

By: *Jeralyn L. Lawrence, Esq.*



Wife beating had been a fact of life for centuries. Marital abuse was traditionally acceptable and early common law recognized a husband's right to beat his wife, reasoning it was proper discipline. An old English proverb, "A woman, a horse, a hickory tree, the more you beat 'em the better they be," was the sentiment many years ago. This anecdote was further developed into a "rule of thumb" which gave husbands the right to beat their wives with a stick "no thicker than his thumb."

By the late 1800's, the law began to shift away from permitting this behavior. Today, domestic violence is a crime in New Jersey. It is illegal to assault, rape, stalk or harass one's spouse. In addition to the criminal prohibitions, our Legislature has provided civil protection for victims (male or female) of violence who are in a "domestic" relationship with their abusers by the 1982 enactment of the Prevention of Domestic Violence Act.

In adopting the Prevention of Domestic Violence Act, the Legislature declared that domestic violence is a serious crime against society and that there are thousands of persons in New Jersey who are regularly beaten, tortured and even killed by their spouses or persons they live with.

In New Jersey, immediately after an act of domestic violence has occurred, a victim can petition the Court on an emergent basis for a Temporary Restraining Order. If the violence occurred in the evening hours, the police department contacts the local municipal court judge who can also issue a Temporary Restraining Order. Temporary Restraining Orders are available 7 days a week, 24 hours a day. A Temporary Restraining Order can provide that the abuser not return to the scene of the violence and can restrain the abuser from having any contact or communication whatsoever with the victim. A Temporary Restraining Order can also forbid the abuser from possessing any firearms.

Within ten days after the entry of a Temporary Restraining Order, a hearing is held to determine if the Temporary Restraining Order should be made permanent whereby a Final Restraining Order would be entered. The victim must prove by a preponderance of the evidence (more likely than not) that an act of domestic violence has occurred. If that burden is not met, the Temporary Restraining Order is dismissed. If the burden is met, the Final Restraining Order is entered. This Order is powerful because the abuser is restrained from having any contact or communication with the victim. If there are children involved, a presumption arises in favor of the victim having custody of the children. The victim is generally awarded exclusive use and occupancy of the residence. Financial remedies and relief are also available to the victim.

If an abuser violates the Restraining Order, it is considered contempt of court. The abuser is arrested and the Prosecutor's office prosecutes the abuser under the criminal standard of beyond a reasonable doubt. If found guilty of contempt, the abuser faces significant consequences, including potential jail time, fines and costs.

If an abuser violates a Restraining Order and is found guilty of doing so twice, the abuser is sentenced to a mandatory 30-day jail sentence.

New Jersey takes domestic violence very seriously and has attempted to reach victims suffering from domestic violence.

Jeralyn Lawrence, a member of the Norris McLaughlin & Marcus Matrimonial Law Group, has been selected by her peers as one of New Jersey's Top 10 matrimonial lawyers under the age of 40. She has also been recognized by the New Jersey Law Journal as one of 40 accomplished and promising attorneys in the State of New Jersey under the age of 40. Jeralyn is a frequent speaker at matrimonial law programs and seminars. jjlawrence@nmmlaw.com.