

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 792 Session of 2005

INTRODUCED BY EARLL, O'PAKE, JUBELIRER, BRIGHTBILL, PICCOLA, THOMPSON, WENGER, VANCE, CONTI, CORMAN, WAUGH, D. WHITE, MELLOW, COSTA, BOSCOLA, ARMSTRONG, M. WHITE, FUMO, ERICKSON, MUSTO, ORIE, BROWNE, PILEGGI, RHOADES, ROBBINS, PIPPY, PUNT, RAFFERTY, GREENLEAF, GORDNER, KASUNIC, KITCHEN, LAVALLE, STOUT, TARTAGLIONE, TOMLINSON, WONDERLING, LEMMOND, MADIGAN, WOZNIAK, FONTANA, HUGHES, LOGAN, STACK, A. WILLIAMS, C. WILLIAMS, WASHINGTON AND REGOLA, JUNE 22, 2005

REFERRED TO JUDICIARY, JUNE 22, 2005

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, further
3 providing for persons not to possess, use, manufacture,
4 control, sell or transfer firearms, for firearms not to be
5 carried without licenses, for licenses, for loans, lending or
6 giving of firearms, for definitions, for jurisdiction, for
7 full faith and credit and foreign protection orders, for
8 responsibilities of law enforcement agencies, for
9 commencement of proceedings, for hearings and for relief;
10 providing for return of relinquished firearms, other weapons
11 and ammunition, for relinquishment for consignment sale or
12 lawful transfer, for relinquishment to third party for
13 safekeeping and for registry or database of firearm
14 ownership; further providing for emergency relief by minor
15 judiciary, for arrest for violation of order, for private
16 criminal complaints for violation of order or agreement, for
17 contempt for violation of order or agreement and for
18 procedures and other remedies; and providing for immunity,
19 for inability to pay and for limitation on warrantless
20 searches.

21 The General Assembly finds and declares as follows:

22 (1) The provisions of 23 Pa.C.S. Ch. 61 (relating to
23 protection from abuse) are necessary and proper in that they
24 further the Commonwealth's compelling State interest to

1 protect victims of domestic violence from abuse.

2 (2) The Second Amendment to the Constitution of the
3 United States and section 21 of Article I of the Constitution
4 of Pennsylvania recognize a fundamental right to keep and
5 bear arms.

6 (3) The limitation of firearm rights for the duration of
7 a protection from abuse order as authorized by 23 Pa.C.S. Ch.
8 61 is a reasonable regulation, a valid exercise of the police
9 power of the Commonwealth and furthers the compelling State
10 interest to protect victims from abuse.

11 (4) As provided in 23 Pa.C.S. Ch. 61 a court may impose
12 limitations on firearm rights prohibiting someone who has
13 engaged in domestic violence from possessing firearms when
14 the court deems it appropriate to do so in order to protect a
15 victim.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 6102 of Title 18 of the Pennsylvania
19 Consolidated Statutes is amended by adding definitions to read:
20 § 6102. Definitions.

21 Subject to additional definitions contained in subsequent
22 provisions of this subchapter which are applicable to specific
23 provisions of this subchapter, the following words and phrases,
24 when used in this subchapter shall have, unless the context
25 clearly indicates otherwise, the meanings given to them in this
26 section:

27 * * *

28 "Commonwealth Photo Imaging Network." The computer network
29 administered by the Commonwealth and used to record and store
30 digital photographs of an individual's face and any scars,

1 marks, tattoos or other unique features of the individual.

2 * * *

3 "Pennsylvania Sheriffs' Association." The State association
4 of sheriffs authorized by the act of June 14, 1923 (P.L.774,
5 No.305), entitled "An act authorizing the sheriffs of the
6 several counties of this Commonwealth to organize themselves
7 into a State Association, for the purpose of holding annual
8 meetings, to secure more uniformity and cooperation in the
9 conduct of their offices, and providing for the payment of
10 certain expenses in connection with such meetings by the various
11 counties."

12 "Safekeeping permit." As defined in 23 Pa.C.S. § 6102
13 (relating to definitions).

14 * * *

15 Section 2. Section 6105(a), (a.1), (c)(6), (d), (e)(1) and
16 (f)(2) and (4) of Title 18 are amended and subsection (c) is
17 amended by adding a paragraph to read:

18 § 6105. Persons not to possess, use, manufacture, control, sell
19 or transfer firearms.

20 (a) Offense defined.--

21 (1) A person who has been convicted of an offense
22 enumerated in subsection (b), within or without this
23 Commonwealth, regardless of the length of sentence or whose
24 conduct meets the criteria in subsection (c) shall not
25 possess, use, control, sell, transfer or manufacture or
26 obtain a license to possess, use, control, sell, transfer or
27 manufacture a firearm in this Commonwealth.

28 (2) (i) A person who is prohibited from possessing,
29 using, controlling, selling, transferring or
30 manufacturing a firearm under paragraph (1) or subsection

(b) or (c) shall have a reasonable period of time, not to exceed 60 days from the date of the imposition of the disability under this subsection, in which to sell or transfer that person's firearms to another eligible person who is not a member of the prohibited person's household.

(ii) This paragraph shall not apply to any person whose disability is imposed pursuant to subsection (c)(6).

(a.1) Penalty.--[Any]

(1) A person convicted of a felony enumerated under subsection (b) or a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, who violates subsection (a) commits a felony of the second degree.

(2) A person who is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 (relating to relief), which order provided for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect commits a misdemeanor of the first degree if he intentionally or knowingly fails to relinquish a firearm, other weapon or ammunition to the sheriff as required by the order unless, in lieu of relinquishment, he provides an affidavit which lists the firearms, other weapons or ammunition to the sheriff in accordance with either 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 (relating to relinquishment to third party for safekeeping).

1 (3) (i) A person commits a misdemeanor of the third
2 degree if he intentionally or knowingly accepts
3 possession of a firearm, other weapon or ammunition from
4 a person he knows is the subject of an active protection
5 from abuse order issued pursuant to 23 Pa.C.S. § 6108,
6 which order provided for the relinquishment of the
7 firearm, other weapon or ammunition during the period of
8 time the order is in effect.

9 (ii) This paragraph shall not apply to:

10 (A) a third party who accepts possession of a
11 firearm, other weapon or ammunition relinquished
12 pursuant to 23 Pa.C.S. § 6108.3; or

13 (B) a dealer licensed pursuant to section 6113
14 (relating to licensing of dealers) or subsequent
15 purchaser from a dealer licensed pursuant to section
16 6113, who accepts possession of a firearm, other
17 weapon or ammunition relinquished pursuant to 23
18 Pa.C.S. § 6108.2.

19 (4) It shall be an affirmative defense to any
20 prosecution under paragraph (3) that the person accepting
21 possession of a firearm, other weapon or ammunition in
22 violation of paragraph (3):

23 (i) notified the sheriff as soon as practicable that
24 he has taken possession; and

25 (ii) relinquished possession of any firearm, other
26 weapon or ammunition possessed in violation of paragraph
27 (3) as directed by the sheriff.

28 (5) A person who has accepted possession of a firearm,
29 other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3
30 commits a misdemeanor of the first degree if he intentionally

1 or knowingly returns a firearm, other weapon or ammunition to
2 a defendant or intentionally or knowingly allows a defendant
3 to have access to the firearm, other weapon or ammunition
4 prior to either of the following:

5 (i) The sheriff accepts return of the safekeeping
6 permit issued to the party pursuant to 23 Pa.C.S. §
7 6108.3(d)(1)(i).

8 (ii) The issuance of a court order pursuant to
9 subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to
10 return of relinquished firearms, other weapons or
11 ammunition) which modifies a valid protection from abuse
12 order issued pursuant to 23 Pa.C.S. § 6108, which order
13 provided for the relinquishment of the firearm, other
14 weapon or ammunition, by allowing the defendant to take
15 possession of the firearm, other weapon or ammunition
16 that had previously been ordered relinquished.

17 * * *

18 (c) Other persons.--In addition to any person who has been
19 convicted of any offense listed under subsection (b), the
20 following persons shall be subject to the prohibition of
21 subsection (a):

22 * * *

23 (6) A person who is the subject of an active protection
24 from abuse order issued pursuant to 23 Pa.C.S. § 6108
25 [(relating to relief)], which order provided for the
26 [confiscation] relinquishment of firearms during the period
27 of time the order is in effect. This prohibition shall
28 terminate upon the expiration or vacation of an active
29 protection from abuse order or portion thereof relating to
30 the [confiscation] relinquishment of firearms.

1 * * *

2 (9) A person who is prohibited from possessing or
3 acquiring a firearm under 18 U.S.C. § 922(g)(9) (relating to
4 unlawful acts). If the offense which resulted in the
5 prohibition under 18 U.S.C. § 922(g)(9) was committed, as
6 provided in 18 U.S.C. § 921(a)(33)(A)(ii) (relating to
7 definitions), by a person in any of the following
8 relationships:

9 (i) the current or former spouse, parent or guardian
10 of the victim;

11 (ii) a person with whom the victim shares a child in
12 common;

13 (iii) a person who cohabits with or has cohabited
14 with the victim as a spouse, parent or guardian; or

15 (iv) a person similarly situated to a spouse, parent
16 or guardian of the victim;

17 then the relationship need not be an element of the offense
18 to meet the requirements of this paragraph.

19 (d) Exemption.--A person who has been convicted of a crime
20 specified in subsection (a) or (b) or a person whose conduct
21 meets the criteria in subsection (c)(1), (2), (5) [or (7)], (7)
22 or (9) may make application to the court of common pleas of the
23 county where the principal residence of the applicant is
24 situated for relief from the disability imposed by this section
25 upon the possession, transfer or control of a firearm. The court
26 shall grant such relief if it determines that any of the
27 following apply:

28 (1) The conviction has been vacated under circumstances
29 where all appeals have been exhausted or where the right to
30 appeal has expired.

1 (2) The conviction has been the subject of a full pardon
2 by the Governor.

3 (3) Each of the following conditions is met:

4 (i) The Secretary of the Treasury of the United
5 States has relieved the applicant of an applicable
6 disability imposed by Federal law upon the possession,
7 ownership or control of a firearm as a result of the
8 applicant's prior conviction, except that the court may
9 waive this condition if the court determines that the
10 Congress of the United States has not appropriated
11 sufficient funds to enable the Secretary of the Treasury
12 to grant relief to applicants eligible for the relief.

13 (ii) A period of ten years, not including any time
14 spent in incarceration, has elapsed since the most recent
15 conviction of the applicant of a crime enumerated in
16 subsection (b) [or] a felony violation of The Controlled
17 Substance, Drug, Device and Cosmetic Act or the offense
18 which resulted in the prohibition under 18 U.S.C. §
19 922(g)(9).

20 (e) Proceedings.--

21 (1) If a person convicted of an offense under subsection
22 (a), (b) or (c)(1), (2), (5) [or (7)], (7) or (9) makes
23 application to the court, a hearing shall be held in open
24 court to determine whether the requirements of this section
25 have been met. The commissioner and the district attorney of
26 the county where the application is filed and any victim or
27 survivor of a victim of the offense upon which the disability
28 is based may be parties to the proceeding.

29 * * *

30 (f) Other exemptions and proceedings.--

1 * * *

2 (2) If application is made under this subsection for
3 relief from the disability imposed under subsection (c)(6),
4 notice of such application shall be given to the person who
5 had petitioned for the protection from abuse order, and such
6 person shall be a party to the proceedings. Notice of any
7 court order or amendment to a court order restoring firearms
8 possession or control shall be given to the person who had
9 petitioned for the protection from abuse order[.], to the
10 sheriff and to the Pennsylvania State Police. The application
11 and any proceedings on the application shall comply with 23
12 Pa.C.S. Ch. 61 (relating to abuse of family).

