



NEW JERSEY LAW REVISION COMMISSION

Draft Tentative Report Relating to the Definition of Victim of Domestic Violence in N.J.S. 2C:25-19d

June 9, 2014

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 **August 30, 2014**.

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

- In *S.P. v. Newark Police Dept.*, 428 N.J. Super 210 (App. Div. 2012) the Appellate Division considered the application of the Prevention of Domestic Violence Act (PDVA), N.J.S. 2C:25-17 et seq., to a sexual assault committed by a cohabitant on the same floor of a boarding house.
- Changes to the PDVA’s “Definitions” Section, N.J.S. § 2C:25-19, could address the issues identified in that case, and the addition of a new section of the statute could be used to incorporate the factor-based approach now used by the courts in determining the applicability of the PDVA.
- In addition to the proposed modifications to the PDVA, it was suggested by a commenter that the New Jersey Law Revision Commission should consider the possibility of an “alternative remedy statute” similar to that found in Maryland to offer protection to victims seeking restraining orders who do not qualify as “victims of domestic violence” under a domestic violence statute.

Background

I. Prevention of Domestic Violence Act

The Commission’s work in this area resulted from the Appellate Division’s decision in *S.P. v. Newark Police Dept.*,¹ which arose out of a sexual assault committed against the victim-plaintiff (“S.P.”) by a cohabitant on the same floor of her boarding house. After several unsolicited advances by the cohabitant one night, S.P. became afraid and called the police.² The police responded and, after asking several questions pursuant to their training, ultimately “told Santiago to stay away from S.P. . . . and told S.P. to call the police if she had any more problems.”³ At approximately 11:00 A.M. the next morning, Santiago surprised S.P. as she exited their common bathroom and sexually assaulted S.P..⁴ S.P. eventually escaped and the police later arrested Santiago and criminal charges were filed against him. S.P. eventually filed a lawsuit against the Newark Police Department for failing to arrest and remove Santiago as mandated by the PDVA.⁵ The Appellate Division ultimately determined that the PDVA did apply, but that the Tort Claims Act barred suit under the circumstances.⁶ The court, employing tests developed in case law over the last 20 years, found that S.P. and her attacker were “household members” under the PDVA.⁷

The PDVA was initially enacted in 1991 by the Legislature, which declared its “intent . . . to assure the victims of domestic violence the maximum protection from abuse the law can provide.”⁸ The Supreme Court mandated that New Jersey courts liberally construe the PDVA’s

¹ 428 N.J. Super 210 (App. Div. 2012).

² *S.P.*, 428 N.J. Super at 214–15.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 213.

⁶ *Id.* at 234.

⁷ *Id.*

⁸ *Id.*

provisions to effectuate the Act’s remedial purposes,⁹ and enforce the Legislature’s intent to prevent “violence that occurs in a family or family-like setting.”¹⁰ To qualify for the statute’s protection and civil remedies, the accuser must be a “victim of domestic violence.”¹¹ Complainants are entitled to the protections of the Act if they are (1) the alleged victims of one the fourteen enumerated crimes which constitutes “domestic violence,”¹² and (2) they meet the definition of a “victim of domestic violence” in the definition section of the Act.¹³ Whether or not the victim meets the definition of “victim of domestic violence” is a threshold issue for determining whether or not the victim is entitled to the Act’s protections.¹⁴

A “victim of domestic violence” is defined as “any person who is 18 years of age or older . . . and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a *present or former household member*.”¹⁵ In 1994, the Legislature amended the Act to provide victims of teen date abuse situations¹⁶ the same protections offered to other domestic violence victims. Another change to the PDVA in 1994 extended coverage to victims of domestic violence who are pregnant with a child of their attacker.¹⁷

Unlike other states’ domestic violence statutes,¹⁸ the PDVA does not define “dating relationship” or “present/former household members.” The statute also does not list any facts or circumstances that courts should consider in making a determination as to whether a dating relationship exists between the parties. Consequently, New Jersey courts—particularly the Appellate Division—have been responsible for defining the parameters of these phrases and expanding the statute’s reach to ensure that it protects victims as intended by the Legislature. Since its enactment, New Jersey courts have interpreted the PDVA to “expand[] the protections of the PDVA to more potential victims,”¹⁹ including a paid escort,²⁰ a victim only intending to reside with defendant temporarily without any dating relationship,²¹ a victim maintaining a separate residence but cohabiting frequently with the defendant,²² a stepdaughter-victim with whom defendant once resided but relocated subsequently,²³ college dormitory suitemates,²⁴ and a sibling with whom the defendant had shared a household over 50 years earlier but had

⁹ *Cesare v. Cesare*, 154 N.J. 394 (1998).

