

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 681 Session of 2013

INTRODUCED BY GREENLEAF, ALLOWAY, ARGALL, BLAKE, BOSCOLA, BROWNE, BRUBAKER, ERICKSON, FARNESE, FERLO, FOLMER, FONTANA, HUGHES, KITCHEN, PILEGGI, RAFFERTY, SCHWANK, SOLOBAY, STACK, TARTAGLIONE, TEPLITZ, TOMLINSON, WASHINGTON, WILLIAMS, WOZNIAK AND LEACH, MARCH 13, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 19, 2013

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the
3 protection of victims of sexual violence, for duties of law
4 enforcement agencies, for procedure and for penalties; and,
5 in juvenile matters, further providing for definitions.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 42 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

CHAPTER 62 62A

<--

SEXUAL VIOLENCE VICTIM PROTECTION

12 Sec.

13 ~~6201~~ 62A01. Scope of chapter.

<--

14 ~~6202~~ 62A02. Findings and purpose.

<--

15 ~~6203~~ 62A03. Definitions.

<--

16 ~~6204~~ 62A04. Responsibilities of law enforcement agencies.

<--

17 ~~6205~~ 62A05. Commencement of proceedings.

<--

1 6206 62A06. Hearings. <--
2 6207 62A07. Relief. <--
3 6208 62A08. Service of orders. (RESERVED). <--
4 6209 62A09. Emergency relief by minor judiciary. <--
5 6210 62A10. Sexual assault counselor. <--
6 6211 62A11. Disclosure of addresses. <--
7 6212 62A12. Arrest for violation of order. <--
8 6213 62A13. Private criminal complaints for violation of order <--
9 OR AGREEMENT. <--
10 6214 62A14. Contempt for violation of order. <--
11 6215 62A15. Civil contempt or modification for violation of <--
12 order OR AGREEMENT. <--
13 6216 62A16. Confidentiality. <--
14 6217 62A17. Procedure and other remedies. <--
15 6218 62A18. Applicability. <--
16 6219 62A19. INABILITY TO PAY. <--
17 6220 62A20. CONSTRUCTION. <--
18 § 6201 62A01. Scope of chapter. <--
19 This chapter relates to sexual violence victim protection.
20 § 6102 62A02. Findings and purpose. <--
21 The General Assembly finds and declares that:
22 (1) Sexual violence is the most heinous crime against a
23 person other than murder.
24 (2) Sexual violence inflicts humiliation, degradation
25 and terror on the victim.
26 (3) According to the Department of Justice, someone is
27 sexually assaulted every two minutes in the United States.
28 (4) Rape is recognized as one of the most underreported
29 crimes, and studies indicate that only one in three rapes is
30 reported to law enforcement.

1 (5) Victims of sexual violence desire safety and
2 protection from future interactions with their offender,
3 regardless of whether they seek criminal prosecution.

4 (6) This chapter provides the victim with a civil remedy
5 requiring the offender to stay away from the victim, as well
6 as other appropriate relief.

7 ~~§ 6203~~ 62A03. Definitions.

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8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Adult." An individual who is 18 years of age or older.

12 "Certified copy." A paper copy of the original order of the
13 issuing court endorsed by the appropriate clerk of that court or
14 an electronic copy of the original order of the issuing court
15 endorsed with a digital signature of the judge or appropriate
16 clerk of that court, regardless of whether or not there is a
17 raised seal on the copy of the order of the issuing court.

18 "Confidential communications." As defined in section 5945.1
19 (relating to confidential communications with sexual assault
20 counselors).

21 "Coparticipant." As defined in section 5945.1 (relating to
22 confidential communications with sexual assault counselors).

23 "Court." The court or magisterial district judge having
24 jurisdiction over the matter under and exercised as provided in
25 this title or as otherwise provided or prescribed by law.

26 "Family or household members." Spouses or persons who have
27 been spouses, persons living as spouses or who lived as spouses,
28 parents and children, other persons related by consanguinity or
29 affinity, current or former sexual or intimate partners or
30 persons who share biological parenthood.

1 "Hearing officer." A magisterial district judge, judge of
2 the Philadelphia Municipal Court, bail commissioner appointed
3 under section 1123 (relating to jurisdiction and venue) or, <--
4 master appointed under section 1126 (relating to masters) OR <--
5 MASTER FOR EMERGENCY RELIEF.

6 "Master for emergency relief." A member of the bar of the
7 Commonwealth appointed under section ~~6209(e)~~ 62A09(e) (relating <--
8 to emergency relief by minor judiciary).

9 "Minor." An individual who is not an adult.

10 "Plaintiff." An individual who applies for a protection
11 order, either for the benefit of that individual or on behalf of
12 another individual.

13 "Protection order" or "order." A sexual violence victim
14 protection order issued under this chapter.

