

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

GLENN A. GRANT, J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS



RICHARD J. HUGHES
JUSTICE COMPLEX
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TRENTON, NEW JERSEY 08625-0037

TO: ASSIGNMENT JUDGES
FROM: GLENN A. GRANT, J.A.D.
DATE: MARCH 2, 2010
**SUBJ: NICOLE'S LAW (N.J.S.A. 2C:14-12 AND N.J.S.A. 2C:44-8) – RESTRAINING
ORDER AND NOTIFICATION PROCEDURES**

DIRECTIVE # 01-10

This directive promulgates a model restraining order and notification procedures to be used in situations involving "Nicole's Law," N.J.S.A. 2C:14-12 and N.J.S.A. 2C:44-8. The model order and the procedures were jointly developed by the Conferences of Criminal Presiding Judges, Family Presiding Judges, and Municipal Court Presiding Judges and were approved by the Judicial Council.

Nicole's Law permits the court to issue an order as a condition of bail or to continue a prior order or issue a new order upon conviction, prohibiting a defendant charged with or convicted of a sex offense from having any contact with a victim, including restraining the defendant from entering a victim's residence, place of employment, business or school and from harassing or stalking the victim or victim's relatives. The law defines "sex offense" by referencing Megan's Law, N.J.S.A. 2C:7-2. Nicole's Law restraining orders are similar to domestic violence restraining orders, except that there need not be a domestic relationship between the defendant and the victim for a Nicole's Law restraining order to be entered if a defendant has been charged with or convicted of certain sex offenses.

This Directive defines the distribution procedure for the Criminal Division and municipal courts to use in order to provide notification of the issuance of a Nicole's Law restraining order to parties and entities having an interest in the matter. This Directive also provides a mechanism to avoid the issuance of conflicting orders by a Criminal Division or Municipal Court judge and a Family Division judge. Conflicting orders might arise, for example, when (a) a parent is charged with a sex offense as so defined in N.J.S.A. 2C:7-2, such as endangering the welfare of a child, (b) the Criminal Division or

Municipal Court judge enters a Nicole's Law restraining order restricting the parent's contact with the child, but (c) the Family Division judge orders visitation or reunification in a parallel child abuse/neglect proceeding or a dissolution or non-dissolution matter. Again, the notification procedures set forth below are designed to avoid issuance of any such conflicting orders.

**NOTIFICATION PROCEDURE FOR THE ISSUANCE OF NICOLE'S LAW
RESTRAINING ORDERS (N.J.S.A. 2C:14-12 AND N.J.S.A. 2C:44-8)**

1. When a Criminal Division judge or a Municipal Court judge enters a Nicole's Law restraining order prohibiting defendant's contact with the victim or others, as provided by statute, either as a condition of bail or any time thereafter, the Criminal Division Manager or the Municipal Court Administrator shall distribute copies of that restraining order to all of the following:
 - a. the local police department where the victim resides
 - b. the local police department where the defendant resides (if different)
 - c. the County Prosecutor's Office
 - d. the victim
 - e. the defendant
 - f. the Family Division Manager's Office (if the victim is a child)
 - g. the Criminal Division Manager's Office (if the order is entered by a Municipal Court Judge)
2. Upon receipt of a Nicole's Law restraining order entered by a Criminal Division or Municipal Court judge that involves a child-victim, Family Division staff shall determine whether any Family Judge has issued an order authorizing contact between the defendant and the victim that would appear to conflict with that restraining order.
3. When any such apparently conflicting order is identified, the Criminal Division or Municipal Court judge who issued the Nicole's Law restraining order and the Family Division judge who entered the Family Part order shall consult with each other to resolve that conflict as expeditiously as practicable. Any order modified as a result of that consultation shall be placed on the record and shall be distributed in accordance with paragraph 1 above, as well as forwarded to the Criminal and Family Divisions and to the municipal court (if the Nicole's Law order was issued by a Municipal Court judge). If, however, the conflict cannot be resolved through consultation by the two issuing judges, the Assignment Judge or designee shall conduct a hearing to resolve the conflict and, if appropriate, modify the order. All interested parties, including the victim (victim's family, if the victim is a minor), Prosecutor, DYFS, and defendant shall be notified of the hearing on the conflicting orders. If, after any such hearing the Assignment

Judge or designee modifies an order, copies of the modified order shall be distributed in accordance with paragraph 1 above and forwarded to Criminal and Family Divisions and to the municipal court (if the Nicole's Law order was issued by a Municipal Court judge).

Any questions or comments regarding this Directive, or the appended form, may be directed to Assistant Director Joseph J. Barraco at 609-292-4638 (Criminal), Assistant Director Harry T. Cassidy at 609-984-4228 (Family), or Assistant Director Debra A. Jenkins at 609-984-8241 (Municipal).

G.A.G.