¹⁰ N.J.S. § 2C:25-18 (2013); *see, e.g.*, *Smith v. Moore*, 298 N.J. Super. 121, 125 (App. Div. 1997).

¹¹ *Id.*

¹² N.J.S. § 2C:25-19a (2013).

¹³ N.J.S. § 2C:25-19d (2013).

¹⁴ *See, e.g.*, *S.P. v. Newark Police Dept.*, 428 N.J. Super. 210, 227–28 (App. Div. 2012); *N.G. v. J.P.*, 426 N.J. Super. 398, 410–415 (App. Div. 2012); *S.Z. v. M.C.*, 417 N.J. Super. 622, 625 (App. Div. 2011); *Coleman v. Romano*, 388 N.J. Super. 342, 351–52 (Ch. Div. 2006); *Hamilton v. Ali*, 350 N.J. Super. 479, 488 (Ch. Div. 2001); *Storch v. Sauerhoff*, 334 N.J. Super. 226 (Ch. Div. 2000); *Smith v. Moore*, 298 N.J. Super. 121 (App. Div. 1997); *South v. North*, 304 N.J. Super. 104, 112 (Ch. Div. 1997); *Bryant v. Burnett*, 264 N.J. Super. 222 (App. Div.), *certif. den.* 134 N.J. 478 (1993); *Desiato v. Abbott*, 261 N.J. Super. 30 (Ch. Div. 1992).

¹⁵ N.J.S. § 2C:25-19d (2013) (emphasis added).

¹⁶ N.J. ASSEMBLY JUDICIARY, LAW, AND PUBLIC SAFETY COMMITTEE STATEMENT TO A. 286, May 19, 1994.

¹⁷ P.L. 1994, c. 94, § 1.

¹⁸ *See, e.g.*, HAW. REV. STAT. § 586-1 (2013).

¹⁹ *S.P. v. Newark Police Dep’t*, 428 N.J. Super. 210, 224 (App. Div. 2012).

²⁰ *J.S. v. J.F.*, 410 N.J. Super. 611, 615 (App. Div. 2009).

²¹ *Bryant v. Burnett*, 264 N.J. Super. 222 (App. Div.), *certif. den.* 134 N.J. 478 (1993).

²² *Desiato v. Abbott*, 261 N.J. Super. 30 (Ch. Div. 1992).

²³ *Storch v. Sauerhoff*, 334 N.J. Super. 226 (Ch. Div. 2000).

²⁴ *Hamilton v. Ali*, 350 N.J. Super. 479 (Ch. Div. 2001).

maintained sporadic contact.²⁵ In *S.P.*, the Act was extended to include two boarders in a rooming house living on the same floor and sharing a communal kitchen with the rest of the boarders of the house.²⁶

The recurring circumstances in most of the above cases is a determination that the “qualities and characteristics of [the parties’] relationship place plaintiff in a more susceptible position for abusive and controlling behavior”²⁷ and that the parties’ past or present living arrangement places them in a “family-like setting”²⁸ within the meaning of the PDVA. That description lies at the heart of the term “household” within the meaning of the statute. The susceptibility of the plaintiff is caused by his or her household and “family-like” relationship with the defendant, making it difficult for the plaintiff to avoid future violent acts without the protection of the courts. In such circumstances, the prevention of future violence to the victim is the paramount “responsibility of the courts.”²⁹

The courts adapted the phrase “present and former household members” to effectuate the Act’s remedial purposes in a rapidly changing society. For these reasons, it is suggested that a factor-based approach to defining present and former household members be adopted by New Jersey. In addition, the definition of “dating relationship” could include a factor-based approach that provides guidance to judges and law enforcement regarding the identification of a protected person under the Act. Doing so would most accurately reflect current practice in state courts. The definition of “victim of domestic violence could also be rephrased to more clearly express the current state of the law.