15 "Rape crisis center." As defined in section 5945.1 (relating
16 to confidential communications with sexual assault counselors).

17 "Sexual assault counselor." As defined in section 5945.1
18 (relating to confidential communications with sexual assault
19 counselors).

20 "Sexual violence." Conduct constituting a crime under any of
21 the following provisions of ~~Title 18~~ 18 PA.C.S. (relating to <--
22 crimes and offenses) between persons who are not family or
23 household members:

24 18 PA.C.S. § 2709 (RELATING TO HARASSMENT) WHERE THE <--
25 CONDUCT IS COMMITTED BY A PERSON 18 YEARS OF AGE OR OLDER
26 AGAINST A PERSON UNDER 18 YEARS OF AGE.

27 18 PA.C.S. § 2709.1 (RELATING TO STALKING) WHERE THE
28 CONDUCT IS COMMITTED BY A PERSON 18 YEARS OF AGE OR OLDER
29 AGAINST A PERSON UNDER 18 YEARS OF AGE.

30 18 Pa.C.S. Ch. 31 (relating to sexual offenses), EXCEPT <--

1 18 PA.C.S. §§ 3129 (RELATING TO SEXUAL INTERCOURSE WITH
2 ANIMAL) AND 3130 (RELATING TO CONDUCT RELATING TO SEX
3 OFFENDERS).

4 18 Pa.C.S. § 4304 (relating to endangering welfare of
5 children) if the offense involved sexual contact with the
6 victim.

7 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of
8 minors).

9 18 Pa.C.S. § 6312(b) (relating to sexual abuse of
10 children).

11 18 Pa.C.S. § 6318 (relating to unlawful contact with
12 minor).

13 18 Pa.C.S. § 6320 (relating to sexual exploitation of
14 children).

15 "Sheriff." The sheriff of a county or in a city of the first
16 class, the chief or head of the police department.

17 "Victim." A person who is the victim of sexual violence.
18 § ~~6204~~ 62A04. Responsibilities of law enforcement agencies. <--

19 (a) General rule.--The police department of each municipal
20 corporation, the Pennsylvania State Police and the sheriff of
21 each county shall ensure that all their officers, deputies and
22 employees are familiar with the provisions of this chapter.
23 Instruction concerning sexual violence victim protection orders
24 shall be made a part of the training curriculum for all trainee
25 officers and deputies. All law enforcement agencies shall adopt
26 a written policy regarding sexual violence victim protection
27 orders.

28 (b) Notice of arrest.--The police department of each
29 municipal corporation and the Pennsylvania State Police shall
30 make reasonable efforts to notify any person protected by an

1 order issued under this chapter of the arrest of the defendant
2 for violation of an order as soon as possible. Unless the person
3 cannot be located, notice of the arrest shall be provided not
4 more than 24 hours after preliminary arraignment.

5 ~~(c) Statewide registry. A record and index of all valid~~ <--

6 (C) STATEWIDE REGISTRY.-- <--

7 (1) A COMPLETE AND SYSTEMATIC RECORD AND INDEX OF ALL
8 VALID temporary and final court orders of protection ORDERS <--
9 issued under this chapter shall be entered and maintained in
10 the database established and maintained by the Pennsylvania
11 State Police pursuant to 23 Pa.C.S. § 6105(e) (relating to
12 responsibilities of law enforcement agencies).

13 (2) WITH RESPECT TO ORDERS ISSUED UNDER THIS CHAPTER, <--
14 THE STATEWIDE REGISTRY SHALL INCLUDE, BUT NEED NOT BE LIMITED
15 TO, THE FOLLOWING:

16 (I) THE NAMES OF THE PLAINTIFF AND THE VICTIM, IF
17 THE VICTIM IS NOT THE SAME INDIVIDUAL AS THE PLAINTIFF.

18 (II) THE NAME OF OTHER DESIGNATED PERSONS PROTECTED
19 BY THE ORDER UNDER SECTION 62A07(B) (RELATING TO RELIEF).

20 (III) THE NAME AND ADDRESS OF THE DEFENDANT.

21 (IV) THE DATE THE ORDER WAS ENTERED.

22 (V) THE DATE THE ORDER EXPIRES.

23 (VI) THE RELIEF GRANTED UNDER SECTION 62A07 AND
24 SECTION 62A09 (RELATING TO EMERGENCY RELIEF BY MINOR
25 JUDICIARY).

26 (VII) THE JUDICIAL DISTRICT IN WHICH THE ORDER WAS
27 ENTERED.

28 (VIII) WHERE FURNISHED, THE SOCIAL SECURITY NUMBER
29 AND DATE OF BIRTH OF THE DEFENDANT.