13 * * *

14 (4) (i) The owner of any seized or confiscated firearms
15 or of any firearms ordered relinquished under 23 Pa.C.S.
16 § 6108 shall be provided with a signed and dated written
17 receipt by the appropriate law enforcement agency. This
18 receipt shall include, but not limited to, a detailed
19 identifying description indicating the serial number and
20 condition of the firearm. In addition, the appropriate
21 law enforcement agency shall be liable to the lawful
22 owner of said confiscated [or], seized or relinquished
23 firearm for any loss, damage or substantial decrease in
24 value of said firearm that is a direct result of a lack
25 of reasonable care by the appropriate law enforcement
26 agency.

27 (ii) Firearms shall not be engraved or permanently
28 marked in any manner, including, but not limited to,
29 engraving of evidence or other identification numbers.
30 Unless reasonable suspicion exists to believe that a

1 particular firearm has been used in the commission of a
2 crime, no firearm shall be test fired. Any reduction in
3 the value of a firearm due to test firing, engraving or
4 permanently marking in violation of this paragraph shall
5 be considered damage and the law enforcement agency shall
6 be liable to the lawful owner of the firearm for the
7 reduction in value caused by the test firing, engraving
8 or permanently marking.

9 (iii) For purposes of this paragraph, the term
10 "firearm" shall include any scope, sight, bipod, sling,
11 light, magazine, clip, ammunition or other firearm
12 accessory attached to or seized, confiscated or
13 relinquished with a firearm.

14 * * *

15 Section 3. Sections 6106(b) and 6109(c), (d), (e), (h), (i)
16 and (k) of Title 18 are amended and the sections are amended by
17 adding subsections to read:

18 § 6106. Firearms not to be carried without a license.

19 * * *

20 (b) Exceptions.--The provisions of subsection (a) shall not
21 apply to:

22 (1) Constables, sheriffs, prison or jail wardens, or
23 their deputies, policemen of this Commonwealth or its
24 political subdivisions, or other law-enforcement officers.

25 (2) Members of the army, navy [or], marine corps, air
26 force or coast guard of the United States or of the National
27 Guard or organized reserves when on duty.

28 (3) The regularly enrolled members of any organization
29 duly organized to purchase or receive such [weapons] firearms
30 from the United States or from this Commonwealth.

1 (4) Any persons engaged in target shooting with [rifle,
2 pistol, or revolver] a firearm, if such persons are at or are
3 going to or from their places of assembly or target practice
4 and if, while going to or from their places of assembly or
5 target practice, [the cartridges or shells are carried in a
6 separate container and the rifle, pistol or revolver is
7 unloaded] the firearm is not loaded.

8 (5) Officers or employees of the United States duly
9 authorized to carry a concealed firearm.

10 (6) Agents, messengers and other employees of common
11 carriers, banks, or business firms, whose duties require them
12 to protect moneys, valuables and other property in the
13 discharge of such duties.

14 (7) Any person engaged in the business of manufacturing,
15 repairing, or dealing in firearms, or the agent or
16 representative of any such person, having in his possession,
17 using or carrying a firearm in the usual or ordinary course
18 of such business.

19 (8) Any person while carrying a firearm [unloaded and]
20 which is not loaded and is in a secure wrapper from the place
21 of purchase to his home or place of business, or to a place
22 of repair, sale or appraisal or back to his home or place of
23 business, or in moving from one place of abode or business to
24 another or from his home to a vacation or recreational home
25 or dwelling or back, or to recover stolen property under
26 section 6111.1(b)(4) (relating to Pennsylvania State Police),
27 or to a place of instruction intended to teach the safe
28 handling, use or maintenance of firearms or back or to a
29 location to which the person has been directed to [surrender]
30 relinquish firearms under 23 Pa.C.S. § 6108 (relating to

1 relief) or back upon return of the [surrendered firearm.]
2 relinquished firearm or to a licensed dealer's place of
3 business for relinquishment pursuant to 23 Pa.C.S. § 6108.2
4 (relating to relinquishment for consignment sale, lawful
5 transfer or safekeeping) or back upon return of the
6 relinquished firearm or to a location for safekeeping
7 pursuant to 23 Pa.C.S. § 6108.3 (relating to relinquishment
8 to third party for safekeeping) or back upon return of the
9 relinquished firearm.

10 (9) Persons licensed to hunt, take furbearers or fish in
11 this Commonwealth, if such persons are actually hunting,
12 taking furbearers or fishing as permitted by such license, or
13 are going to the places where they desire to hunt, take
14 furbearers or fish or returning from such places.

15 (10) Persons training dogs, if such persons are actually
16 training dogs during the regular training season.

17 (11) Any person while carrying a firearm in any vehicle,
18 which person possesses a valid and lawfully issued license
19 for that firearm which has been issued under the laws of the
20 United States or any other state.

21 (12) A person who has a lawfully issued license to carry
22 a firearm pursuant to section 6109 (relating to licenses) and
23 that said license expired within six months prior to the date
24 of arrest and that the individual is otherwise eligible for
25 renewal of the license.

26 (13) Any person who is otherwise eligible to possess a
27 firearm under this chapter and who is operating a motor
28 vehicle which is registered in the person's name or the name
29 of a spouse or parent and which contains a firearm for which
30 a valid license has been issued pursuant to section 6109 to

1 the spouse or parent owning the firearm.

2 (14) A person lawfully engaged in the interstate
3 transportation of a firearm as defined under 18 U.S.C §
4 921(a)(3) (relating to definitions) in compliance with 18
5 U.S.C. § 926A (relating to interstate transportation of
6 firearms).

7 (15) Any person who possesses a valid and lawfully
8 issued license or permit to carry a firearm which has been
9 issued under the laws of another state or jurisdiction,
10 regardless of whether a reciprocity agreement exists between
11 the Commonwealth and the state or jurisdiction under section
12 6109(k), provided:

13 (i) The state or jurisdiction provides a reciprocal
14 privilege for individuals licensed to carry firearms
15 under section 6109.

16 (ii) The Attorney General has determined that the
17 firearm laws of the state or jurisdiction are similar to
18 the firearm laws of this Commonwealth.

19 * * *

20 (e) Definitions.--

21 (1) For purposes of subsection (b)(3), (4), (5), (7) and
22 (8), the term "firearm" shall include any weapon which is
23 designed to or may readily be converted to expel any
24 projectile by the action of an explosive or the frame or
25 receiver of the weapon.

26 (2) As used in this section, the phrase "place of
27 instruction" shall include any hunting club, rifle club,
28 rifle range, pistol range, shooting range, the premises of a
29 licensed firearms dealer or a lawful gun show or meet.

30 § 6109. Licenses.

1 * * *

2 (c) Form of application and content.--The application for a
3 license to carry a firearm shall be uniform throughout this
4 Commonwealth and shall be on a form prescribed by the
5 Pennsylvania State Police. The form may contain provisions, not
6 exceeding one page, to assure compliance with this section.
7 Issuing authorities shall use only the application form
8 prescribed by the Pennsylvania State Police. One of the
9 following reasons for obtaining a firearm license shall be set
10 forth in the application: self-defense, employment, hunting and
11 fishing, target shooting, gun collecting or another proper
12 reason. The application form shall be dated and signed by the
13 applicant and shall contain the following statement:

14 I have never been convicted of a crime [of violence in
15 the Commonwealth of Pennsylvania or elsewhere] that
16 prohibits me from possessing or acquiring a firearm under
17 Federal or State law. I am of sound mind and have never
18 been committed to a mental institution. I hereby certify
19 that the statements contained herein are true and correct
20 to the best of my knowledge and belief. I understand
21 that, if I knowingly make any false statements herein, I
22 am subject to penalties prescribed by law. I authorize
23 the sheriff, or his designee, or, in the case of first
24 class cities, the chief or head of the police department,
25 or his designee, to inspect only those records or
26 documents relevant to information required for this
27 application. If I am issued a license and knowingly
28 become ineligible to legally possess or acquire firearms,
29 I will promptly notify the sheriff of the county in which
30 I reside or, if I reside in a city of the first class,

1 the chief of police of that city.

2 (d) Sheriff to conduct investigation.--The sheriff to whom
3 the application is made shall:

4 (1) investigate the applicant's record of criminal
5 [convictions, shall] conviction;

6 (2) investigate whether or not the applicant is under
7 indictment for or has ever been convicted of a crime
8 punishable by imprisonment exceeding one year[, shall];

9 (3) investigate whether the applicant's character and
10 reputation are such that the applicant will not be likely to
11 act in a manner dangerous to public safety [and shall];

12 (4) investigate whether the applicant would be precluded
13 from receiving a license under subsection (e)(1) or section
14 6105(h) (relating to persons not to possess, use,
15 manufacture, control, sell or transfer firearms) [and shall];
16 and

17 (5) conduct a criminal background, juvenile delinquency
18 [or mental health check following the procedures set forth in
19 section 6111 (relating to firearm ownership)] and mental
20 health check following the procedures set forth in section
21 6111 (relating to sale or transfer of firearms), receive a
22 unique approval number for that inquiry and record the date
23 and number on the application.

24 (e) Issuance of license.--

25 (1) A license to carry a firearm shall be for the
26 purpose of carrying a firearm concealed on or about one's
27 person or in a vehicle and shall be issued if, after an
28 investigation not to exceed 45 days, it appears that the
29 applicant is an individual concerning whom no good cause
30 exists to deny the license. A license shall not be issued to

1 any of the following:

2 (i) An individual whose character and reputation is
3 such that the individual would be likely to act in a
4 manner dangerous to public safety.

5 (ii) An individual who has been convicted of an
6 offense under the act of April 14, 1972 (P.L.233, No.64),
7 known as The Controlled Substance, Drug, Device and
8 Cosmetic Act.

9 (iii) An individual convicted of a crime enumerated
10 in section 6105.

11 (iv) An individual who, within the past ten years,
12 has been adjudicated delinquent for a crime enumerated in
13 section 6105 or for an offense under The Controlled
14 Substance, Drug, Device and Cosmetic Act.

15 (v) An individual who is not of sound mind or who
16 has ever been committed to a mental institution.

17 (vi) An individual who is addicted to or is an
18 unlawful user of marijuana or a stimulant, depressant or
19 narcotic drug.

20 (vii) An individual who is a habitual drunkard.

21 (viii) An individual who is charged with or has been
22 convicted of a crime punishable by imprisonment for a
23 term exceeding one year except as provided for in section
24 6123 (relating to waiver of disability or pardons).

25 (ix) A resident of another state who does not
26 possess a current license or permit or similar document
27 to carry a firearm issued by that state if a license is
28 provided for by the laws of that state, as published
29 annually in the Federal Register by the Bureau of
30 Alcohol, Tobacco and Firearms of the Department of the

Treasury under 18 U.S.C. § 921(a)(19) (relating to definitions).

(x) An alien who is illegally in the United States.

(xi) An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

(xii) An individual who is a fugitive from justice. This subparagraph does not apply to an individual whose fugitive status is based upon nonmoving or moving summary offense under Title 75 (relating to vehicles).

(xiii) An individual who is otherwise prohibited from possessing, using, manufacturing, controlling, purchasing, selling or transferring a firearm as provided by section 6105.

(xiv) An individual who is prohibited from possessing or acquiring a firearm under the statutes of the United States.

(3) The license [shall bear the] to carry a firearm shall be designed to be uniform throughout this Commonwealth and shall be in a form prescribed by the Pennsylvania State Police. The license shall bear the following:

(i) The name, address, date of birth, race, sex, citizenship, [Social Security number,] height, weight, color of hair, color of eyes and signature of the licensee[; the].

(ii) The signature of the sheriff issuing the license[; the].

