



## **NEW JERSEY LAW REVISION COMMISSION**

### **Draft Tentative Report Relating to the Term “Household Members” as used in the “Prevention of Domestic Violence Act of 1991.”**

**February 08, 2021**

The New Jersey Law Revision Commission is required to “[c]onduct a continuous examination of the general and permanent statutory law of this State and the judicial decisions construing it” and to propose to the Legislature revisions to the statutes to “remedy defects, reconcile conflicting provisions, clarify confusing language and eliminate redundant provisions.” *N.J.S. 1:12A-8.*

This Report is distributed to advise interested persons of the Commission's tentative recommendations and to notify them of the opportunity to submit comments. Comments should be received by the Commission no later than **April 09, 2021.**

The Commission will consider these comments before making its final recommendations to the Legislature. The Commission often substantially revises tentative recommendations as a result of the comments it receives. If you approve of the Report, please inform the Commission so that your approval can be considered along with other comments. Please send comments concerning this Report or direct any related inquiries, to:

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## Executive Summary

The New Jersey Legislature considers domestic violence a serious crime against society<sup>1</sup> and the victims of domestic violence come from all social and economic backgrounds and ethnic groups.<sup>2</sup> The Legislature enacted the Prevention of Domestic Violence Act (PDVA) to “assure the victims of domestic violence the maximum protection from abuse the law can provide.”<sup>3</sup>

In *E.S. v. C.D.*, the Court considered whether it had jurisdiction under the PDVA to enter a restraining order against a defendant based on her employment relationship to the victim.<sup>4</sup>

The Commission recommends the modification of the PDVA to eliminate the term “household member” and replace it with language that would provide protection to victims of domestic violence from those with whom they reside or resided in the past.

## Background

In *E.S. v. C.D.*, the defendant was employed as a full-time, live-in nanny in the plaintiff’s household for seven months.<sup>5</sup> The defendant was ultimately fired for assaulting the plaintiff’s child.<sup>6</sup> For several weeks after being discharged from her employment, the defendant made numerous telephone calls to the plaintiff in addition to sending her threatening and harassing text messages.<sup>7</sup> As a result of this behavior, the plaintiff sought a final restraining order against the defendant under the PDVA.<sup>8</sup>

## Analysis

The PDVA specifically identifies who is considered a “victim of domestic violence” under the Act.<sup>9</sup> N.J.S. 2C:25-19(d), protects any individual eighteen years or older who has been subjected to domestic violence by a present, or former, “household member.”<sup>10</sup> The term “household member,” however, is not defined in the PDVA.<sup>11</sup>

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<sup>1</sup> N.J. STAT. ANN. § 2C:25-18 (West 2020).

<sup>2</sup> *Id.*

<sup>3</sup> N.J. STAT. ANN. § 2C:25-17 – 35 (West 2020).

<sup>4</sup> *E.S. v. C.D.*, 460 N.J. Super. 326 (Ch. Div. 2018).

<sup>5</sup> *Id.* at 328.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 327.

<sup>9</sup> N.J. STAT. ANN. § 2C:25-19(d) (West 2020). *See E.S. v. C.D.*, 460 N.J. Super. at 327.

<sup>10</sup> *Id.*

<sup>11</sup> Louis Locascio, *Nanny is a Member of Household for Domestic Violence Purposes*, New Jersey Law Journal, March 02, 2020, at 1.

The issue before the court in *E.S. v. C.D.* was whether the plaintiff was entitled to protection under the PDVA, given the parties' economic relationship.<sup>12</sup>

To determine whether someone was "at any time a household member," courts have traditionally considered six factors:<sup>13</sup>

(1) the nature and duration of the prior relationship; (2) whether the past domestic violence relationship provided a special opportunity for abuse and controlling behavior; (3) the passage of time since the end of the relationship; (4) the extent and nature of any intervening contacts; (5) the nature of the precipitating incident; and (6) the likelihood of ongoing contact or relationship.<sup>14</sup>