/mp
Attachment (model order)

cc: Chief Justice Stuart Rabner
Attorney General Paula T. Dow
Public Defender Yvonne Smith Segars
Criminal Division Judges
Family Division Judges
Municipal Court Judges
Stephen J. Taylor, Director, DCJ
County Prosecutors
AOC Directors and Assistant Directors
Trial Court Administrators
Criminal Division Managers
Family Division Managers
Assistant Criminal Division Managers
Municipal Division Managers
Municipal Court Administrators and Directors
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant
Joanne M. Dietrich, Chief, Family Practice
John J. Wieck, Chief, Criminal Practice
Carol A. Welsch, Municipal Court Services
Melaney S. Payne, Criminal Practice

State of New Jersey

v.

Defendant

☐ Superior Court, Law Division _____ County

☐ Municipal Court of _____

Complaint/Warrant #: _____

Sex Offense Restraining Order
pursuant to *N.J.S.A. 2C:14-12, N.J.S.A. 2C:44-8*
("Nicole's Law")

_____ having been charged in the above complaint with or convicted of violation(s) of:
(Defendant Name)

- | | |
|--|---|
| ☐ Aggravated Sexual Assault,
<i>N.J.S.A. 2C:14-2*</i> | ☐ Endangering the Welfare of a Child,
<i>N.J.S.A. 2C:24-b(5)(a)</i> |
| ☐ Sexual Assault, <i>N.J.S.A. 2C:14-2*</i> | ☐ Luring or Enticing, <i>N.J.S.A. 2C:13-6</i> |
| ☐ Aggravated Criminal Sexual Contact,
<i>N.J.S.A. 2C:14-3a*</i> | ☐ Criminal Sexual Contact, <i>N.J.S.A. 2C:14-3b</i> if the
victim is a minor |
| ☐ Kidnapping, <i>N.J.S.A. 2C:13-1c(2)*</i> | ☐ Criminal Restraint, <i>N.J.S.A. 2C:13-2</i> , if the victim
is a minor and the offender is not the parent |
| ☐ Kidnapping, <i>N.J.S.A. 2C:13-1</i> , if the victim is a
minor and the offender is not the parent* | ☐ False Imprisonment, <i>N.J.S.A. 2C:13-3</i> if the victim
is a minor and the offender is not the parent |
| ☐ Endangering the Welfare of a Child,
<i>N.J.S.A. 2C:24-4a</i> | ☐ Promoting Child Prostitution,
<i>N.J.S.A. 2C:34-1b(3)</i> |
| ☐ Endangering the Welfare of a Child,
<i>N.J.S.A. 2C:24-4b(3)</i> | ☐ Promoting Child Prostitution,
<i>N.J.S.A. 2C:34-1b(4)</i> |
| ☐ Endangering the Welfare of a Child,
<i>N.J.S.A. 2C:24-4b(4)</i> | ☐ Attempt to commit any of the above offenses |

***Only a Superior Court Judge may set the bail
for these crimes. R. 3:26-2(a)***

In addition to any other conditions ordered by the Court, it is on this _____ day of _____, 20____ hereby

ORDERED, pursuant to *N.J.S.A. 2C:14-12, N.J.S.A. 2C:44-8*, that you are prohibited from having any contact

with the victim, _____, including, but not limited to the following restrictions.
(Victim's Name)

Check the appropriate box(es):

1. You are barred from the following location(s):

☐ Residence(s) of Victim

☐ Place (s) of Employment of Victim

☐ Schools of Victim

☐ Other _____

If these locations are known to the defendant, list with specificity _____

2. You are:

☐ Prohibited from having **any** oral, written, personal, electronic, or other form of contact with the victim or others identified in this order.

☐ Prohibited from making or causing anyone else to make harassing communication to the victim or others identified in this order.

☐ Prohibited from stalking, following, or threatening to harm, to stalk or to follow the victim or others identified in this order.

3. Other appropriate relief: _____

Duration of Order

It is Ordered that this Order shall remain in effect until modified or terminated by further Order of the Court or until the prosecutor administratively dismisses or downgrades the charge(s) supporting the issuance of this Order. This Order is vacated effective on the date of the no bill by the grand jury or the date of the administrative dismissal or downgrade of the complaint by the prosecutor or acquittal at trial.

(Date)

(Judge's Signature)

Notice to Defendant: Violation of the provisions of this Order may constitute criminal contempt pursuant to N.J.S.A. 2C:29-9(a) and will result in your arrest and criminal prosecution and, if convicted, may result in a custodial term of up to 18 months in prison. A violation may also result in a revocation of bail on the above-cited charge or charges.

Defendant's Acknowledgment

I acknowledge that I received a copy of this Restraining Order on _____, 20____. I understand that pursuant to this court Order, I am not to have any contact with the victim or others, as permitted by statute, as set forth in this Order, unless any modifications are specifically authorized by the Court, even if the victim agrees to the contact or invites me onto the premises and that I can be arrested and prosecuted if I violate this Order.

(Print Defendant's Name)

(Defendant's Signature)

Copies: Court, Police, County Prosecutor's Office, Victim, Defendant, Family Division (if victim is a child), Criminal Division (if order entered by Municipal Court Judge)