(iii) A license number of which the first two numbers shall be a county location code followed by numbers issued in numerical sequence.

1 (iv) The point-of-contact telephone number
2 designated by the Pennsylvania State Police under
3 subsection (1).

4 (v) The reason for issuance[; and the].

5 (vi) The period of validation.

6 (4) The sheriff [may also] shall require a photograph of
7 the licensee on the license. The photograph shall be in a
8 form compatible with the Commonwealth Photo Imaging Network.

9 (5) The original license shall be issued to the
10 applicant. The first copy of the license shall be forwarded
11 to the [commissioner] Pennsylvania State Police within seven
12 days of the date of issue[, and a]. second copy shall be
13 retained by the issuing authority for a period of [six
14 years.] seven years. Except pursuant to court order, both
15 copies and the application shall, at the end of the seven-
16 year period, be destroyed unless the license has been renewed
17 within the seven-year period.

18 * * *

19 (h) Fee.--[The]

20 (1) In addition to fees described in paragraphs (2)(ii)
21 and (3), the fee for a license to carry a firearm is \$19.

22 This includes [a] all of the following:

23 (i) A renewal notice processing fee of \$1.50. [This
24 includes an]

25 (ii) An administrative fee of \$5 under section 14(2)
26 of the act of July 6, 1984 (P.L.614, No.127), known as
27 the Sheriff Fee Act.

28 (2) (i) The Pennsylvania Commission on Crime and
29 Delinquency shall design and develop, within five years
30 of the effective date of this paragraph, a system in

1 conjunction with the Pennsylvania State Police and the
2 Pennsylvania Sheriffs' Association to standardize and
3 modernize the process of issuing licenses to carry
4 firearms. Upon adoption of the system under this
5 paragraph, the Pennsylvania Commission on Crime and
6 Delinquency shall publish notice thereof in the
7 Pennsylvania Bulletin.

8 (ii) A temporary fee of \$5 shall be remitted by the
9 sheriff to the Firearms License to Carry Modernization
10 Account, which is hereby established as a special
11 restricted receipt account within the General Fund of the
12 State Treasury. Moneys and investment income in the
13 account shall be awarded as grants to sheriffs to
14 implement the system designed and developed under this
15 paragraph, including grants to reimburse sheriffs for
16 expenses incurred prior to the effective date of this
17 paragraph.

18 (iii) Moneys credited to the account and any
19 investment income accrued are hereby appropriated on a
20 continuing basis to the Pennsylvania Commission on Crime
21 and Delinquency. The commission shall administer the
22 account and establish procedures related to the
23 application process for, and distribution of funds to,
24 sheriffs under this paragraph. Notwithstanding the
25 provisions of subparagraph (ii), the commission may
26 withhold annually an amount not exceeding 5% of the funds
27 credited to the account in that fiscal year for
28 administrative costs directly related to the
29 responsibilities of the commission under this paragraph,
30 including costs incurred in administering the account.

1 (iv) This paragraph shall expire five years after
2 its effective date. Any surplus funds remaining in the
3 account established in subparagraph (ii) at such time
4 shall lapse into the General Fund.

5 (3) A fee of \$1 shall be remitted by the sheriff to the
6 Firearms License Validation System Account, which is hereby
7 established as a special restricted receipt account within
8 the General Fund of the State Treasury. The account shall be
9 administered by the Pennsylvania State Police and used for
10 purposes under subsection (1). Moneys credited to the account
11 and any investment income accrued are hereby appropriated on
12 a continuing basis to the Pennsylvania State Police.

13 (4) No fee other than that provided by this [paragraph]
14 subsection or the Sheriff Fee Act may be assessed by the
15 sheriff for the performance of any background check made
16 pursuant to this act.

17 (5) The fee is payable to the sheriff to whom the
18 application is submitted and is payable at the time of
19 application for the license.

20 (6) Except for the administrative fee of \$5 under
21 section 14(2) of the Sheriff Fee Act, all other fees shall be
22 refunded if the application is denied but shall not be
23 refunded if a license is issued and subsequently revoked.

24 (7) A person who sells or attempts to sell a license to
25 carry a firearm for a fee in excess of the amounts fixed
26 under this subsection commits a summary offense.

27 (i) Revocation.--A license to carry firearms may be revoked
28 by the issuing authority for good cause. A license to carry
29 firearms shall be revoked by the issuing authority for any
30 reason stated in subsection (e)(1) which occurs during the term

1 of the permit. Notice of revocation shall be in writing and
2 shall state the specific reason for revocation. Notice shall be
3 sent by certified mail to the individual whose license is
4 revoked, and, at that time, [a copy shall be forwarded to the
5 commissioner.] notice shall also be provided to the Pennsylvania
6 State Police, by electronic means, including e-mail or facsimile
7 transmission, that the license is no longer valid. An individual
8 whose license is revoked shall surrender the license to the
9 issuing authority within five days of receipt of the notice. An
10 individual whose license is revoked may appeal to the court of
11 common pleas for the judicial district in which the individual
12 resides. An individual who violates this section commits a
13 summary offense.

14 (i.1) Notice to sheriff.--Notwithstanding any statute to the
15 contrary:

16 (1) Upon conviction of a person for a crime specified in
17 section 6105(a) or (b) or upon conviction of a person for a
18 crime punishable by imprisonment exceeding one year or upon a
19 determination that the conduct of a person meets the criteria
20 specified in section 6105(c)(1), (2), (3), (5) or (6), a
21 judge of the court of common pleas shall notify the sheriff
22 of the county in which that person resides, on a form
23 developed by the Pennsylvania State Police, of the identity
24 of the person and the nature of the crime or conduct which
25 resulted in the notification. The notification shall be
26 transmitted by the judge within seven days of the conviction
27 or determination.

28 (2) Upon adjudication that a person is incompetent or
29 upon the involuntary commitment of a person to a mental
30 institution for inpatient care and treatment under the act of

1 July 9, 1976 (P.L.817, No.143), known as the Mental Health
2 Procedures Act, or upon involuntary treatment of a person as
3 described under section 6105(c)(4), the judge of the court of
4 common pleas, mental health review officer or county mental
5 health and mental retardation administrator shall notify the
6 sheriff of the county in which that person resides, on a form
7 developed by the Pennsylvania State Police, of the identity
8 of the person who has been adjudicated, committed or treated
9 and the nature of the adjudication, commitment or treatment.
10 The notification shall be transmitted by the judge, mental
11 health review officer or county mental health and mental
12 retardation administrator within seven days of the
13 adjudication, commitment or treatment.

14 * * *

15 (k) Reciprocity.--

16 (1) The Attorney General [may] shall have the power and
17 duty to enter into reciprocity agreements with other states
18 or jurisdictions providing for the mutual recognition of
19 [each state's license to carry a firearm.] a license to carry
20 a firearm issued by the Commonwealth and a license or permit
21 to carry a firearm issued by the other state or jurisdiction.
22 To carry out this duty, the Attorney General is authorized to
23 negotiate reciprocity agreements and grant recognition of a
24 license or permit to carry a firearm issued by another state
25 or jurisdiction.

26 (2) The Attorney General shall report to the General
27 Assembly within 180 days of the effective date of this
28 paragraph and annually thereafter concerning the agreements
29 which have been consummated under this subsection.

30 (l) Firearms License Validation System.--

1 (1) The Pennsylvania State Police shall establish a
2 nationwide toll-free telephone number, known as the Firearms
3 License Validation System, which shall be operational seven
4 days a week, 24 hours per day, for the purpose of responding
5 to law enforcement inquiries regarding the validity of any
6 Pennsylvania license to carry a firearm.

7 (2) Notwithstanding any other law regarding the
8 confidentiality of information, inquiries to the Firearms
9 License Validation System regarding the validity of any
10 Pennsylvania license to carry a firearm may only be made by
11 law enforcement personnel acting within the scope of their
12 official duties.

13 (3) Law enforcement personnel outside this Commonwealth
14 shall provide their originating agency identifier number and
15 the license number of the license to carry a firearm which is
16 the subject of the inquiry.

17 (4) Responses to inquiries by law enforcement personnel
18 outside this Commonwealth shall be limited to the name of the
19 licensee, the validity of the license and any information
20 which may be provided to a criminal justice agency pursuant
21 to Chapter 91 (relating to criminal history record
22 information).

23 (m) Inquiries.--

24 (1) The Attorney General shall, not later than one year
25 after the effective date of this subsection and not less than
26 once annually, contact in writing the appropriate authorities
27 in any other state or jurisdiction which does not have a
28 current reciprocity agreement with the Commonwealth to
29 determine if:

30 (i) the state or jurisdiction will negotiate a

reciprocity agreement;

(ii) a licensee may carry a concealed firearm in the state or jurisdiction; or

(iii) a licensee may apply for a license or permit to carry a firearm issued by the state or jurisdiction.

(2) The Attorney General shall maintain a current list of those states and jurisdictions which have a reciprocity agreement with the Commonwealth, those states and jurisdictions which allow licensees to carry a concealed firearm and those states and jurisdictions which allow licensees to apply for a license or permit to carry a firearm. This list shall be posted on the Internet, provided to the Pennsylvania State Police and made available to the public upon request.

(n) Definition.--As used in this section, the term "licensee" means an individual who is licensed to carry a firearm under this section.

Section 4. Section 6115(b) of Title 18 is amended by adding a paragraph to read:

§ 6115. Loans on, or lending or giving firearms prohibited.

* * *

(b) Exception.--

* * *

(4) Nothing in this section shall prohibit the relinquishment of firearms to a third party in accordance with 23 Pa.C.S. § 6108.3 (relating to relinquishment to third party for safekeeping).

Section 5. The definitions of "confidential communications" and "hearing officer" in section 6102(a) of Title 23, amended November 30, 2004 (P.L.1618, No.207), are amended and the

1 section is amended by adding definitions to read:

2 § 6102. Definitions.

3 (a) General rule.--The following words and phrases when used
4 in this chapter shall have the meanings given to them in this
5 section unless the context clearly indicates otherwise:

6 * * *

7 "Confidential communications." All information, whether
8 written or spoken, transmitted between a victim and a domestic
9 violence counselor or advocate in the course of the
10 relationship. The term includes information received or given by
11 the domestic violence counselor or advocate in the course of the
12 relationship, as well as advice, reports, statistical data,
13 memoranda or working papers, records or the like, given or made
14 in the course of the relationship. The term also includes
15 communications made by or to a linguistic interpreter assisting
16 the victim, counselor or advocate in the course of the
17 relationship.

18 * * *

19 "Firearm." Any weapon which is designed to or may readily be
20 converted to expel any projectile by the action of an explosive
21 or the frame or receiver of any such weapon as defined by 18
22 Pa.C.S. § 6105(i) (relating to persons not to possess, use,
23 manufacture, control, sell or transfer firearms).

24 * * *

25 "Hearing officer." A magisterial district judge, judge of
26 the Philadelphia Municipal Court, bail commissioner appointed
27 under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue)
28 [and], master appointed under 42 Pa.C.S. § 1126 (relating to
29 masters) and master for emergency relief.

30 "Master for emergency relief." A member of the bar of the

1 Commonwealth appointed under section 6110(e) (relating to
2 emergency relief by minor judiciary).

3 * * *

4 "Safekeeping permit." A permit issued by a sheriff allowing
5 a person to take possession of any firearm, other weapon or
6 ammunition that a judge ordered a defendant to relinquish in a
7 protection from abuse proceeding.

8 * * *

9 "Sheriff."

10 (1) Except as provided in paragraph (2), the sheriff of
11 the county.

12 (2) In a city of the first class, the chief or head of
13 the police department.