In *E.S. v. C.D.*, the Court examined the plaintiff's allegations against the backdrop of these factors.<sup>15</sup> The Court determined that: the defendant resided in plaintiff's home for seven months with her and her child<sup>16</sup>; by virtue of her employment the defendant gained insight into aspect of the plaintiff's life that rendered plaintiff vulnerable to personal attacks; two months had passed since the defendant left plaintiff's household; no intervening act would have given cause for defendant's actions; the defendant threatened and harassed the plaintiff after their economic relationship ended; and it was likely that this behavior would continue via social media.<sup>17</sup>

Since the adoption of the PDVA, New Jersey Courts have liberally interpreted the phrase "member of the household."<sup>18</sup> In *S.Z. v. M.C.*, for example, despite the absence of a traditional familial, sexual, or romantic relationship, the Appellate Division determined that a male guest, employed as a bookkeeper, who lived with the plaintiff for seven months, was a household member for purposes of the PDVA.<sup>19</sup> College suitemates, who were not roommates, were also considered members of the same household by the court for purposes of the PDVA.<sup>20</sup>

The fact that an individual receives a monetary benefit from engaging in a relationship does not automatically disqualify them from seeking protection under the PDVA.<sup>21</sup> The Court in *E.C.* specifically stated that the fact "that a victim had provided an economic benefit to a defendant should not automatically disqualify the victim from seeking relief under the PDVA."<sup>22</sup>

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<sup>12</sup> *E.S. v. C.D.*, 460 N.J. Super. at 327.

<sup>13</sup> *Id.* at 328; citing *Coleman v. Romano*, 388 N.J. Super. 342, 351-52 (Ch. Div. 2006).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 328-29.

<sup>18</sup> Louis Locascio, *Nanny is a Member of Household for Domestic Violence Purposes*, New Jersey Law Journal, March 02, 2020, at 1. (noting that the phrase "household" is so broad and "chameleon like" that it is akin to "obscenity," in that it falls into the category of terms which defy a precise definition yet are readily recognizable when encountered). See *Fireman's Fund v. Caldwell*, 270 N.J. Super. 157, 163-164 (Law Div. 1993).

<sup>19</sup> *S.Z. v. M.C.*, 417 N.J. Super. 622 (App. Div. 2011).

<sup>20</sup> *Hamilton v. Ali*, 350 N.J. Super. 479 (Ch. Div. 2001).

<sup>21</sup> *J.S. v. J.F.*, 410 N.J. Super. 611 (App. Div. 2009).

<sup>22</sup> *E.S. v. C.D.*, 460 N.J. Super. at 329.

## 50 State Survey

All fifty states, and the District of Columbia, have domestic violence statutes that identify individuals who may seek a court order of protection from domestic violence.<sup>23</sup> The statutory definition for the term “household member,”<sup>24</sup> where employed, is not uniform.

- “Household Member” – No definition

Nine states, and the District of Columbia, do not define “household member.”<sup>25</sup> Seven of those states have statutes that do not contain the term.<sup>26</sup>

Chapter 25 of the New Jersey Code of Criminal Justice contains the “Prevention of Domestic Violence Act of 1991.”<sup>27</sup> Subsection d. of N.J.S. 2C:25-19 defines “[v]ictim of domestic violence” in relevant part as “a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person **who is a present household member**