A factor-based approach is not foreign to contemporary practice in New Jersey when interpreting the PDVA. In fact, a totality-of-the-circumstances test is usually employed, depending on the circumstances of each individual case, to determine whether a person is a present or former household member, or whether a victim is in a dating relationship with the accused. In *Desiato v. Abbott*, the Chancery Division established five factors for determining whether or not a victim and accused were “present household members” for purposes of the PDVA:

- (1) Constancy of the relationship.
- (2) Overnight stays at each other’s residence.
- (3) Personalty items such as jewelry, clothing and personal grooming effects stored at each other’s residences.
- (4) Shared property arrangements, such as automobile usage, access to each other’s bank accounts and one mailing address for billings or other legal purposes.
- (5) Familiarity with each other’s siblings and parent’s socially in dining and/or entertainment activities together, and/or attendance together at extended family functions such as weddings.³⁰

²⁵ *N.G. v. J.P.*, 426 N.J. Super. 398 (App. Div. 2012).

²⁶ *S.P. v. Newark Police Dept.*, 428 N.J. Super. 210 (App. Div. 2012).

²⁷ *S.Z. v. M.C.*, 417 N.J. Super. 662, 625 (App. Div. 2011) (quoting *Hamilton*, 350 N.J. Super. at 486, 488).

²⁸ N.J.S. 2C:25-17 (2013).

²⁹ N.J.S. 2C:25-17 (2013).

³⁰ *Desiato v. Abbott*, 261 N.J. Super. 30, 34 (Ch. Div. 1992).

In the 2012 Appellate Division case of *N.G. v. J.P.*, the court used the six factors drawn from a Chancery case decided in 2006 to help determine whether the two parties were “former household members” under the PDVA:

- (1) The nature and duration of the prior relationship;
- (2) Whether the past domestic relationship provides a special opportunity for abuse and controlling behavior;
- (3) The pass 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 contract or relationship.³¹

Also critical to a finding that the victim and the accused are “former household members”, according to the 2000 decision in *Storch v. Sauerhoff*, is a “showing that the alleged perpetrator’s past domestic relationship with the alleged victim provides a special opportunity for ‘abusive and controlling behavior.’”³²

Finally, the Appellate Division noted in *S.K. v. J.H.*, in 2012, that determinations as to whether a dating relationship existed in a particular case have been decided based on six factors:

- (1) Was there a minimal social interpersonal bonding of the parties over and above a mere casual fraternization?
- (2) How long did the alleged dating activities continue prior to the acts of domestic violence alleged?
- (3) What were the nature and frequency of the parties’ interactions?
- (4) What were the parties’ ongoing expectations with respect to the relationship, either individually or jointly?
- (5) Did the parties demonstrate an affirmation of their relationship before others by statement or conduct?
- (6) Are there any other reasons unique to the case that support or detract from a finding that a ‘dating relationship’ exists?³³

Courts might also consider the time between the alleged event of domestic violence and the termination of the dating relationship, and the nature of the event, the amount of intervening contacts since the dating relationship, the nature and duration of the prior relationship, the duration of any hiatus since the end of that relationship, and other appropriate factors.³⁴

The factor-based approach may be best exemplified by the Massachusetts domestic violence statute, which states:

- “Family or household members”, persons who:
- (a) are or were married to one another;
 - (b) are or were residing together in the same household;
 - (c) are or were related by blood or marriage;

³¹ *N.G. v. J.P.*, 426 N.J. Super. 398, 410 (citing *Coleman v. Roman*, 388 N.J. Super. 342, 351–2 (Ch. Div. 2006)).

³² *Storch v. Sauerhoff*, 334 N.J. Super. 226, 232 (Ch. Div. 2000) (quoting *Jutchenko v. Jutchenko*, 282 N.J. Super. 17, 20 (App. Div. 1995)).

³³ *S.K. v. J.H.*, 426 N.J. Super 230, 234–35 (App. Div. 2012).

