma entra a dicho lugar, el individuo podría ser culpable del delito de violación de domicilio o propiedad.

Uno no espera que lo estén vigilando cuando está en su habitación o en el baño. Si alguien se asoma por la ventana para ver a otra persona en su hogar, y esta no espera que le observen, el autor del acto puede ser culpable del delito de violación de domicilio o propiedad.

El homicidio

(N.J.S.A. 2C:11-1 to 2C:11-4)

El homicidio es cuando una persona causa la muerte a otra. Un intento de homicidio podría ser incluido en la audiencia para una orden final de restricción.

La coerción ilícita (N.J.S.A. 2C:13-5)

La coerción ilícita es cuando alguien intenta forzarlo a cambiar su voluntad de hacer o no hacer algo, usando la presión o la amenaza para lograr un propósito. Por ejemplo, cuando se le amenaza con causarle daño a usted o a alguien más, cometer un delito, acusar a alguien de haber cometido un delito, exponer un secreto que podría dañar su reputación o crédito, declarar o no ante un juez; o hacer algo para perjudicar su salud, seguridad, profesión, o relaciones personales. La coacción ilícita es algo más que una amenaza, esta tiene que haber sido prevista con la finalidad de condicionar el comportamiento de una persona.

El robo (N.J.S.A. 2C:15-1)

El robo ocurre cuando alguien le quita algo suyo, mientras que al mismo

tiempo le lastima, le amenaza con hacerle daño, utiliza la fuerza, o comete o amenaza con cometer cualquier otro delito.

El desacato de una orden de restricción por violencia doméstica (N.J.S.A. 2C:29-9)

Si usted ya tiene una orden de restricción temporal o definitiva y el demandado/agresor le llama, le envía mensajes o textos electrónicos, se aparece en su casa o trabajo o le contacta de alguna manera, esto es un incumplimiento a la orden de restricción. Incumplir una orden de restricción da como resultado la detención del acusado. Si usted tiene una orden de restricción temporal y el demandado ha infringido lo que en ella se establece, esto le permitirá ir al tribunal y adicionar la nueva información. Lo que modificaría la orden de restricción inicial, al constatarse el desacato de la orden por violencia doméstica; como un delito adicional para que el juez considere, durante el juicio, la imposición de la orden final de restricción.

Cualquier otro delito que implique un riesgo de muerte o lesiones físicas graves

Si alguien ha cometido en su contra, un delito que implique un riesgo de muerte o de lesiones físicas graves; esto puede ser catalogado como violencia doméstica. El incendio intencional y el abandono de una persona de la tercera edad, son dos ejemplos de delitos que pueden poner a alguien en peligro de muerte o de sufrir lesiones físicas graves.

¿Dónde puedo obtener más información o ayuda jurídica?

Muchas de las víctimas de violencia en el hogar necesitan ayuda adicional, una vivienda segura, o asistencia jurídica. Hay ayuda disponible para estas víctimas. Para obtener asistencia adicional, puede ponerse en contacto con las siguientes organizaciones.

En Nueva Jersey, la línea estatal de violencia doméstica brinda servicio confidencial las 24 horas del día, los 7 días de la semana y se puede contactar en el: 1-800-572-SAFE (7233) o en el sitio Web Coalición Nacional Contra la Violencia Doméstica (en inglés).

Vea las leyes de Nueva Jersey contra la violencia doméstica para obtener información adicional acerca de los derechos en caso de violencia doméstica, entre ellos el acceso a la guía completa de las leyes contra la violencia doméstica recopiladas por los Servicios Legales de Nueva Jersey.

Vea <http://archive.lsnjlaw.org/espanol/videos.cfm> que contiene videos explicando cómo solicitar una orden temporal de restricción y cómo representarse durante una audiencia para la obtención de una orden final.

Si tiene preguntas o necesita ayuda jurídica, llame a LSNJLAWSM la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, marcando el 1-888-LSNJ-LAW (1-888-576-5529), de lunes a viernes, desde las 8 de la mañana hasta las 5:30 de la tarde. □

Este artículo fue traducido del inglés por Al Moreno, coordinador del servicio lingüístico en LSNJ.