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<sup>23</sup> ALA. CODE § 13A-6-130 (West 2021); ALASKA STAT. ANN. § 18.66.990 (West 2021); ARIZ. REV. STAT. ANN. § 36-3001 (West 2021); ARK. CODE ANN. § 9-4-102 (West 2021); CAL. FAM. CODE § 6209 (West 2021); COLO. REV. STAT. ANN. § 13-14.5-102 (West 2021); CONN. GEN. STAT. ANN. § 46b-38a (West 2021); DEL. CODE ANN. tit. 10, § 1041 (West 2021); D.C. CODE ANN. § 16-1001 (West 2021); FLA. STAT. ANN. § 741.28 (West 2021); GA. CODE ANN. § 19-13-10 (West 2021); HAW. REV. STAT. ANN. § 586-1 (West 2021); IDAHO CODE ANN. § 39-6303 (West 2021); 750 ILL. COMP. STAT. ANN. 60/103 (West 2021); IND. CODE ANN. § 34-6-2-44.8 (West 2021); IOWA CODE ANN. § 236.2 (West 2021); KAN. STAT. ANN. § 60-3102 (West 2021); KY. REV. STAT. ANN. § 403.720 (West 2021); LA. STAT. ANN. § 46:2132 (West 2021); ME. REV. STAT. tit. 19-A, § 4002 (West 2021); MD. CODE ANN., Fam. Law § 4-501 (West 2021); MASS. GEN. LAWS ANN. ch. 209A, § 1 (West 2021); MICH. COMP. LAWS ANN. § 600.2950 (West 2021); MINN. STAT. ANN. § 518B.01 (West 2021); MS CODE § 93-21-3(a) (West 2021); MO. ANN. STAT. § 455.010 (West 2021); MONT. CODE ANN. § 40-15-102 (West 2021); NEB. REV. STAT. ANN. § 42-903 (West 2021); NEV. REV. STAT. ANN. § 33.540 (West 2021); N.H. REV. STAT. ANN. § 173-B:1 (West 2021); N.J. STAT. ANN. § 2C:25-19 (West 2021); N.M. STAT. ANN. § 40-13-2 (West 2021); N.Y. FAM. CT. ACT § 812 (McKinney 2021); N.C. GEN. STAT. ANN. § 50B-1 (West 2021); N.D. CENT. CODE ANN. § 14-07.1-01 (West 2021); OHIO REV. CODE ANN. § 3113.31 (West 2021); OKLA. STAT. ANN. tit. 22, § 60.1 (West 2021); OR. REV. STAT. ANN. § 107.705 (West 2021); 23 PA. STAT. AND CONS. STAT. ANN. § 6102 (West 2021); 12 R.I. GEN. LAWS ANN. § 12-29-2 (West 2021); S.C. CODE ANN. § 20-4-20 (West 2021); S.D. CODIFIED LAWS § 25-10-3.1 (West 2021); TENN. CODE ANN. § 36-3-601 (West 2021); TEX. FAM. CODE ANN. § 71.006 (West 2021); UTAH CODE ANN. § 78B-7-602 (West 2021); VT. STAT. ANN. tit. 15, § 1101 (West 2021); VA. CODE ANN. § 16.1-228 (West 2021); WASH. REV. CODE ANN. § 26.50.010 (West 2021); W. VA. CODE ANN. § 48-27-204 (West 2021); WIS. STAT. ANN. § 813.12 (West 2021); WYO. STAT. ANN. § 35-21-102 (West 2021).

<sup>24</sup> MD. CODE ANN., Fam. Law § 4-501 (West 2021) (uses the term “person eligible for relief”); CAL. FAM. CODE § 6209 (West 2021) (uses the term “cohabitant”); and UTAH CODE ANN. § 78B-7-602 (West 2021) (uses the term cohabitant). For purposes of this Report, these statutes are included among those that use and define the term “household member.”

<sup>25</sup> ALA. CODE § 13A-6-130 (West 2021); DEL. CODE ANN. tit. 10, § 1041 (West 2021); D.C. CODE ANN. § 16-1001 (West 2021); KY. REV. STAT. ANN. § 403.720 (West 2021); MS CODE § 93-21-3(a) (West 2021); MONT. CODE ANN. § 40-15-102 (West 2021); **N.J. STAT. ANN. § 2C:25-19 (West 2021)**; N.C. GEN. STAT. ANN. § 50B-1 (West 2021); S.D. CODIFIED LAWS § 25-10-3.1 (West 2021); and TENN. CODE ANN. § 36-3-601 (West 2021).