³⁴ *Tribuzio v. Roder*, 356 N.J. Super. 590 (App. Div. 2003).

- (d) having a child in common regardless of whether they have ever married or lived together; or
- (e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts consideration of the following factors:
 - (1) the length of time of the relationship;
 - (2) the type of relationship;
 - (3) the frequency of interaction between the parties; and
 - (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

The factor-based approach allows judges to interpret the statute to protect victims to the fullest extent envisioned by the Legislature, while remaining flexible in applying the statute to unique circumstances that require immediate action. Furthermore, a factor-based approach puts victims and defendants on notice as to its provisions before an act of domestic violence occurs. If a factor-based approach were in effect in New Jersey in advance of the attack in the S.P case, reflection of that approach in the domestic violence manual—which serves as a training tool and guidance for police officers—might have impacted the outcome for the victim.

The statute could be altered to more clearly express the 1994 amendments to the definition of domestic violence. The 1994 amendments were added to the original changes in 1991, and became two separate sentences of the statute simply due to the fact that two separate bills added victims of any age in a “dating relationship” with the defendant³⁵ and those pregnant with the accused child.³⁶ The statute’s coverage could remain substantially the same, but could more clearly express the definition if it was bifurcated and listed the necessary circumstances for coverage if the victim is over the age of 18 or an emancipated minor, and the circumstances for those covered regardless of age: (1) having a dating relationship, (2) sharing a child, or (3) being pregnant with a child in common with the accused.

The PDVA’s definition section, which is determinative of whether or not a complainant is entitled to the Act’s protections and remedies, is arguably out-of-step with the factors considered by the courts and with other state domestic violence statutes.³⁷ Three terms in particular in the PDVA’s definition section are outmoded when compared to New Jersey courts’ determination of whether a victim is a protected person under the Act: present household members, former household members, and dating relationship.³⁸ In addition, the definition of “victim of domestic violence” could be more clearly expressed by a general restructuring of 2C:25-19(d). See the Appendix on page 10 for the proposed changes to the statute consistent with these considerations.

³⁵ P.L. 1994, c. 93, § 1.

³⁶ P.L. 1994, c. 94, § 1.

³⁷ See, e.g., MASS. GEN. LAWS ch. 209A, §1 (2013); ALA. CODE § 30-5-2 (2013); HAW. REV. STAT. § 586-1 (2013).

³⁸ N.J.S. 2C: 25-19d (2013).

II. Alternative Remedy Statute

A. Maryland Statute

In addition to the work on the PDVA, the New Jersey Law Revision Commission also requested that Staff research the potential addition of an “alternative remedy statute” like those found in other states. Professor Jessica Miles, of Seton Hall University School of Law, recommended that Staff review Maryland’s statute as a model. The “alternative remedy” statutes provide protection to victims seeking restraining orders who do not qualify as “victims of domestic violence” under their State’s respective domestic violence statutes.

In Maryland, a petitioner does not qualify for protection under its alternative remedy statute if the petitioner is a “person eligible for relief”³⁹—the equivalent of “victim of domestic violence” in the PDVA—under its own domestic violence statute.⁴⁰

The Maryland “alternative remedy” statute provides:

(a) A petitioner may seek relief under this subtitle by filing with the court, or with a commissioner under the circumstances specified in § 3-1503.1(a) of this subtitle, a petition that alleges the commission of any of the following acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition:

- (1) An act that causes serious bodily harm;
- (2) An act that places the petitioner in fear of imminent serious bodily harm;
- (3) Assault in any degree;
- (4) Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
- (5) False imprisonment;
- (6) Harassment under § 3-803 of the Criminal Law Article;
- (7) Stalking under § 3-802 of the Criminal Law Article;
- (8) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or
- (9) Malicious destruction of property under § 6-301 of the Criminal Law Article.⁴¹

The Maryland statute provides protection at different stages of the proceedings. It offers injunctive relief similar to a temporary or final restraining order in New Jersey, but such relief is referred to as a “peace order”⁴² in Maryland. First, the petitioner-victim may seek an interim peace order that expires after two business days have passed since the issuance of the interim

³⁹ MD. CODE ANN., FAM. LAW § 4-501(m) (2014).