14 * * *

15 "Weapon." Anything readily capable of lethal use and
16 possessed under circumstances not manifestly appropriate for
17 lawful uses which it may have. The term includes a firearm which
18 is not loaded or lacks a magazine, clip or other components to
19 render it immediately operable and components which can readily
20 be assembled into a weapon as defined by 18 Pa.C.S. § 907
21 (relating to possessing instruments of crime).

22 * * *

23 Section 6. Sections 6103, 6104(d) and 6105(e) of Title 23
24 are amended to read:

25 § 6103. [Effect of departure to avoid abuse.] Jurisdiction.

26 (a) General rule.--The court shall have jurisdiction over
27 all proceedings under this chapter. [The right of plaintiff to
28 relief under this chapter shall not be affected by plaintiff
29 leaving the residence or household to avoid further abuse.]

30 (b) Effect of departure and nonresidence.--The right of the

1 plaintiff to relief under this chapter shall not be affected by
2 either of the following:

3 (1) The plaintiff's leaving the residence or household
4 to avoid further abuse.

5 (2) The defendant's absence from this Commonwealth or
6 the defendant's nonresidence in this Commonwealth, provided
7 that the court has personal jurisdiction over the defendant
8 in accordance with 42 Pa.C.S. § 5322 (relating to bases of
9 personal jurisdiction over persons outside this
10 Commonwealth).

11 § 6104. Full faith and credit and foreign protection orders.

12 * * *

13 (d) Filing a foreign protection order.--A plaintiff may file
14 a certified copy of a foreign protection order with the
15 prothonotary in any county within this Commonwealth where the
16 plaintiff believes enforcement may be necessary. The following
17 provisions shall apply:

18 (1) [Filing of a foreign protection order shall be
19 without fee or cost.] No costs or fees associated with filing
20 a foreign protection order shall be assigned to the
21 plaintiff, including the cost of obtaining certified copies
22 of the order. Costs and fees associated with filing a foreign
23 protection order may be assessed against the defendant.

24 (2) Upon filing of a foreign protection order, a
25 prothonotary shall transmit, in a manner prescribed by the
26 Pennsylvania State Police, a copy of the order to the
27 Pennsylvania State Police registry of protection orders.

28 (3) Filing of a foreign protection order shall not be a
29 prerequisite for service and enforcement.

30 * * *

1 § 6105. Responsibilities of law enforcement agencies.

2 * * *

3 (e) Statewide registry.--

4 (1) The Pennsylvania State Police shall establish a
5 Statewide registry of protection orders and shall maintain a
6 complete and systematic record and index of all valid
7 temporary and final court orders of protection, court-
8 approved consent agreements and a foreign protection order
9 filed pursuant to section 6104(d) (relating to full faith and
10 credit and foreign protection orders). The Statewide registry
11 shall include, but need not be limited to, the following:

12 (i) The names of the plaintiff and any protected
13 parties.

14 (ii) The name and address of the defendant.

15 (iii) The relationship between the plaintiff and
16 defendant.

17 [(iii)] (iv) The date the order was entered.

18 [(iv)] (v) The date the order expires.

19 [(v)] (vi) The relief granted under sections
20 6108(a)(1), (2), (4), (6) and (7) (relating to relief)
21 and 6110(a) (relating to emergency relief by minor
22 judiciary).

23 [(vi)] (vii) The judicial district in which the
24 order was entered.

25 [(vii)] (viii) Where furnished, the Social Security
26 number and date of birth of the defendant.

27 (ix) Whether or not any or all firearms, other
28 weapons or ammunition were ordered relinquished.

29 (2) The prothonotary shall send, on a form prescribed by
30 the Pennsylvania State Police, a copy of the protection order

1 or approved consent agreement to the Statewide registry of
2 protection orders so that it is received within 24 hours of
3 the entry of the order. Likewise, amendments to or revocation
4 of an order shall be transmitted by the prothonotary within
5 24 hours of the entry of the order for modification or
6 revocation. The Pennsylvania State Police shall enter orders,
7 amendments and revocations in the Statewide registry of
8 protection orders within eight hours of receipt. Vacated or
9 expired orders shall be purged from the registry.

10 (3) The registry of the Pennsylvania State Police shall
11 be available at all times to inform courts, dispatchers and
12 law enforcement officers of any valid protection order
13 involving any defendant.

14 (4) When an order granting relief under section
15 6108(a)(7) has been entered by a court, such information
16 shall be available to the Pennsylvania State Police for the
17 purpose of conducting a criminal history records check in
18 compliance with the applicable provisions of 18 Pa.C.S. Ch.
19 61 Subch. A (relating to Uniform Firearms Act).

20 (5) Information contained in the Statewide registry
21 shall not be subject to access under the act of June 21, 1957
22 (P.L.390, No.212), referred to as the Right-to-Know Law.

23 * * *

24 Section 7. Section 6106(b), (c), (d), (g) and (g.1) of Title
25 23 are amended and the section is amended by adding subsections
26 to read:

27 § 6106. Commencement of proceedings.

28 * * *

29 (a.2) Notification of defendant's occupation.--The plaintiff
30 shall notify the court if the plaintiff has reason to believe

1 that the defendant is a licensed firearms dealer, is employed by
2 a licensed firearms dealer or manufacturer, is employed as a
3 writer, researcher or technician in the firearms or hunting
4 industry or is required to carry a firearm as a condition of
5 employment.

6 (b) [No prepayment of fees.--The petition shall be filed and
7 service shall be made without prepayment of fees.] Plaintiff
8 fees not permitted.--No plaintiff seeking relief under this
9 chapter shall be charged any fees or costs associated with the
10 filing, issuance, registration or service of a petition, motion,
11 complaint, order or any other filing. Prohibited fees or costs
12 shall include, but are not limited to, those associated with
13 modifying, withdrawing, dismissing or certifying copies of a
14 petition, motion, complaint, order or any other filing, as well
15 as any judicial surcharge or computer system fee. No plaintiff
16 seeking relief under this chapter shall be charged any fees or
17 costs associated with filing a motion for reconsideration or an
18 appeal from any order or action taken pursuant to this chapter.
19 Nothing in this subsection is intended to expand or diminish the
20 court's authority to enter an order pursuant to Pa.R.C.P. No.
21 1023.1 (relating to Scope. Signing of Documents. Representations
22 to the Court. Violation).

23 (c) Assessment of fees and costs[.--If the plaintiff
24 prevails in the action] against the defendant.--When an order is
25 granted pursuant to this chapter, fees and costs shall be
26 [assigned to] assessed against the defendant.[, or, should the
27 court determine that the defendant is not able to pay the costs
28 of filing and service, the court shall waive fees and costs. If
29 the plaintiff does not prevail, costs of filing and service may
30 be assigned to the plaintiff or, should the court determine that

1 the plaintiff is not able to pay the costs of filing and
2 service, the] The court shall waive fees and costs[.] upon a
3 showing of good cause or when the court makes a finding that the
4 defendant is not able to pay the costs. Nothing in this
5 subsection is intended to expand or diminish the court's
6 authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.

7 (d) Surcharge on order.--When a protection order is granted
8 under section 6107(a) (relating to hearings), other than
9 pursuant to an agreement of the parties, a surcharge of [\$25]
10 \$100 shall be assessed against the defendant. All moneys
11 received from surcharges shall [be forwarded to the Commonwealth
12 and shall be used by the Pennsylvania State Police to establish
13 and maintain the Statewide registry of protection orders
14 provided for in section 6105 (relating to responsibilities of
15 law enforcement agencies).] be distributed in the following
16 order of priority:

17 (1) \$25 shall be forwarded to the Commonwealth and shall
18 be used by the Pennsylvania State Police to establish and
19 maintain the Statewide registry of protection orders provided
20 for in section 6105.

21 (2) \$50 shall be retained by the county and shall be
22 used to carry out the provisions of this chapter as follows:

23 (i) \$25 shall be used by the sheriff.

24 (ii) \$25 shall be used by the court.

25 (3) \$25 shall be forwarded to the Department of Public
26 Welfare for use for victims of domestic violence in
27 accordance with the provisions of section 2333 of the act of
28 April 9, 1929 (P.L.177, No.175), known as The Administrative
29 Code of 1929.

30 (d.1) Limitation.--The surcharge allocated under subsection

1 (d)(2)(i) and (3) shall be used to supplement and not to
2 supplant any other source of funds received for the purpose of
3 carrying out the provisions of this chapter.

4 * * *

5 (g) Service of petition and orders.--The petition and orders
6 shall be served upon the defendant, and orders shall be served
7 upon the police departments and sheriff with appropriate
8 jurisdiction to enforce the orders. Orders shall be promptly
9 served on the police and sheriff. Failure to serve shall not
10 stay the effect of a valid order.

11 (g.1) Service of original process of a foreign protection
12 order.--[There shall be no prepayment of fees for service of
13 original process of a foreign protection order.] No plaintiff or
14 petitioner shall be charged any costs or fees associated with
15 the service of original process of a foreign protection order.
16 Costs or fees associated with the service of original process of
17 a foreign protection order may be assessed against the
18 defendant.

19 * * *

20 Section 8. Sections 6107(a) and (b) and 6108 of Title 23 are
21 amended to read:

22 § 6107. Hearings.

23 (a) General rule.--Within ten business days of the filing of
24 a petition under this chapter, a hearing shall be held before
25 the court, at which the plaintiff must prove the allegation of
26 abuse by a preponderance of the evidence. The court shall, at
27 the time the defendant is given notice of the hearing, advise
28 the defendant of the right to be represented by counsel, of the
29 possibility that any firearm, other weapon or ammunition owned
30 and any firearm license possessed may be ordered temporarily

1 relinquished, of the possibility that Federal law may prohibit
2 the possession of firearms, including an explanation of 18
3 U.S.C. § 922(g)(8) (relating to unlawful acts) and [of the fact]
4 that any protection order granted by a court may be considered
5 in any subsequent proceedings under this title. This notice
6 shall be printed and delivered in a manner which easily attracts
7 attention to its content and shall specify that child custody is
8 one of the proceedings where prior protection orders may be
9 considered.

10 (b) Temporary orders.--

11 (1) If a plaintiff petitions for temporary order for
12 protection from abuse and alleges immediate and present
13 danger of abuse to the plaintiff or minor children, the court
14 shall conduct an ex parte proceeding.

15 (2) The court may enter such a temporary order as it
16 deems necessary to protect the plaintiff or minor children
17 when it finds they are in immediate and present danger of
18 abuse. The order shall remain in effect until modified or
19 terminated by the court after notice and hearing. [Any order
20 issued under this section shall, where furnished by the
21 plaintiff, specify the Social Security number and date of
22 birth of the defendant.]

23 (3) In addition to any other relief, the court may,
24 pursuant to section 6108 (relating to relief), direct that
25 the defendant temporarily relinquish to the sheriff any
26 firearms, other weapons or ammunition for the duration of the
27 temporary order if the petition demonstrates any of the
28 following:

29 (i) Abuse which involves a firearm or other weapon.

30 (ii) An immediate and present danger of abuse. In

1 determining whether an immediate and present danger of
2 abuse exists, the court shall consider a number of
3 factors, including, but not limited to:

4 (A) Whether the temporary order of protection
5 from abuse is not likely to achieve its purpose in
6 the absence of such a condition.

7 (B) Whether the defendant has previously
8 violated a protection from abuse order.

9 (C) Whether past or present abuse to the
10 plaintiff or any of the plaintiff's minor children
11 resulted in injury.

12 (D) Whether the abuse occurred in public.

13 (E) Whether the abuse includes:

14 (I) threats of abuse or suicide;

15 (II) killing or threatening to kill pets;

16 (III) an escalation of violence;

17 (IV) stalking or obsessive behavior;

18 (V) sexual violence; or

19 (VI) drug or excessive alcohol use.