<sup>26</sup> See D.C. CODE ANN. § 16-1001 (West 2021); KY. REV. STAT. ANN. § 403.720 (West 2021); MS CODE § 93-21-3(a) (West 2021); MONT. CODE ANN. § 40-15-102 (West 2021); S.D. CODIFIED LAWS § 25-10-3.1 (West 2021); TENN. CODE ANN. § 36-3-601 (West 2021); and DEL. CODE ANN. tit. 10, § 1041 (West 2021).

<sup>27</sup> N.J. STAT. ANN. §§ 2C:25-17 to – 25-35 (West 2021)

or was at any time a household member...”<sup>28</sup>

In the absence of a definition for the term “household member”, it is unclear who is entitled to the statutory protections enumerated in the Act.<sup>29</sup>

- “Household Member” – Consanguinity and/or Affinity

In thirteen of the forty-one states that define the term “household member”, the definition is restricted to persons related by either consanguinity (descended from the same ancestor) or affinity (marriage); or, involved in a dating or intimate relationship.<sup>30</sup> This limited definition of “household member”, however, omits individuals who may cohabit but are not related by either consanguinity or affinity.

Twenty-eight states define “household member” in a way that is not limited by the parameters of consanguinity, affinity, dating, or intimacy.<sup>31</sup> Although the statutes of these states may include references to those qualifiers, they extend domestic violence protection to unrelated persons who reside, or have resided, together.<sup>32</sup> In those states, the following may qualify as a “household member”:

- persons who share or formerly shared a common dwelling<sup>33</sup>;
- an individual with whom the person resides or has resided<sup>34</sup>;

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<sup>28</sup> N.J. STAT. ANN. § 2C:25-19 (West 2021). *See* N.C. GEN. STAT. ANN. § 50B-1 (West 2021) (defining domestic violence to include “current or former household members” but not defining the term “household members”). *Compare* ALA. CODE § 13A-6-130 (West 2021) (excluding non-romantic or non-intimate co-residents from the definition of household member, while not defining this term).

<sup>29</sup> *See E.S. v. C.D.*, 460 N.J. Super. 326 (Ch. Div. 2018) and the discussion *supra* at 2-3.

<sup>30</sup> *See* Fig. 1. *E.g.* ALASKA STAT. ANN. § 18.66.990 (West 2021); ARIZ. REV. STAT. ANN. § 36-3001 (West 2021); FLA. STAT. ANN. § 741.28 (West 2021); IND. CODE ANN. § 34-6-2-44.8 (West 2021); LA. STAT. ANN. § 46:2132 (West 2021); ME. REV. STAT. tit. 19-A, § 4002 (West 2021); MD. CODE ANN., Fam. Law § 4-501 (West 2021); NEV. REV. STAT. ANN. § 33.540 (West 2021); N.Y. FAM. CT. ACT § 812 (McKinney 2021); OHIO REV. CODE ANN. § 3113.31 (West 2021); OKLA. STAT. ANN. tit. 22, § 60.1 (West 2021); 23 PA. STAT. AND CONS. STAT. ANN. § 6102 (West 2021).

<sup>31</sup> ARK. CODE ANN. § 9-4-102 (West 2021); CAL. FAM. CODE § 6209 (West 2021); COLO. REV. STAT. ANN. § 13-14.5-102 (West 2021); CONN. GEN. STAT. ANN. § 46b-38a (West 2021); GA. CODE ANN. § 19-13-10 (West 2021); HAW. REV. STAT. ANN. § 586-1 (West 2021); IDAHO CODE ANN. § 39-6303 (West 2021); 750 ILL. COMP. STAT. ANN. 60/103 (West 2021); IOWA CODE ANN. § 236.2 (West 2021); KAN. STAT. ANN. § 60-3102 (West 2021); MASS. GEN. LAWS ANN. ch. 209A, § 1 (West 2021); MICH. COMP. LAWS ANN. § 600.2950 (West 2021); MINN. STAT. ANN. § 518B.01 (West 2021); MO. ANN. STAT. § 455.010 (West 2021); NEB. REV. STAT. ANN. § 42-903 (West 2021); N.H. REV. STAT. ANN. § 173-B:1 (West 2021); **N.M. STAT. ANN. § 40-13-2 (West 2021) (providing that cohabitation is not a necessary predicate to be deemed a household member for purposes of this section)**; N.D. CENT. CODE ANN. § 14-07.1-01 (West 2021); OR. REV. STAT. ANN. § 107.705 (West 2021); 12 R.I. GEN. LAWS ANN. § 12-29-2 (West 2021); TEX. FAM. CODE ANN. § 71.006 (West 2021); UTAH CODE ANN. § 78B-7-602 (West 2021); VT. STAT. ANN. tit. 15, § 1101 (West 2021); VA. CODE ANN. § 16.1-228 (West 2021); WASH. REV. CODE ANN. § 26.50.010 (West 2021); W. VA. CODE ANN. § 48-27-204 (West 2021); WIS. STAT. ANN. § 813.12 (West 2021); WYO. STAT. ANN. § 35-21-102 (West 2021).