⁴⁰ MD. CODE ANN., CTS. & JUD. PROC. § 3-1502(b)(1) (2014).

⁴¹ MD. CODE ANN., CTS. & JUD. PROC. § 3-1503(a) (2014).

⁴² See MD. CODE ANN., CTS. & JUD. PROC. § 3-1501(d)–(e), (f) (2014).

peace order, or when a hearing is held for a temporary peace order, whichever is earlier.⁴³ The order may be issued by a district court commissioner if the courts are closed and there are “reasonable grounds to believe that the respondent has committed one of the [nine enumerated acts above].”⁴⁴ Such immediate relief—available despite the unavailability of a judge—allows the district court commissioner to order the petitioner to “[r]efrain from contacting, attempting to contact, or harassing the petitioner; [r]efrain from entering the residence of the petitioner; and [r]emain away from the place of employment, school, or temporary residence of the petitioner.”⁴⁵

A judge will subsequently hold a hearing to determine whether the extend protection offered by the interim peace order through the issuance of a “temporary peace order.”⁴⁶ The judge may make the temporary peace order effective for at least seven days,⁴⁷ but may extend the order up to thirty days “where necessary to provide protection or for other good cause.”⁴⁸ If the order’s expiration date falls on a day the courts are closed, the order will not expire until two days have passed on which the court is open.⁴⁹

After the temporary peace order is issued, the petitioner and respondent attend a hearing to determine whether a “final peace order” shall issue.⁵⁰ As the Maryland law is currently applied, the judge may issue the final peace order to protect the petitioner if he or she finds “by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, [one of the nine acts enumerated above] against the petitioner, or if the respondent consents . . .”⁵¹ The law was amended in April by the Maryland Legislature, however, to *lower* the burden of proof necessary for the petition to obtain a final peace order from clear and convincing to a preponderance of the evidence.⁵² Thus, it seems the Maryland Legislature has not only deemed the law effective, but also saw fit expand the protections that it affords.⁵³

B. New Jersey Proposed Legislation

Currently, there are two bills pending in the New Jersey Legislature that provide for a law similar to the Maryland statute review above. Assemblymen Gordon Johnson and Troy Singleton have sponsor the bill introduced in the Assembly.⁵⁴ The bill offers the “issuance of restraining orders in situations where the the [sic] domestic violence statutes are inapplicable because the victim lacks a prior relationship with the offender.”⁵⁵ The Assembly bill, however, does not prohibit the application for such relief where the petitioner meets the definition of “victim of

⁴³ MD. CODE ANN., CTS. & JUD. PROC. § 3-1503.1(g)(1) (2014).

⁴⁴ *Id.* § 3-1503.1(a)–(b).

⁴⁵ *Id.* § 3-1503.1(c)(2)(ii)–(iv).

⁴⁶ MD. CODE ANN., CTS. & JUD. PROC. § 3-1504(a)(1) (2014).

⁴⁷ *Id.* § 3-1504(c)(1).

⁴⁸ *Id.* § 3-1504(c)(2).

⁴⁹ *Id.* § 3-1504(c)(3).

⁵⁰ MD. CODE ANN., CTS. & JUD. PROC. § 3-1505(a) (2014).

⁵¹ *Id.* § 3-1505(c)(1)(ii).

⁵² 2014 Md. Laws Ch. 111, Section 1.

⁵³ *See id.*

⁵⁴ A. 1650, 216th Leg. (N.J. 2014).

⁵⁵ *Id.*

domestic violence” in the PDVA, like the Maryland statute. Nor does the bill provide for an interim form of injunctive relief, like the interim peace order available under the Maryland statute. The bill does, however, explicitly address the lack of coverage caused by the relationship requirement in the PDVA. State Senator Nellie Pou has introduced another bill in the Senate⁵⁶ that is substantially—if not precisely—the same.

C. Suggestion to the Commission

Staff seeks guidance from the Commission as regarding whether the Commission would like Staff to outline the apparent advantages of the Maryland statute, and provide this information to the sponsors of the pending legislation. Such a proposal would require further investigation of the Maryland statute’s success, and any effect that other New Jersey laws might have on the adoption of a similar statute in New Jersey.

