

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5285

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2023

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 5285.

As amended and reported by the committee, Assembly Bill No. 5285 requires copies of certain law enforcement records to be provided, upon request, to victims of domestic violence.

Under the bill, a domestic violence victim, or their legal representative, may request copies of the following records from the law enforcement agency with the primary responsibility for investigating a domestic violence complaint, provided that certain records do not implicate the identity or statements of a third party witness or jeopardize an ongoing investigation:

- photographs taken by a law enforcement officer;
- law enforcement officer body worn camera or dashboard camera footage;
- 9-1-1 transcript or recording; or
- contents of the police report.

The right to access records provided under the bill is in addition to the right of a victim to obtain records under current law pursuant to the open public records act (OPRA). The records are to be provided at no charge within 10 calendar days of the request. If the law enforcement agency is unable to produce a copy of a requested record within the 10-day period, the law enforcement agency may request additional time from the court. If granted additional time by the court, the law enforcement agency is to provide a copy of the records to the victim or victim's legal representative within 24 hours after the record becomes available. A record is to be provided in accordance with the request of the victim or victim's representative.

A victim of domestic violence who is seeking to access law enforcement agency records under the bill, but who is not seeking other relief in the Family Part of the Chancery Division of the Superior Court may enforce their right of access pursuant to OPRA on an expedited basis. The victim shall not be required to complete a formal OPRA request form to access the records.

Under current law, a hearing is to be held in the family part within 10 days of the filing of a domestic violence complaint.

Under the bill, if there are law enforcement records related to a domestic violence incident related to the complaint, and the plaintiff has requested the records, the court is required to grant the plaintiff's request for an adjournment if reasonably needed to collect evidence contained in the records. If a plaintiff has requested records pursuant to provisions of the bill but has not received the records as of the date of the original or rescheduled hearing, the law enforcement agency's failure to provide the requested records is to be noted on the record prior to the court making a final determination on the request for restraints. The absence of law enforcement records is not to be a basis to deny relief pursuant to the bill.

The bill further provides that a party to a domestic violence complaint may request the release or unsealing of expunged records. The records may be provided to either party, the county prosecutor, Criminal Division of the Superior Court, or Attorney General, in relation to a domestic violence temporary or final restraining order, weapons forfeiture complaint, or a temporary or final extreme risk protective order.

COMMITTEE AMENDMENTS:

The Committee amended the bill to:

(1) clarify that a request for records may be made to the law enforcement agency with primary responsibility for investigating a domestic violence complaint;

(2) provide that the absence of law enforcement records is not to be a basis to deny relief pursuant to the bill;

(3) provide that if a law enforcement agency is unable to produce requested records within the 10-day-period, the law enforcement agency is required to make the law enforcement officers primarily responsible for investigating the complaint available for the hearing;

(4) provide that the court may issue appropriate protective orders to limit the disclosure of information to appropriate parties;

(5) remove the provision of the bill which provides that a court may compel the production of records by issuing an order to show cause to the law enforcement agency;

(6) provide that the court is to grant a law enforcement agency's request for additional time to produce records, unless the court finds good cause to deny the request;

(7) remove the provision that provides that the court may grant a plaintiff's request for an adjournment of up to 14 calendar days to provide plaintiff additional time seek production of records from a law enforcement agency; and

(8) make technical corrections to the bill.