<sup>32</sup> *Id.*

<sup>33</sup> 750 ILL. COMP. STAT. ANN. 60/103 (West 2021).

<sup>34</sup> MICH. COMP. LAWS ANN. § 600.2950 (West 2021).

- persons jointly residing or formerly residing in the same dwelling unit<sup>35</sup>;
- persons who reside [cohabit] together or who have formerly resided [cohabited] together<sup>36</sup>; and,
- other adults sharing common living quarters.<sup>37</sup>

The New Mexico statute defining “household member” provides that “[c]ohabitation is not necessary to be deemed a household member for purposes of the [statute].”<sup>38</sup>

The North Dakota statute goes further, and extends domestic violence protection to “...any other person if the court determines that the relationship between the person and the alleged abusing person is sufficient to warrant the issuance of a domestic violence protection order.”<sup>39</sup>

- *“Household Member” – Defined, With Limitations*

- *Age and Underlying Relationship*

A number of statutes limit the definition of “household member” by virtue of an individual’s age or the nature of the underlying relationship. In Iowa, the term household member does not include children under the age of eighteen.<sup>40</sup> In both Illinois and Michigan “...neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in a business or social context[ ]...” is included in the statutory definition of household member.<sup>41</sup> Hawaii’s definition of “household member” “[d]oes not include those who are, or were, adult roommates or cohabitants only by virtue of an economic or contractual affiliation.”<sup>42</sup>

- *Time*

In Colorado, Rhode Island, and Virginia, the individuals involved in the domestic violence

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<sup>35</sup> HAW. REV. STAT. ANN. § 586-1 (West 2021).

<sup>36</sup> See ARK. CODE ANN. § 9-4-102 (West 2021); CAL. FAM. CODE § 6209 (West 2021); COLO. REV. STAT. ANN. § 13-14.5-102 (West 2021); CONN. GEN. STAT. ANN. § 46b-38a (West 2021); GA. CODE ANN. § 19-13-10 (West 2021); HAW. REV. STAT. ANN. § 586-1 (West 2021); IDAHO CODE ANN. § 39-6303 (West 2021); 750 ILL. COMP. STAT. ANN. 60/103 (West 2021); KAN. STAT. ANN. § 60-3102 (West 2021); MASS. GEN. LAWS ANN. ch. 209A, § 1 (West 2021); MICH. COMP. LAWS ANN. § 600.2950 (West 2021); MINN. STAT. ANN. § 518B.01 (West 2021); MO. ANN. STAT. § 455.010 (West 2021); NEB. REV. STAT. ANN. § 42-903 (West 2021); N.H. REV. STAT. ANN. § 173-B:1 (West 2021); N.D. CENT. CODE ANN. § 14-07.1-01 (West 2021); OR. REV. STAT. ANN. § 107.705 (West 2021); 12 R.I. GEN. LAWS ANN. § 12-29-2 (West 2021); TEX. FAM. CODE ANN. § 71.006 (West 2021); VT. STAT. ANN. tit. 15, § 1101 (West 2021); VA. CODE ANN. § 16.1-228 (West 2021); WASH. REV. CODE ANN. § 26.50.010 (West 2021); W. VA. CODE ANN. § 48-27-204 (West 2021); WIS. STAT. ANN. § 813.12 (West 2021).