20 (4) If the court orders the defendant to temporarily
21 relinquish any firearm, other weapon or ammunition pursuant
22 to paragraph (3), section 6108(a)(7) shall apply with respect
23 to any firearm, other weapon or ammunition ordered
24 relinquished.

25 * * *

26 § 6108. Relief.

27 (a) General rule.--The court may grant any protection order
28 or approve any consent agreement to bring about a cessation of
29 abuse of the plaintiff or minor children. The order or agreement
30 may include:

1 (1) Directing the defendant to refrain from abusing the
2 plaintiff or minor children.

3 (2) Granting possession to the plaintiff of the
4 residence or household to the exclusion of the defendant by
5 evicting the defendant or restoring possession to the
6 plaintiff [when] if the residence or household is jointly
7 owned or leased by the parties, is owned or leased by the
8 entirety or is owned or leased solely by the plaintiff.

9 (3) [When] If the defendant has a duty to support the
10 plaintiff or minor children living in the residence or
11 household and the defendant is the sole owner or lessee,
12 granting possession to the plaintiff of the residence or
13 household to the exclusion of the defendant by evicting the
14 defendant or restoring possession to the plaintiff or, with
15 the consent of the plaintiff, ordering the defendant to
16 provide suitable alternate housing.

17 (4) Awarding temporary custody of or establishing
18 temporary visitation rights with regard to minor children. In
19 determining whether to award temporary custody or establish
20 temporary visitation rights pursuant to this paragraph, the
21 court shall consider any risk posed by the defendant to the
22 children, as well as risk to the plaintiff. The following
23 shall apply:

24 (i) A defendant shall not be granted custody,
25 partial custody or unsupervised visitation where it is
26 alleged in the petition, and the court finds after a
27 hearing under this chapter, that the defendant:

28 (A) abused the minor children of the parties or
29 [where the defendant] poses a risk of abuse toward
30 the minor children of the parties; or

1 (B) has been convicted of violating 18 Pa.C.S. §
2 2904 (relating to interference with custody of
3 children) within two calendar years prior to the
4 filing of the petition for protection order[.] or
5 that the defendant poses a risk of violating 18
6 Pa.C.S. § 2904.

7 (ii) Where the court finds after a hearing under
8 this chapter that the defendant has inflicted abuse upon
9 the plaintiff or a child, the court may require
10 supervised custodial access by a third party. The third
11 party must agree to be accountable to the court for
12 supervision and execute an affidavit of accountability.

13 (iii) Where the court finds after a hearing under
14 this chapter that the defendant has inflicted serious
15 abuse upon the plaintiff or a child or poses a risk of
16 abuse toward the plaintiff or a child, the court may
17 award supervised visitation in a secure visitation
18 facility or may deny the defendant custodial access to a
19 child.

20 (iv) If a plaintiff petitions for a temporary order
21 under section 6107(b) (relating to hearings) and the
22 defendant has partial, shared or full custody of the
23 minor children of the parties by order of court or
24 written agreement of the parties, the custody shall not
25 be disturbed or changed unless the court finds that the
26 defendant is likely to inflict abuse upon the children or
27 to remove the children from the jurisdiction of the court
28 prior to the hearing under section 6107(a). Where the
29 defendant has forcibly or fraudulently removed any minor
30 child from the care and custody of a plaintiff, the court

1 shall order the return of the child to the plaintiff
2 unless the child would be endangered by restoration to
3 the plaintiff.

4 (v) Nothing in this paragraph shall bar either party
5 from filing a petition for custody under Chapter 53
6 (relating to custody) or under the Pennsylvania Rules of
7 Civil Procedure.

8 (vi) In order to prevent further abuse during
9 periods of access to the plaintiff and child during the
10 exercise of custodial rights, the court shall consider,
11 and may impose on a custody award, conditions necessary
12 to assure the safety of the plaintiff and minor children
13 from abuse.

14 (5) After a hearing in accordance with section 6107(a),
15 directing the defendant to pay financial support to those
16 persons the defendant has a duty to support, requiring the
17 defendant, under sections 4324 (relating to inclusion of
18 medical support) and 4326 (relating to mandatory inclusion of
19 child medical support), to provide health coverage for the
20 minor child and spouse, directing the defendant to pay all of
21 the unreimbursed medical expenses of a spouse or minor child
22 of the defendant to the provider or to the plaintiff when he
23 or she has paid for the medical treatment, and directing the
24 defendant to make or continue to make rent or mortgage
25 payments on the residence of the plaintiff to the extent that
26 the defendant has a duty to support the plaintiff or other
27 dependent household members. The support order shall be
28 temporary, and any beneficiary of the order must file a
29 complaint for support under the provisions of Chapters 43
30 (relating to support matters generally) and 45 (relating to

1 reciprocal enforcement of support orders) within two weeks of
2 the date of the issuance of the protection order. If a
3 complaint for support is not filed, that portion of the
4 protection order requiring the defendant to pay support is
5 void. When there is a subsequent ruling on a complaint for
6 support, the portion of the protection order requiring the
7 defendant to pay support expires.

8 (6) Prohibiting the defendant from having any contact
9 with the plaintiff or minor children, including, but not
10 limited to, restraining the defendant from entering the place
11 of employment or business or school of the plaintiff or minor
12 children and from harassing the plaintiff or plaintiff's
13 relatives or minor children.

14 (7) Ordering the defendant to temporarily relinquish to
15 the sheriff the defendant's [weapons which] other weapons and
16 ammunition which have been used or been threatened to be used
17 in an incident of abuse against the plaintiff or the minor
18 children and the defendant's firearms and prohibiting the
19 defendant from acquiring or possessing any [other weapons]
20 firearm for the duration of the order and requiring the
21 defendant to relinquish to the sheriff any firearm license,
22 other than a license under 18 Pa.C.S. § 6113 (relating to
23 licensing of dealers), 18 U.S.C. § 923 (relating to
24 licensing) or any other Federal or State license for the
25 sale, manufacture or importation of firearms, the defendant
26 may possess. [The court's order shall provide for the return
27 of the weapons and any firearm license to the defendant
28 subject to any restrictions and conditions as the court shall
29 deem appropriate to protect the plaintiff or minor children
30 from further abuse through the use of weapons.] A copy of the

1 court's order shall be transmitted to the chief or head of
2 the police force or police department of the municipality and
3 to the sheriff of the county of which the defendant is a
4 resident. When relinquishment is ordered, the following shall
5 apply:

6 (i) (A) The court's order shall require the
7 defendant to relinquish such firearms, other weapons,
8 ammunition and any firearm license pursuant to the
9 provisions of this chapter within 24 hours of service
10 of a temporary order or the entry of a final order or
11 the close of the next business day as necessary by
12 closure of the sheriffs' offices, except for cause
13 shown at the hearing, in which case the court shall
14 specify the time for relinquishment of any or all of
15 the defendant's firearms.

16 (B) A defendant subject to a temporary order
17 requiring the relinquishment of firearms, other
18 weapons or ammunition shall, in lieu of relinquishing
19 specific firearms, other weapons or ammunition which
20 cannot reasonably be retrieved within the time for
21 relinquishment in clause (A) due to their current
22 location, provide the sheriff with an affidavit
23 listing the firearms, other weapons or ammunition and
24 their current location. If the defendant, within the
25 time for relinquishment in clause (A), fails to
26 provide the affidavit or fails to relinquish,
27 pursuant to this chapter, any firearms, other weapons
28 or ammunition ordered to be relinquished which are
29 not specified in the affidavit, the sheriff shall, at
30 a minimum, provide immediate notice to the court, the

1 plaintiff and appropriate law enforcement
2 authorities. The defendant shall not possess any
3 firearms, other weapons or ammunition specifically
4 listed in the affidavit provided to the sheriff
5 pursuant to this clause for the duration of the
6 temporary order.

7 (C) As used in this subparagraph, the term
8 "cause" shall be limited to facts relating to the
9 inability of the defendant to retrieve a specific
10 firearm within 24 hours due to the current location
11 of the firearm.

12 (ii) The court's order shall contain a list of any
13 firearm, other weapon or ammunition ordered relinquished.
14 Except as provided in subparagraph(i)(B), section 6108.2
15 (relating to relinquishment for consignment sale, lawful
16 transfer or safekeeping) or 6108.3 (relating to
17 relinquishment to third party for safekeeping) the
18 sheriff shall secure custody of all of the defendant's
19 firearms, other weapons or ammunition and any firearm
20 license for the duration of the order or until directed
21 otherwise by court order. In securing custody of the
22 defendant's relinquished firearms, the sheriff shall
23 comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons
24 not to possess, use, manufacture, control, sell or
25 transfer firearms). In securing custody of the
26 defendant's other weapons and ammunition, the sheriff
27 shall provide the defendant with a signed and dated
28 written receipt which shall include a detailed
29 description of the other weapon or ammunition and its
30 condition.

1 (iii) The sheriff shall provide the plaintiff with
2 the name of the person or agency to which any firearm,
3 other weapon or ammunition was relinquished.

4 (iv) Unless the defendant has complied with
5 subparagraph (i)(B) or section 6108.2 or 6108.3, if the
6 defendant fails to relinquish any firearm, other weapon,
7 ammunition or firearm license within 24 hours or upon the
8 close of the next business day due to closure of
9 sheriffs' offices or within the time ordered by the court
10 upon cause being shown at the hearing, the sheriff shall,
11 at a minimum, provide immediate notice to the court, the
12 plaintiff and appropriate law enforcement agencies.

13 (v) Any portion of any order or any petition or
14 other paper which includes a list of any firearm, other
15 weapon or ammunition ordered relinquished shall be kept
16 in the files of the court as a permanent record thereof
17 and withheld from public inspection except:

18 (A) upon an order of the court granted upon
19 cause shown;

20 (B) as necessary, by law enforcement, and court
21 personnel; or

22 (C) after redaction of information listing any
23 firearm, other weapon or ammunition.

24 (vi) As used in this paragraph, the term
25 "defendant's firearms" shall, if the defendant is a
26 licensed firearms dealer, only include firearms in the
27 defendant's personal firearms collection pursuant to 27
28 CFR § 478.125a (relating to personal firearms
29 collection).

30 (7.1) If the defendant is a licensed firearms dealer,

1 ordering the defendant to follow such restrictions as the
2 court may require concerning the conduct of his business,
3 which may include ordering the defendant to relinquish any
4 Federal or State license for the sale, manufacture or
5 importation of firearms as well as firearms in the
6 defendant's business inventory. In restricting the defendant
7 pursuant to this paragraph, the court shall make a reasonable
8 effort to preserve the financial assets of the defendant's
9 business while fulfilling the goals of this chapter.

10 (8) Directing the defendant to pay the plaintiff for
11 reasonable losses suffered as a result of the abuse,
12 including medical, dental, relocation and moving expenses;
13 counseling; loss of earnings or support; costs of repair or
14 replacement of real or personal property damaged, destroyed
15 or taken by the defendant or at the direction of the
16 defendant; and other out-of-pocket losses for injuries
17 sustained. In addition to out-of-pocket losses, the court may
18 direct the defendant to pay reasonable attorney fees. An
19 award under this chapter shall not constitute a bar to
20 litigation for civil damages for injuries sustained from the
21 acts of abuse giving rise to the award or a finding of
22 contempt under this chapter.

23 (9) Directing the defendant to refrain from stalking or
24 harassing the plaintiff and other designated persons as
25 defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and
26 2709.1 (relating to stalking).

27 (10) Granting any other appropriate relief sought by the
28 plaintiff.

29 (b) Identifying information.--Any order issued under this
30 section shall, where furnished by either party, specify the

1 Social Security number and date of birth of the defendant.

2 (c) Mutual orders of protection.--Mutual orders of
3 protection shall not be awarded unless both parties have filed
4 timely written petitions, complied with service requirements
5 under section 6106 (relating to commencement of proceedings) and
6 are eligible for protection under this chapter. The court shall
7 make separate findings and, where issuing orders on behalf of
8 both petitioners, enter separate orders.

