

RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
PART V. RULES GOVERNING PRACTICE IN THE CHANCERY DIVISION,
FAMILY PART
CHAPTER II. SPECIFIC CIVIL ACTIONS
RULE 5:7A. DOMESTIC VIOLENCE: RESTRAINING ORDERS

Rule 5:7A. Domestic Violence: Restraining Orders

(a) Application for Temporary Restraining Order. Except as provided in paragraph (b) of this rule, an applicant for a temporary restraining order shall appear before a judge or a domestic violence hearing officer to personally testify on the record or by sworn complaint submitted pursuant to N.J.S.A. 2C:25-28. If it appears that the applicant is in danger of domestic violence, the judge shall, upon consideration of the applicant's domestic violence affidavit, complaint or testimony, order emergency relief, including ex parte relief, in the nature of a temporary restraining order as authorized by N.J.S.A. 2C:25-17 et seq.

(b) Issuance of Temporary Restraining Order by Electronic Communication. A judge may issue a temporary restraining order upon sworn oral testimony of an applicant who is not physically present. Such sworn oral testimony may be communicated to the judge by telephone, radio or other means of electronic communication. The judge or law enforcement officer assisting the applicant shall contemporaneously record such sworn oral testimony by means of a tape-recording device or stenographic machine if such are available; otherwise, adequate long hand notes summarizing what is said shall be made by the judge. Subsequent to taking the oath, the applicant must identify himself or herself, specify the purpose of the request and disclose the basis of the application. This sworn testimony shall be deemed to be an affidavit for the purposes of issuance of a temporary restraining order. A temporary restraining order may issue if the judge is satisfied that exigent circumstances exist sufficient to excuse the failure of the applicant to appear personally and that sufficient grounds for granting the application have been shown. Upon issuance of the temporary restraining order, the judge shall memorialize the specific terms of the order and shall direct the law enforcement officer assisting the applicant to enter the judge's authorization verbatim on a form, or other appropriate paper, designated the duplicate original temporary restraining order. This order shall be deemed a temporary restraining order for the purpose of N.J.S.A. 2C:25-28. The judge shall direct the law enforcement officer assisting the applicant to print the judge's name on the temporary restraining order. The judge shall also contemporaneously record factual determinations. Contemporaneously the judge shall issue a written confirmatory order and shall enter thereon the exact time of issuance of the duplicate order. In vicinages where an approved form of electronic temporary restraining order is utilized and prepared electronically by the municipal court judge on a notebook computer or other device, the temporary restraining order may be transmitted electronically without need for a duplicate written order. In all other respects, the method of issuance and contents of the order shall be that required by paragraph (a) of this rule.

(c) Temporary Restraining Order. In court proceedings instituted under the Prevention of Domestic Violence Act of 1990, the judge shall issue a temporary restraining

order when the applicant appears to be in danger of domestic violence. The order may be issued ex parte when necessary to protect the life, health, or well-being of a victim on whose behalf the relief is sought.

(d) Final Restraining Order. A final order restraining a defendant shall be issued only on a specific finding of domestic violence or on a stipulation by a defendant to the commission of an act or acts of domestic violence as defined by the statute.

(e) Procedure Upon Arrest Without a Warrant. Whenever a law enforcement officer has effected an arrest without a warrant on a criminal complaint brought for a violation otherwise defined as an offense under the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., bail may be set and a complaint-warrant may be issued pursuant to the procedures prescribed in R. 3:4-1(b).

(f) Venue in Domestic Violence Proceedings. Venue in domestic violence actions shall be laid in the county where either of the parties resides, in the county where the domestic violence offense took place, or in the county where the victim of domestic violence is sheltered. The final hearing is to be held in the county where the ex parte restraints were ordered, unless good cause is shown for the hearing to be held elsewhere.

Note: Adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended, paragraph (b) caption and text amended and new paragraphs (c) and (d) adopted November 2, 1987 to be effective January 1, 1988; caption amended, former paragraph (c) redesignated paragraph (e), former paragraph (d) redesignated paragraph (f) and new paragraphs (c) and (d) adopted November 18, 1993 to be effective immediately; paragraphs (a), (b), and (e) amended July 12, 2002 to be effective September 3, 2002; paragraph (f) amended July 7, 2005 to be effective immediately; paragraph (b) amended July 21, 2011 to be effective September 1, 2011; paragraph (a) amended July 28, 2017 to be effective September 1, 2017.