<sup>37</sup> WYO. STAT. ANN. § 35-21-102 (West 2021).

<sup>38</sup> N.M. STAT. ANN. § 40-13-2 (West 2021).

<sup>39</sup> N.D. CENT. CODE ANN. § 14-07.1-01 (West 2021).

<sup>40</sup> IOWA CODE ANN. § 236.2 (West 2021)

<sup>41</sup> See 750 ILL. COMP. STAT. ANN. 60/103 (West 2021) and MICH. COMP. LAWS ANN. § 600.2950 (West 2021).

<sup>42</sup> HAW. REV. STAT. ANN. § 586-1 (West 2021). Compare with the holding of the court in *E.S. v. C.D.*, 460 N.J. Super. 326 (Ch. Div. 2018) and the discussion *supra* at 2-3.

action must reside or must have resided with one another during a specified period of time.<sup>43</sup> To be considered a “household member” in Colorado the victim must “...regularly reside[ ] or [have] regularly resided with the respondent within the last six months...”<sup>44</sup> Rhode Island defines a “household member” as “...adult persons who are presently residing together or who have resided together in the past three (3) years...”<sup>45</sup> Finally, “any individual who cohabits or who, within the previous 12 months, cohabited with the person...” is considered a “household member” in Virginia.<sup>46</sup>

### **Pending Bills**

Thirteen bills have been introduced in the current legislative session of the New Jersey Legislature that involve N.J.S. 2C:25-19,<sup>47</sup> but none of them addresses the subject matter of this Report.

### **Conclusion**

The proposed revisions, contained in the attached Appendix, are intended to clarify that the protection from domestic violence, in N.J.S. 2C:25-19(d), includes persons who reside together or who formerly resided together.

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<sup>43</sup> See COLO. REV. STAT. ANN. § 13-14.5-102 (West 2021); 12 R.I. GEN. LAWS ANN. § 12-29-2 (West 2021); and, VA. CODE ANN. § 16.1-228 (West 2021).

<sup>44</sup> COLO. REV. STAT. ANN. § 13-14.5-102 (West 2021).

<sup>45</sup> 12 R.I. GEN. LAWS ANN. § 12-29-2 (West 2021).

<sup>46</sup> VA. CODE ANN. § 16.1-228 (West 2021).

<sup>47</sup> See S.B. 3168, 219th Leg., First Annual Sess. (N.J. 2020) (Includes animal cruelty against victim’s animal within definition of domestic violence and other types of abuse) (identical to A.B. 4880); S.B. 4919, 219th Leg., First Annual Sess. (N.J. 2020) (revises the definition of domestic violence to include psychological and economic abuse) (identical to A.B. 4919); A.B. 3753, 219th Leg., First Annual Sess. (N.J. 2020) (Addresses elder abuse in domestic settings under “Prevention of Domestic Violence Act of 1991.”); S.B. 1215, 219th Leg., First Annual Sess. (N.J. 2020) (Clarifies intent of Legislature that attempt or conspiracy to commit certain offenses may constitute acts of domestic violence); S.B. 1270, 219th Leg., First Annual Sess. (N.J. 2020) (Expands the means to obtain a protective order for a minor) (identical to A.B. 2518); A.B. 2516, 219th Leg., First Annual Sess. (N.J. 2020) (Expands the domestic violence statutes to encompass minors 16 and older); S.B. 930, 219th Leg., First Annual Sess. (N.J. 2020) (Provides for animal orders and assignment of pet custody in divorce or dissolution of civil unions); A.B. 1110, 219th Leg., First Annual Sess. (N.J. 2020) (Clarifies that “Prevention of Domestic Violence Act of 1991” covers elder abuse in domestic settings); A.B. 1765, 219th Leg., First Annual Sess. (N.J. 2020) (Expands types of abusive acts that constitutes domestic violence under “Prevention of Domestic Violence Act of 1991.”); A.B. 1767, 219th Leg., First Annual Sess. (N.J. 2020) (Expands domestic violence protection for adoptive parents).