9 (d) Duration and amendment of order or agreement.--A
10 protection order or approved consent agreement shall be for a
11 fixed period of time not to exceed [18 months] three years. The
12 court may amend its order or agreement at any time upon
13 subsequent petition filed by either party.

14 (e) Extension of protection orders.--

15 (1) An extension of a protection order may be granted:

16 (i) Where the court finds, after a duly filed
17 petition, notice to the defendant and a hearing, in
18 accordance with the procedures set forth in sections 6106
19 and 6107, that the defendant committed one or more acts
20 of abuse subsequent to the entry of the final order or
21 that the defendant engaged in a pattern or practice that
22 indicates continued risk of harm to the plaintiff or
23 minor child.

24 (ii) When a contempt petition or charge has been
25 filed with the court or with a hearing officer in
26 Philadelphia County, but the hearing has not occurred
27 before the expiration of the protection order, the order
28 shall be extended, at a minimum, until the disposition of
29 the contempt petition and may be extended for another
30 term beyond the disposition of the contempt petition.

1 (2) Service of an extended order shall be made in
2 accordance with section 6109 (relating to service of orders).

3 (3) There shall be no limitation on the number of
4 extensions that may be granted.

5 (f) Support procedure.--The domestic relations section shall
6 enforce any support award in a protection order where the
7 plaintiff files a complaint for support under subsection (a)(5).

8 (g) Notice.--Notice shall be given to the defendant, in
9 orders issued under this section, stating that violations of an
10 order will subject the defendant to arrest under section 6113
11 (relating to arrest for violation of order) or contempt of court
12 under section 6114 (relating to contempt for violation of order
13 or agreement). Resumption of coresidency on the part of the
14 plaintiff and defendant shall not nullify the provisions of the
15 court order.

16 (h) Title to real property unaffected.--No order or
17 agreement under this chapter shall in any manner affect title to
18 any real property.

19 Section 9. Title 23 is amended by adding sections to read:

20 § 6108.1. Return of relinquished firearms, other weapons and
21 ammunition.

22 (a) General rule.--Any court order requiring the
23 relinquishment of firearms, other weapons or ammunition shall
24 provide for the return of the relinquished firearms, other
25 weapons or ammunition to the defendant upon expiration of the
26 order or dismissal of a petition for a protection from abuse
27 order. The defendant may take custody of the firearms, other
28 weapons and ammunition provided that the defendant is otherwise
29 eligible to lawfully possess the relinquished items. The
30 defendant shall not be required to pay any fees, costs or

charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition.

(b) Modification of court's order.--

(1) The defendant may petition the court to allow for the return of firearms, other weapons and ammunition to the defendant prior to the expiration of the court's order. The petition shall be served upon the plaintiff and the plaintiff shall be a party to the proceedings regarding that petition.

(2) Any other person may petition the court to allow for the return of that other person's firearms, other weapons and ammunition prior to the expiration of the court's order. The petition shall be served upon the plaintiff and the plaintiff shall be given notice and an opportunity to be heard regarding that petition.

(c) Sale, lawful transfer or safekeeping of relinquished firearms, other weapons or ammunition.--The defendant may petition the court to allow for the sale, lawful transfer or safekeeping of any of the defendant's firearms, other weapons or ammunition relinquished in accordance with this chapter. Any petition or other application for the sale, lawful transfer or safekeeping of firearms, other weapons or ammunition filed prior to the expiration of the court's order shall be served upon the plaintiff, and the plaintiff shall have an opportunity to be heard prior to the issuance of a court order allowing for the sale, lawful transfer or safekeeping of firearms, other weapons or ammunition. Upon court order directing the sale, lawful

1 transfer or safekeeping of a relinquished firearm, other weapons
2 or ammunition the sheriff shall proceed as directed by the
3 court.

4 (d) Hearing.--Within ten business days of the filing of any
5 petition under this section, a hearing shall be held before the
6 court.

7 (e) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection:

10 "Other person." Any person, except the defendant, who is the
11 lawful owner of a firearm, other weapon or ammunition
12 relinquished pursuant to this chapter.

13 "Safekeeping." The secure custody of a firearm, other weapon
14 or ammunition ordered relinquished by an active protection from
15 abuse order as authorized pursuant to a court order until such
16 time as the court directs the relinquishment of said firearm,
17 other weapon or ammunition and the person to whom it shall be
18 relinquished.

19 § 6108.2. Relinquishment for consignment sale, lawful transfer
20 or safekeeping.

21 (a) General rule.--Notwithstanding any other provision of
22 law, a defendant who is the subject of a final protection from
23 abuse order, which order provided for the relinquishment of
24 firearms, other weapons or ammunition during the period of time
25 the order is in effect may, within the time frame specified in
26 the order and in lieu of relinquishment to the sheriff,
27 relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113
28 (relating to licensing of dealers) any firearms, other weapons
29 or ammunition for consignment sale, lawful transfer or
30 safekeeping.

1 (b) Affidavit.--A defendant relinquishing firearms, other
2 weapons or ammunition to a dealer pursuant to subsection (a)
3 shall obtain an affidavit from the dealer on a form prescribed
4 by the Pennsylvania State Police which shall include, at a
5 minimum, the following:

6 (1) The caption of the case in which the protection from
7 abuse order was issued.

8 (2) The name, address, date of birth and Social Security
9 number of the defendant.

10 (3) A list of the firearms, other weapons or ammunition,
11 including, if applicable, the manufacturer, model and serial
12 number.

13 (4) The name and license number of the dealer licensed
14 pursuant to 18 Pa.C.S. § 6113 and the address of the licensed
15 premises.

16 (5) An acknowledgment that the firearms, other weapons
17 or ammunition will not be returned to the defendant or sold
18 or transferred to a person the dealer knows is a member of
19 the defendant's household, while the defendant is the subject
20 of an active protection from abuse order pursuant to section
21 6108, which order provided for the relinquishment of the
22 firearm, other weapon or ammunition being returned, sold or
23 transferred.

24 (6) An acknowledgment that the firearms, other weapons
25 or ammunition, if sold or transferred, will be sold or
26 lawfully transferred in compliance with 18 Pa.C.S. Ch. 61
27 (relating to firearms and other dangerous articles).

28 (c) Failure to provide affidavit.--A defendant relinquishing
29 firearms, other weapons or ammunition to a dealer pursuant to
30 subsection (a) shall, within the time frame specified in the

1 order for relinquishing firearms, other weapons or ammunition
2 provide to the sheriff the affidavit obtained pursuant to
3 subsection (b) and relinquish to the sheriff any firearms, other
4 weapons or ammunition ordered to be relinquished which are not
5 specified in the affidavit, in an affidavit provided in
6 accordance with section 6108(a)(7)(i)(B) (relating to relief) or
7 in an acknowledgment of receipt from a third party provided to
8 the sheriff pursuant to section 6108.3 (relating to
9 relinquishment to third party for safekeeping). If the defendant
10 fails to comply with this subsection, the sheriff shall, at a
11 minimum, provide immediate notice to the court, the plaintiff
12 and appropriate law enforcement agencies.

13 (d) Form.--The Pennsylvania State Police shall develop and
14 make available a form to be used by dealers to accept possession
15 of firearms, other weapons and ammunition for consignment sale,
16 lawful transfer or safekeeping pursuant to this section.

17 (e) Transfer upon entry of final order.--Upon entry of a
18 final protection from abuse order issued pursuant to section
19 6108, which order provided for the relinquishment of firearms,
20 other weapons or ammunition during the period of time the order
21 is in effect, a defendant who had relinquished firearms, other
22 weapons or ammunition to the sheriff pursuant to a temporary
23 order may request that the firearms, other weapons or ammunition
24 be relinquished to a dealer for consignment sale, lawful
25 transfer or safekeeping pursuant to this section. If the
26 defendant can identify a licensed dealer willing to accept the
27 firearms, other weapons or ammunition in compliance with this
28 section, the court shall order the sheriff to transport the
29 firearms, other weapons or ammunition to the licensed dealer at
30 no cost to the defendant or the licensed dealer.

1 (f) Nondisclosure.--The affidavit obtained under subsection
2 (c) shall not be subject to access under the act of June 21,
3 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

4 (g) Definitions.--As used in this section, the following
5 words and phrases shall have the meanings given to them in this
6 subsection:

7 "Safekeeping." The secure custody of firearms, other weapons
8 or ammunition ordered relinquished by an active protection from
9 abuse order issued pursuant to section 6108 (relating to relief)
10 by a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to
11 licensing of dealers).

12 "Sale or lawful transfer." Any sale or transfer to a person
13 other than the defendant or a member of the defendant's
14 household which is conducted in accordance with 18 Pa.C.S. Ch.
15 61 (relating to firearms and other dangerous articles).
16 § 6108.3. Relinquishment to third party for safekeeping.

17 (a) General rule.--A defendant who is the subject of a
18 protection from abuse order, which order provided for the
19 relinquishment of firearms, other weapons or ammunition during
20 the period of time the order is in effect may, within the time
21 frame specified in the order and in lieu of relinquishment to
22 the sheriff, relinquish any firearms, other weapons or
23 ammunition to a third party for safekeeping.

24 (b) Transfer to third party.--

25 (1) A defendant wishing to relinquish firearms, other
26 weapons or ammunition to a third party pursuant to subsection
27 (a) shall, within the time frame specified in the order for
28 relinquishing firearms, other weapons and ammunition, report
29 to the sheriff's office in the county where the order was
30 entered along with the third party.

1 (2) Upon determination by the sheriff that the third
2 party is not prohibited from possessing firearms, other
3 weapons or ammunition pursuant to any Federal or State law
4 and after the defendant and third party have executed the
5 affidavits required under paragraph (3), the sheriff shall
6 issue a safekeeping permit to the third party, which shall
7 include, at a minimum, a list of the firearms, other weapons
8 and ammunition which will be relinquished to the third party.
9 The permit shall be issued at no cost to the third party or
10 defendant. The permit shall require the third party to
11 possess the defendant's firearms, other weapons and
12 ammunition until the time that:

13 (i) the sheriff revokes the safekeeping permit
14 pursuant to subsection (c)(1); or

15 (ii) the sheriff accepts return of the safekeeping
16 permit pursuant to subsection (d).

17 (3) (i) A defendant wishing to relinquish firearms,
18 other weapons or ammunition to a third party pursuant to
19 subsection (a) shall, in the presence of the sheriff or
20 the sheriff's designee, execute an affidavit on a form
21 prescribed by the Pennsylvania State Police which shall
22 include, at a minimum, the following:

23 (A) The caption of the case in which the
24 protection from abuse order was issued.

25 (B) The name, address, date of birth and the
26 Social Security number of the defendant.

27 (C) The name, address and date of birth of the
28 third party.

29 (D) A list of the firearms, other weapons and
30 ammunition which will be relinquished to the third

1 party, including, if applicable, the manufacturer,
2 model and serial number.

3 (E) An acknowledgment that the defendant will
4 not take possession of any firearm, other weapon or
5 ammunition relinquished to the third party, until the
6 sheriff accepts return of the safekeeping permit
7 pursuant to subsection (d).

8 (F) A plain language summary of 18 Pa.C.S. §
9 6105(a.1)(2) and (c)(6) (relating to persons not to
10 possess, use, manufacture, control, sell or transfer
11 firearms).

12 (G) A plain language summary of 18 U.S.C. §
13 922(g)(8) (relating to unlawful acts).

