

§4654. Hearings

1. Full hearing. A hearing must be held at which the plaintiff shall prove the allegation of harassment by a preponderance of the evidence.

[RR 2003, c. 2, §8 (COR).]

2. Temporary orders. The court may enter any temporary orders, authorized under subsection 4, without written or oral notice to the defendant or the defendant's attorney if:

A. It appears clearly from a verified complaint or an affidavit accompanying the complaint that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct, or the plaintiff's business property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

(2-A) If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, the plaintiff has obtained a copy of a notification issued against the other person as described in Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or the plaintiff has filed a statement of good cause why such relief was not sought or why such a notice was not issued; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment; and [PL 2011, c. 559, Pt. C, §4 (AMD).]

B. [PL 2011, c. 559, Pt. C, §5 (RP).]

C. The court provides written reasons for entering a temporary order. [PL 1987, c. 515, §1 (NEW).]

[PL 2011, c. 559, Pt. C, §§4, 5 (AMD).]

3. Emergency relief. Emergency relief is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for protection of a victim of harassment, a complaint may be presented to any judge of the District Court or Justice of the Superior Court. Upon a meeting of the requirements of subsection 2, the court may enter any temporary orders, authorized under subsection 4, as the court considers necessary to protect the plaintiff from harassment. [PL 2003, c. 658, §6 (AMD).]

B. If a complaint is presented under this subsection, the complaint and any order issued pursuant to the complaint must be immediately certified to the clerk of the District Court having venue for filing. This certification to the court has the effect of commencing proceedings and invoking the other provisions of this chapter. [PL 2003, c. 658, §6 (AMD).]

C. An order remains in effect pending a hearing pursuant to subsection 1. [PL 2003, c. 658, §6 (AMD).]

[PL 2003, c. 658, §6 (AMD).]

4. Interim relief. The court, in an ex parte proceeding, may enjoin the defendant from engaging in any of the following:

A. Imposing any restraint upon the person or liberty of the plaintiff or the plaintiff's employees; [PL 1995, c. 265, §5 (AMD).]

B. Threatening, assaulting, molesting, harassing or otherwise disturbing the peace of the plaintiff or the plaintiff's employees; [PL 1995, c. 265, §5 (AMD).]

- C. Entering the plaintiff's residence or property, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff; [PL 1995, c. 265, §6 (AMD).]
- D. Taking, converting or damaging property in which the plaintiff may have a legal interest; [PL 1993, c. 680, Pt. A, §11 (AMD).]
- E. [PL 1995, c. 650, §5 (RP).]
- F. Repeatedly and without reasonable cause:
 - (1) Following the plaintiff; or
 - (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; [PL 2015, c. 410, Pt. C, §2 (AMD); PL 2015, c. 443, §2 (AMD).]
- G. Having any direct or indirect contact with the plaintiff; [PL 2017, c. 288, Pt. A, §5 (AMD).]
- H. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; or [PL 2017, c. 288, Pt. A, §6 (RPR).]
- I. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession. [PL 2017, c. 288, Pt. A, §7 (NEW).]

If the court enjoins the defendant under this subsection, and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

[PL 2017, c. 288, Pt. A, §§5-7 (AMD).]

5. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency, the court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order, and the law enforcement agency, court security officer or chief administrative officer of the correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously. [PL 2009, c. 94, §1 (AMD).]

6. Dissolution or modification. Notwithstanding any statutory provision to the contrary, on 2 days' notice to the plaintiff or on such shorter notice as the court may order, a person who is subject to any order may appear and move the dissolution or modification of the order and in that event the court shall proceed to hear and determine the motion. The hearing on the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At that hearing, the plaintiff has the burden of justifying any finding in the ex parte order that the defendant has challenged by affidavit. Nothing in this section may be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order. [PL 2011, c. 559, Pt. C, §6 (AMD).]

7. Extension. If a hearing under subsection 1 is continued, the court may make or extend such temporary orders as it deems necessary. [PL 1987, c. 515, §1 (NEW).]

8. Service of order; use of electronic copies. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief

administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

[PL 2009, c. 555, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 515, §1 (NEW). PL 1987, c. 708, §4 (AMD). PL 1989, c. 164 (AMD). PL 1991, c. 760, §3 (AMD). PL 1993, c. 199, §§3-5 (AMD). PL 1993, c. 475, §1 (AMD). PL 1993, c. 680, §§A10-13 (AMD). PL 1995, c. 265, §§4-6 (AMD). PL 1995, c. 650, §§4-7 (AMD). PL 1999, c. 542, §1 (AMD). PL 2001, c. 134, §2 (AMD). RR 2003, c. 2, §8 (COR). PL 2003, c. 658, §§4-7 (AMD). PL 2009, c. 94, §1 (AMD). PL 2009, c. 555, §1 (AMD). PL 2011, c. 559, Pt. C, §§4-6 (AMD). PL 2015, c. 410, Pt. C, §§2-4 (AMD). PL 2015, c. 443, §§2-4 (AMD). PL 2017, c. 288, Pt. A, §§5-7 (AMD).

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