## Appendix

The relevant text of N.J.S. 2C:25-19(d), including proposed modifications (proposed additions are shown with underlining, and proposed deletions with ~~striketrough~~), follows:

As used in this act [...]

d. “Victim of domestic violence” means a person protected under this act and shall include any person:

(1) who is ~~18~~ 16<sup>48</sup> years of age or older or who is an emancipated minor and who has been subjected to domestic violence by:

(A) a spouse;<sup>2</sup>

(B) a former spouse;<sup>2</sup> or,

(C) any other person with whom is a present household member they reside or was at any time a household member. have resided at any time in the past;<sup>49</sup>

(2) ~~“Victim of domestic violence” also includes~~ any person, ~~regardless of age,~~<sup>50</sup> who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant;<sup>51</sup> or,

(3) ~~“Victim of domestic violence” also includes~~ any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship;<sup>52</sup> or,

(4) any parent of an adopted child who has been subjected to domestic violence by the person whose parental rights towards the adopted child have been terminated.<sup>53</sup>

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<sup>48</sup> A.B. 2516, 219th Leg., First Annual Sess. (N.J. 2020) (Expands the domestic violence statutes to encompass minors 16 and older).

<sup>49</sup> See A.B. 1110, 219th Leg., First Annual Sess. (N.J. 2020) (Clarifies that “Prevention of Domestic Violence Act of 1991” covers elder abuse in domestic settings); and A.B. 3753, 219th Leg., First Annual Sess. (N.J. 2020) (Addresses elder abuse in domestic settings under “Prevention of Domestic Violence Act of 1991.”) These bills call for the protection of elderly individuals in non-institutional settings. These individuals appear to be covered in the language proposed in subsection d.(1)(C).

<sup>50</sup> See S.B. 1270, 219th Leg., First Annual Sess. (N.J. 2020) (Expands the means to obtain a protective order for a minor) (identical to A.B. 2518).

<sup>51</sup> See L.1994, c.94 § 1, which expanded the definition of domestic violence to include any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim anticipates having a child in common, if one of the parties is pregnant.

<sup>52</sup> See L.1994, c.93 and 94 § 1, which expanded the definition of domestic violence to include a person in a dating relationship.

<sup>53</sup> See A.B. 1767, 219th Leg., First Annual Sess. (N.J. 2020) (Expands domestic violence protection for adoptive parents).



## COMMENTS

Modifications are proposed to the structure of subsection d. for ease of access and clarity.

- *Subsection d.(1)*

The proposed modification adopts the language set forth in A.B. 2516 that expands the domestic violence statute to encompass minors aged 16 and older.

- *Subsection d.(1)(c)*

The New Jersey Legislature enacted the Prevention of Domestic Violence Act (PDVA) to “assure the victims of domestic violence the maximum protection from abuse the law can provide.”<sup>54</sup> Given the ambiguity created by the absence of a definition of “household member”, the Commission proposes the elimination of this term and the modification of the definition of “victim of domestic violence” to clarify that domestic violence can occur between any persons who reside together or who have resided together in the past.

- *Subsection d.(2) and (3)*

The proposed modifications eliminate superfluous language, renumber the subsection, and divide it into its components for ease of access. Section d.(2) also reflects the bills introduced by the Legislature to expand access to a protective order for a minor.<sup>55</sup>

- *Subsection d.(4)*

This subsection reflects bills introduced during this legislative session and affords domestic violence protection to adoptive parents.<sup>56</sup>

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<sup>54</sup> N.J. STAT. ANN. § 2C:25-17 – 35 (West 2020).

<sup>55</sup> See n.50 *supra*.

<sup>56</sup> See n.53 *supra*.