14 (ii) A third party who will be accepting possession
15 of firearms, other weapons and ammunition pursuant to
16 subsection (a) shall, in the presence of the sheriff or
17 the sheriff's designee, execute an affidavit on a form
18 prescribed by the Pennsylvania State Police which shall
19 include, at a minimum, the following:

20 (A) The caption of the case in which the
21 protection from abuse order was issued.

22 (B) The name, address and date of birth of the
23 defendant.

24 (C) The name, address, date of birth and the
25 Social Security number of the third party.

26 (D) A list of the firearms, other weapons and
27 ammunition which will be relinquished to the third
28 party, including, if applicable, the manufacturer,
29 model and serial number.

30 (E) An acknowledgment that no firearm, other

1 weapon or ammunition relinquished to the third party
2 will be returned to the defendant, until the sheriff
3 accepts return of the safekeeping permit pursuant to
4 subsection (d).

5 (F) A plain language summary of 18 Pa.C.S. §§
6 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or
7 transfer of firearms) and 6115 (relating to loans on,
8 or lending or giving firearms prohibited).

9 (G) A plain language summary of this section.

10 (H) An acknowledgment that the third party is
11 not prohibited from possessing firearms, other
12 weapons or ammunition pursuant to any Federal or
13 State law.

14 (I) An acknowledgment that the third party is
15 not subject to an active protection from abuse order.

16 (J) An acknowledgment that the defendant has
17 never been the subject of a protection from abuse
18 order issued on behalf of the third party.

19 (K) An acknowledgment that any firearms, other
20 weapons and ammunition relinquished to the third
21 party will be stored using a locking device as
22 defined in paragraph (1) of the definition of
23 "locking device" in 18 Pa.C.S. § 6142(f) (relating to
24 locking device for firearms) or in a secure location
25 to which the defendant does not have access.

26 (4) The defendant shall, within the time frame specified
27 in the order and in lieu of relinquishment to the sheriff,
28 relinquish the firearms, other weapons and ammunition
29 specified in the affidavits provided to the sheriff pursuant
30 to paragraph (3) to the third party who has been issued a

1 safekeeping permit pursuant to paragraph (2). Upon
2 relinquishment of the firearms to the third party, the third
3 party shall sign an acknowledgment of receipt on a form
4 prescribed by the Pennsylvania State Police, which shall
5 include, at a minimum, an acknowledgment that the firearms
6 were relinquished to the third party within the time frame
7 specified in the order.

8 (5) Within 24 hours of the issuance of the safekeeping
9 permit issued to the third party pursuant to paragraph (2) or
10 by close of the next business day as necessary due to the
11 closure of the sheriff's office, the defendant shall return
12 the signed acknowledgment of receipt required under paragraph
13 (4) to the sheriff in the county where the order was entered.

14 (6) If the defendant fails to provide the acknowledgment
15 of receipt to the sheriff as required under paragraph (5), an
16 affidavit prepared in accordance with section
17 6108(a)(7)(i)(B) (relating to relief), an affidavit under
18 section 6108.2 (relating to relinquishment for consignment
19 sale, lawful transfer or safekeeping) or fails to relinquish
20 any firearms, other weapons or ammunition, the sheriff shall,
21 at a minimum, provide immediate notice to the court, the
22 plaintiff and appropriate law enforcement agencies.

23 (c) Revocation of safekeeping permit.--

24 (1) The sheriff shall revoke a third party's safekeeping
25 permit and require the third party to relinquish to the
26 sheriff any firearms, other weapons or ammunition which were
27 relinquished to the third party by a defendant pursuant to
28 subsection (a) upon determining or being notified that any of
29 the following apply:

30 (i) A protection from abuse order has been entered

1 against the third party.

2 (ii) The third party is prohibited from possessing
3 firearms, other weapons or ammunition pursuant to any
4 Federal or State law.

5 (iii) The defendant has been convicted of a
6 violation of 18 Pa.C.S. Ch. 61 (relating to firearms and
7 other dangerous articles), or any other offense involving
8 the use of a firearm.

9 (iv) The defendant has been held in indirect
10 criminal contempt for violating a provision of the
11 protection from abuse order consistent with section
12 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

13 (2) Upon revocation of a safekeeping permit, the sheriff
14 shall seize the safekeeping permit and all of the defendant's
15 firearms, other weapons and ammunition which were
16 relinquished to the third party. If revocation of the
17 safekeeping permit was:

18 (i) Required pursuant to paragraph (1)(i) or (ii),
19 the sheriff shall notify the defendant that the firearms,
20 other weapons and ammunition which were relinquished to
21 the third party are in the sheriff's possession and that
22 the defendant may report to the sheriff's office in order
23 to relinquish the firearms, other weapons and ammunition
24 to a subsequent third party pursuant to this section or
25 to a licensed dealer pursuant to section 6108.2 (relating
26 to relinquishment for consignment sale, lawful transfer
27 or safekeeping).

28 (ii) Required pursuant to paragraph (1)(iii) or
29 (iv), the sheriff shall maintain possession of the
30 firearms, other weapons and ammunition until the

defendant is no longer prohibited from possessing
firearms, other weapons and ammunition pursuant to any
Federal or State law unless:

(A) the defendant has the firearms, other
weapons and ammunition relinquished to a licensed
dealer pursuant to section 6108.2; or

(B) the sheriff is directed to relinquish the
firearms, other weapons and ammunition pursuant to a
court order.

(d) Return of safekeeping permit.--

(1) Following expiration of a protection from abuse
order, which order provided for the relinquishment of
firearms, other weapons or ammunition, the defendant and the
third party shall report to the sheriff's office to return
the safekeeping permit. Upon a determination by the sheriff
that the defendant is:

(i) Not prohibited from possessing firearms, other
weapons and ammunition, the sheriff shall accept the
return of the safekeeping permit and the third party
shall relinquish to the defendant all of the defendant's
firearms, other weapons and ammunition which were
relinquished to the third party pursuant to this section.

(ii) Prohibited from possessing a firearm, other
weapon or ammunition pursuant to any Federal or State
law, the sheriff shall accept return of the permit and
seize from the third party all of the defendant's
firearms, other weapons and ammunition, which were
relinquished to the third party pursuant to this section.
The sheriff shall return to the defendant any firearm,
other weapon or ammunition, which the defendant is

1 lawfully entitled to possess.

2 (2) Upon issuance of a court order pursuant to 18
3 Pa.C.S. §§ 6105(f)(2) or 6108.1(b) (relating to return of
4 relinquished firearms, other weapons and ammunition) which
5 modifies a valid protection from abuse order by allowing the
6 defendant to take possession of a firearm, other weapon or
7 ammunition that had previously been ordered relinquished, the
8 defendant and the third party shall report to the sheriff's
9 office to return the safekeeping permit. The sheriff shall
10 proceed as directed by the court order.

11 (3) If a third party wishes to relinquish the
12 defendant's firearms, other weapons and ammunition prior to
13 return of the safekeeping permit pursuant to paragraph (1),
14 the sheriff shall accept return of the safekeeping permit and
15 shall seize all of the defendant's firearms, other weapons
16 and ammunition from the third party. The sheriff shall notify
17 the defendant that the firearms, other weapons and
18 ammunition, which were relinquished to the third party are in
19 the sheriff's possession and that the defendant may
20 relinquish the firearms, other weapons and ammunition to a
21 subsequent third party pursuant to this section or to a
22 licensed dealer pursuant to section 6108.2.

23 (e) Civil liability.--A third party who intentionally or
24 knowingly violates any of the provisions of this section shall,
25 in addition to any other penalty prescribed in this chapter or
26 18 Pa.C.S. Ch. 61 be civilly liable to any person for any
27 damages caused thereby and, in addition, shall be liable to any
28 person for punitive damages in an amount not to exceed \$5,000,
29 and the court shall award a prevailing plaintiff a reasonable
30 attorney fee as part of the costs.

1 (f) Forms.--The Pennsylvania State Police shall develop and
2 make available:

3 (1) Forms to be used by sheriffs to issue safekeeping
4 permits pursuant to subsection (b)(2).

5 (2) Affidavit forms and receipt forms to be used by
6 defendants and third parties as required under subsection
7 (b)(3) and (4).

8 (g) Transfer upon final entry.--A defendant who has
9 previously relinquished firearms, other weapons or ammunition to
10 the sheriff pursuant to a temporary order, shall be permitted to
11 have the firearms, other weapons and ammunition relinquished to
12 a third party pursuant to this section following entry of a
13 final protection from abuse order, which order provides for the
14 relinquishment of firearms, other weapons or ammunition during
15 the period of time the order is in effect.

16 (h) Nondisclosure.--All copies of the safekeeping permit
17 issued under subsection (b)(2) retained by the sheriff and the
18 affidavits and forms obtained under subsection (b)(3) and (4)
19 shall not be subject to access under the act of June 21, 1957
20 (P.L.390, No.212), referred to as the Right-to-Know Law.

21 (i) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Safekeeping." The secure custody of firearms, other weapons
25 or ammunition, which were ordered relinquished by a valid
26 protection from abuse order, by a third party.

27 "Third party." A person, other than the defendant, who:

28 (1) Is not a member of the defendant's household.

29 (2) Is not prohibited from possessing firearms pursuant
30 to any Federal or State law.

1 § 6108.4. Registry or database of firearm ownership.

2 (a) Confidentiality.--Information retained to ensure
3 compliance with this chapter and to document the return of
4 firearms shall not be subject to access under the act of June
5 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know
6 Law.

7 (b) Construction.--Nothing in this chapter shall be
8 construed to allow a government or law enforcement agency, or an
9 agent or employee of either, or any other person or entity to
10 create, maintain or operate a database or registry of firearm
11 ownership within this Commonwealth. However, information may be
12 retained to ensure compliance with this chapter and to document
13 the return of firearms.

14 § 6108.5. Penalties for release of information.

15 Any person who violates section 6108(a)(7)(v) (relating to
16 relief) by releasing information with the intent and purpose of
17 committing such violation commits a misdemeanor of the third
18 degree.

19 Section 10. Section 6110 of Title 23 is amended by adding a
20 subsection to read:

21 § 6110. Emergency relief by minor judiciary.

22 * * *

23 (e) Master for emergency relief.--The president judge of a
24 court of common pleas of a judicial district may provide for the
25 selection and appointment of a master for emergency relief on a
26 full-time or part-time basis. The number of masters for
27 emergency relief shall be fixed by the president judge. The
28 compensation of a master for emergency relief shall be fixed and
29 paid by the county.

30 Section 11. Sections 6113 and 6113.1 of Title 23, amended

1 November 30, 2004 (P.L.1618, No.207), are amended to read:

2 § 6113. Arrest for violation of order.

3 (a) General rule.--An arrest for violation of an order
4 issued pursuant to this chapter or a foreign protection order
5 may be without warrant upon probable cause whether or not the
6 violation is committed in the presence of the police officer or
7 sheriff in circumstances where the defendant has violated a
8 provision of an order consistent with section 6108(a)(1), (2),
9 (3), (4), (6), (7) or (9) (relating to relief). The police
10 officer or sheriff may verify the existence of a protection
11 order by telephone, radio or other electronic communication with
12 the appropriate police department, Pennsylvania State Police
13 registry, protection order file or issuing authority. A police
14 officer or sheriff shall arrest a defendant for violating an
15 order issued under this chapter by a court within the judicial
16 district, issued by a court in another judicial district within
17 this Commonwealth or a foreign protection order issued by a
18 comparable court.