⁵⁶ S. 659, 216 Leg. (N.J. 2014).

Appendix—Proposed Changes to the Statute

The text of N.J.S. 2C:25-19, including the proposed modifications to subsection d. (shown with underlining/strikethrough), is as follows:

2C:25-19. Definitions.

As used in this act:

a. “Domestic violence” means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor:

- (1) Homicide N.J.S. 2C:11-1 et seq.
- (2) Assault N.J.S. 2C:12-1
- (3) Terroristic threats N.J.S. 2C:12-3
- (4) Kidnapping N.J.S. 2C:13-1
- (5) Criminal restraint N.J.S. 2C:13-2
- (6) False imprisonment N.J.S. 2C:13-3
- (7) Sexual assault N.J.S. 2C:14-2
- (8) Criminal sexual contact N.J.S. 2C:14-3
- (9) Lewdness N.J.S. 2C:14-4
- (10) Criminal mischief N.J.S. 2C:17-3
- (11) Burglary N.J.S. 2C:18-2
- (12) Criminal trespass N.J.S. 2C:18-3
- (13) Harassment N.J.S. 2C:33-4
- (14) Stalking P.L.1992, c. 209 (C. 2C:12-10)

When one or more of these acts is inflicted by an unemancipated minor upon a person protected under this act, the occurrence shall not constitute “domestic violence,” but may be the basis for the filing of a petition or complaint pursuant to the provisions of section 11 of P.L.1982, c. 77 (C. 2A:4A-30).

b. “Law enforcement agency” means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers.

c. “Law enforcement officer” means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

d. “Victim of domestic violence” means 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 or former household member.~~ “Victim of domestic violence” also includes any person, ~~regardless of age, 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. “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.~~

(1) 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) A spouse;

(B) A former spouse; or

(C) Any other person who is a present or former household member, determined pursuant to 2C:25-19.1 subsections a. and b., respectively; or

(2) Any person, regardless of age, who has been subjected to domestic violence by a person:

(A) With whom the victim has a child in common;

(B) With whom the victim anticipates having a child in common, if one of the parties is pregnant; or

(C) With whom the victim has had a dating relationship, as determined pursuant to 2C:25-19.1 subsection c.

e. “Emancipated minor” means a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated.

2C:25-19.1. Factors to Consider in Determining Present Household Members, Former Household Members, and Dating Relationship

a. A court shall consider the following factors to determine whether a person is a “present household member” for purposes of 2C:25-19 d.(1)(c):

(1) The consistency of the relationship;

(2) Whether there were overnight stays at each other’s residences;

(3) Whether there were personal items stored at each other’s residences;

(4) Any shared property arrangements;

(5) Familiarity with each other’s siblings and parents socially in dining or entertainment activities together, or attendance together at extended family functions such as weddings and the like; and

(6) Other similar facts or circumstances indicating a present domestic relationship that provides a special opportunity for the accused to exercise abusive and controlling behavior over the victim.

b. A court shall consider the following factors to determine whether a person is a “former household member” for purposes of 2C:25-19 d.(1)(c):

(1) The nature and duration of the past relationship;

(2) Whether the past domestic relationship provides a special opportunity for abusive and controlling behavior;

(3) The passage of time since the end of the cohabitation of the parties;

(4) The nature and extent of any intervening contacts between the victim and the alleged perpetrator since the parties ceased cohabitation;

(5) The nature of the precipitating incident; and

(6) The likelihood of ongoing contact or a relationship that is undesirable to the victim.

c. A court shall consider the following factors to determine whether a person is in a “dating relationship,” for purposes of 2C:25-19 d.(2)(c):

(1) Whether there was minimal social interpersonal bonding of the parties over and above a mere casual fraternization;

(2) The length of time the alleged dating activities continued prior to the act of domestic violence alleged;

(3) The nature and frequency of the parties’ interactions;

(4) The parties’ ongoing expectations with respect to the relationship, either individually or jointly;

(5) Whether the parties demonstrated an affirmation of their relationship before others by statement or conduct; and

(6) Whether there are any other reasons unique to the case that support or detract from a finding that a dating relationship exists.