19 (b) Seizure of [weapons] firearms, other weapons and
20 ammunition.--Subsequent to an arrest, the police officer or
21 sheriff shall seize all [weapons] firearms, other weapons and
22 ammunition used or threatened to be used during the violation of
23 the protection order or during prior incidents of abuse and any
24 other firearms in the defendant's possession. As soon as it is
25 reasonably possible, the arresting officer shall deliver the
26 confiscated [weapons] firearms, other weapons and ammunition to
27 the office of the sheriff. The sheriff shall maintain possession
28 of the [weapons] firearms, other weapons and ammunition until
29 the court issues an order specifying the [weapons] firearms,
30 other weapons and ammunition to be relinquished and the persons

1 to whom the [weapons] firearms, other weapons and ammunition
2 shall be relinquished.

3 (c) Procedure following arrest.--Subsequent to an arrest,
4 the defendant shall be taken by the police officer or sheriff
5 without unnecessary delay before the court in the judicial
6 district where the contempt is alleged to have occurred. When
7 that court is unavailable, the police officer or sheriff shall
8 convey the defendant to a magisterial district judge designated
9 as appropriate by local rules of court or, in the city of
10 Pittsburgh, to a magistrate of the Pittsburgh Magistrates Court
11 or, in counties of the first class, to the appropriate hearing
12 officer. For purposes of procedure relating to arraignments for
13 arrest for violation of an order issued under this chapter, the
14 judges of Pittsburgh Magistrates Court shall be deemed to be
15 magisterial district judges.

16 (d) Preliminary arraignment.--The defendant shall be
17 afforded a preliminary arraignment without unnecessary delay.

18 (e) Other emergency powers unaffected.--This section shall
19 not be construed to in any way limit any of the other powers for
20 emergency relief provided in this chapter.

21 (f) Hearing.--A hearing shall be scheduled within ten days
22 of the filing of the charge or complaint of indirect criminal
23 contempt. The hearing and any adjudication shall not preclude a
24 hearing on other criminal charges underlying the contempt, nor
25 shall a hearing or adjudication on other criminal charges
26 preclude a hearing on a charge of indirect criminal contempt.

27 § 6113.1. Private criminal complaints for violation of order or
28 agreement.

29 (a) General rule.--A plaintiff may file a private criminal
30 complaint against a defendant, alleging indirect criminal

1 contempt for a noneconomic violation of any provision of an
2 order or court-approved consent agreement issued under this
3 chapter or a foreign protection order, with the court, the
4 office of the district attorney or the magisterial district
5 judge in the jurisdiction or county where the violation
6 occurred, except that, in a city of the first class, a complaint
7 may only be filed with the family division of the court of
8 common pleas or the office of the district attorney.

9 (b) Procedure service.--Procedure for filing and service of
10 a private criminal complaint shall be provided as set forth by
11 local rule. No fees or costs associated with the prosecution of
12 the private criminal complaint shall be assigned to the
13 plaintiff at any stage of the proceeding, including, but not
14 limited to, filing, service, failure to prosecute, withdrawal or
15 dismissal. Nothing in this subsection is intended to expand or
16 diminish the court's authority to enter an order pursuant to
17 Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents.
18 Representations to the Court. Violation).

19 (c) Fees and costs.--After a finding of indirect criminal
20 contempt, fees and costs may be assessed against the defendant.
21 The court shall waive fees and costs imposed pursuant to this
22 chapter, upon a showing of good cause or when the court makes a
23 finding that the defendant is not able to pay the costs
24 associated with the indirect criminal contempt action. Nothing
25 in this subsection is intended to expand or diminish the court's
26 authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.

27 Section 12. Sections 6114 and 6117 of Title 23 are amended
28 to read:

29 § 6114. Contempt for violation of order or agreement.

30 (a) General rule.--Where the police, sheriff or the

1 plaintiff have filed charges of indirect criminal contempt
2 against a defendant for violation of a protection order issued
3 under this chapter, a foreign protection order or a court-
4 approved consent agreement, the court may hold the defendant in
5 indirect criminal contempt and punish the defendant in
6 accordance with law.

7 (a.1) Jurisdiction.--A court shall have jurisdiction over
8 indirect criminal contempt charges for violation of a protection
9 order issued pursuant to this chapter [or a foreign protection
10 order] in the county where the violation occurred[.] and in the
11 county where the protection order was granted. A court shall
12 have jurisdiction over indirect criminal contempt charges for
13 violation of a foreign protection order in the county where the
14 violation occurred.

15 (a.2) Minor defendant.--Any defendant who is a minor and who
16 is charged with indirect criminal contempt for allegedly
17 violating a protection from abuse order shall be considered to
18 have committed an alleged delinquent act as that term is defined
19 in 42 Pa.C.S. § 6302 (relating to definitions) and shall be
20 treated as provided in 42 Pa.C.S. Ch. 63 (relating to juvenile
21 matters).

22 (b) Trial and punishment.--

23 (1) A sentence for contempt under this chapter may
24 include [imprisonment up to six months or a fine of not less
25 than \$100 nor more than \$1,000, or both, and may include
26 other relief set forth in this chapter. All moneys received
27 under this section shall be forwarded to the Commonwealth and
28 shall be used by the Pennsylvania State Police to establish
29 and maintain the Statewide registry of protection orders
30 provided for in section 6105 (relating to responsibilities of

1 law enforcement agencies). The defendant shall not have a
2 right to a jury trial on such a charge; however, the
3 defendant shall be entitled to counsel.]:

4 (i) (A) a fine of not less than \$300 nor more than
5 \$1,000 and imprisonment up to six months; or

6 (B) a fine of not less than \$300 nor more than
7 \$1,000 and supervised probation not to exceed six
8 months; and

9 (ii) an order for other relief set forth in this
10 chapter.

11 (2) All money received under this section shall be
12 distributed in the following order of priority:

13 (i) \$100 shall be forwarded to the Commonwealth and
14 shall be used by the Pennsylvania State Police to
15 establish and maintain the Statewide registry of
16 protection orders provided for in section 6105 (relating
17 to responsibilities of law enforcement agencies).

18 (ii) \$100 shall be retained by the county and shall
19 be used to carry out the provisions of this chapter as
20 follows:

21 (A) \$50 shall be used by the sheriff.

22 (B) \$50 shall be used by the court.

23 (iii) \$100 shall be forwarded to the Department of
24 Public Welfare for use for victims of domestic violence
25 in accordance with the provisions of section 2333 of the
26 act of April 9, 1929 (P.L.177, No.175), known as The
27 Administrative Code of 1929.

28 (iv) Any additional money shall be forwarded to the
29 Commonwealth and shall be used by the Pennsylvania State
30 Police to establish and maintain the Statewide registry

1 of protection orders provided for in section 6105.

2 (3) The defendant shall not have a right to a jury trial
3 on a charge of indirect criminal contempt. However, the
4 defendant shall be entitled to counsel.

5 (4) Upon conviction for indirect criminal contempt and
6 at the request of the plaintiff, the court shall also grant
7 an extension of the protection order for an additional term.

8 (5) Upon conviction for indirect criminal contempt, the
9 court shall notify the sheriff of the jurisdiction which
10 issued the protection order of the conviction.

11 (6) The minimum fine required by subsection (b)(1)
12 allocated pursuant to subsection (b)(2)(i) and (iii) shall be
13 used to supplement and not to supplant any other source of
14 funds received for the purpose of carrying out the provisions
15 of this chapter.

16 (c) Notification upon release.--The appropriate releasing
17 authority or other official as designated by local rule shall
18 use all reasonable means to notify the victim sufficiently in
19 advance of the release of the offender from any incarceration
20 imposed under subsection (b). Notification shall be required for
21 work release, furlough, medical leave, community service,
22 discharge, escape and recapture. Notification shall include the
23 terms and conditions imposed on any temporary release from
24 custody. The plaintiff must keep the appropriate releasing
25 authority or other official as designated by local rule advised
26 of contact information; failure to do so will constitute waiver
27 of any right to notification under this section.

28 (d) Multiple remedies.--Disposition of a charge of indirect
29 criminal contempt shall not preclude the prosecution of other
30 criminal charges associated with the incident giving rise to the

1 contempt, nor shall disposition of other criminal charges
2 preclude prosecution of indirect criminal contempt associated
3 with the criminal conduct giving rise to the charges.

4 § 6117. Procedure and other remedies.

5 (a) General rule.--Unless otherwise indicated in this
6 chapter, a proceeding under this chapter shall be in accordance
7 with applicable general rules and shall be in addition to any
8 other available civil or criminal remedies. The plaintiff and
9 the defendant may seek modification of an order issued under
10 section 6108 (relating to relief) at any time during the
11 pendency of an order. [Modification] Except as otherwise
12 indicated in this chapter, modification may be ordered after the
13 filing of a petition for modification, service of the petition
14 and a hearing on the petition.

15 (b) Remedies for bad faith.--Notwithstanding any other
16 provision of law, upon finding that an individual commenced a
17 proceeding under this chapter in bad faith, a court shall direct
18 the individual to pay to the defendant actual damages and
19 reasonable attorney fees. Failure to prove an allegation of
20 abuse by a preponderance of the evidence shall not, by itself,
21 result in a finding of bad faith.

22 Section 13. Title 23 is amended by adding sections to read:

23 § 6119. Immunity.

24 (a) General rule.--Law enforcement agencies and their
25 employees, including police officers and sheriffs, shall, except
26 as provided in subsection (b), be immune from civil liability
27 for actions taken in good faith to carry out their duties
28 relating to the seizure and relinquishment of firearms, other
29 weapons and ammunition as provided for in this chapter, except
30 for gross negligence, intentional misconduct or reckless,

1 willful or wanton misconduct.

2 (b) Exception.--Law enforcement agencies and their
3 employees, including police officers and sheriffs, shall be
4 liable to the lawful owner of confiscated, seized or
5 relinquished firearms in accordance with 18 Pa.C.S. § 6105(f)
6 (relating to persons not to possess, use, manufacture, control,
7 sell or transfer firearms) and shall be liable to the lawful
8 owner of confiscated, seized or relinquished other weapons or
9 ammunition for any loss, damage or substantial decrease in the
10 value of the other weapons or ammunition that is a direct result
11 of a lack of reasonable care by the law enforcement agency or
12 its employees.

13 § 6120. Inability to pay.

14 (a) Order for installment payments.--Upon plea and proof
15 that a person is without the financial means to pay a fine, a
16 fee, economic relief ordered under section 6108(a)(8) (relating
17 to relief) or a cost, a court may order payment of money owed in
18 installments appropriate to the circumstances of the person and
19 shall fix the amounts, times and manner of payment. Installment
20 payments shall not exceed two years.

21 (b) Use of credit cards.--The treasurer of each county may
22 allow the use of credit cards and bank cards in the payment of
23 money owed under this chapter.

24 § 6121. Warrantless searches.

25 Except as provided in section 6113 (relating to arrest for
26 violation of order), nothing in this chapter shall authorize a
27 warrantless search for firearms, other weapons or ammunition.

28 § 6122. Construction.

29 Nothing in this chapter shall be construed to preclude an
30 action for wrongful use of civil process pursuant to 42 Pa.C.S.

1 Ch. 83 Subch. E (relating to wrongful use of civil proceedings)
2 or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49
3 (relating to falsification and intimidation).

4 Section 14. The Pennsylvania Commission on Crime and
5 Delinquency shall submit a report to the General Assembly three
6 years after the effective date of this section on the progress
7 of the Firearms License to Carry Modernization Fund.

8 Section 15. This act shall take effect as follows:

9 (1) The addition or amendment of 18 Pa.C.S. § 6109(e)(3)
10 introductory paragraph, (i), (ii), (v) and (vi) shall take
11 effect in 90 days.

12 (2) The addition or amendment of 18 Pa.C.S. §
13 6109(e)(3)(iii), (iv) and (4) shall take effect upon
14 publication of the notice under 18 Pa.C.S. § 6109(h)(2) or
15 five years and 60 days, whichever is first.

16 (3) This section shall take effect immediately.

17 (4) The remainder of this act shall take effect in 60
18 days.