30 (3) THE PROTHONOTARY SHALL SEND, ON A FORM PRESCRIBED BY

1 THE PENNSYLVANIA STATE POLICE, A COPY OF AN ORDER TO THE
2 STATEWIDE REGISTRY SO THAT IT IS RECEIVED WITHIN 24 HOURS OF
3 THE ENTRY OF THE ORDER. AN AMENDMENT TO OR REVOCATION OF AN
4 ORDER SHALL BE TRANSMITTED BY THE PROTHONOTARY WITHIN 24
5 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 WITHIN
8 EIGHT HOURS OF RECEIPT. VACATED OR EXPIRED ORDERS SHALL BE
9 PURGED FROM THE REGISTRY.

10 (4) 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 ORDER INVOLVING ANY
13 DEFENDANT.

14 (5) INFORMATION CONTAINED IN THE STATEWIDE REGISTRY
15 RELATING TO ORDERS SHALL NOT BE SUBJECT TO ACCESS UNDER THE
16 ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-
17 TO-KNOW LAW.

18 § ~~6205~~ 62A05. Commencement of proceedings. <--

19 (a) General rule.--~~An action for a sexual violence victim~~ <--
20 ~~protection order may be commenced by filing a petition with the~~
21 ~~court requesting protection from the defendant. An adult or~~
22 ~~emancipated minor may seek relief under this chapter for that~~
23 ~~person or any parent, adult household member or guardian ad~~
24 ~~litem may seek relief under this chapter on behalf of a minor~~
25 ~~child or the guardian of the person of an adult who has been~~
26 ~~declared incapacitated under 20 Pa.C.S. Ch. 55 (relating to~~
27 ~~incapacitated persons) may seek relief on behalf of an~~
28 ~~incapacitated adult, BY FILING A PETITION WITH THE COURT~~ <--
29 ~~ALLEGING THE NEED FOR PROTECTION FROM THE DEFENDANT.~~

30 (A.1) FALSE REPORTS.--A PERSON WHO KNOWINGLY GIVES FALSE

1 INFORMATION TO A LAW ENFORCEMENT OFFICER WITH INTENT TO
2 IMPLICATE ANOTHER UNDER THIS CHAPTER COMMITS AN OFFENSE UNDER 18
3 PA.C.S. § 4906 (RELATING TO FALSE REPORTS TO LAW ENFORCEMENT
4 AUTHORITIES).

5 (b) No prepayment of fees.--The petition shall be filed and
6 service shall be made without the prepayment of fees.

7 (c) Assessment of fees and costs.--

8 (1) (i) No plaintiff seeking relief under this chapter
9 shall be charged any fees or costs associated with the
10 filing, issuance, registration or service of a petition,
11 motion, complaint, order or any other filing. Prohibited
12 fees or costs shall include, but are not limited to,
13 those associated with modifying, withdrawing, dismissing
14 or certifying copies of a petition, motion, complaint,
15 order or any other filing, as well as any judicial
16 surcharge or computer system fee.

17 (ii) No plaintiff seeking relief under this chapter
18 shall be charged any fees or costs associated with filing
19 a motion for reconsideration or an appeal from any order
20 or action taken under this chapter.

21 (2) When an order is granted under this chapter, fees
22 and costs shall be assessed against the defendant. The court
23 shall waive fees and costs upon a showing of good cause or
24 when the court makes a finding that the defendant is not able
25 to pay the fees and costs.

26 (3) Nothing in this section is intended to expand or
27 diminish the court's authority to enter an order under
28 Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of
29 Documents. Representations to the Court. Violation).

30 (C.1) SURCHARGE ON ORDER.--WHEN AN ORDER IS GRANTED UNDER

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1 SECTION 62A06 (RELATING TO HEARINGS), A SURCHARGE OF \$100 SHALL
2 BE ASSESSED AGAINST THE DEFENDANT. ALL MONEYS RECEIVED FROM
3 SURCHARGES SHALL BE DISTRIBUTED IN THE FOLLOWING ORDER OF
4 PRIORITY:

5 (1) TWENTY-FIVE DOLLARS SHALL BE FORWARDED TO THE
6 COMMONWEALTH AND SHALL BE USED BY THE PENNSYLVANIA STATE
7 POLICE TO ESTABLISH AND MAINTAIN THE STATEWIDE REGISTRY OF
8 PROTECTION ORDERS PROVIDED FOR IN SECTION 62A04(C) (RELATING
9 TO RELATING TO RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES).

10 (2) FIFTY DOLLARS SHALL BE RETAINED BY THE COUNTY AND
11 SHALL BE USED TO CARRY OUT THE PROVISIONS OF THIS CHAPTER AS
12 FOLLOWS:

13 (I) TWENTY-FIVE DOLLARS SHALL BE USED BY THE
14 SHERIFF.

15 (II) TWENTY-FIVE DOLLARS SHALL BE USED BY THE COURT.

16 (3) TWENTY-FIVE DOLLARS SHALL BE FORWARDED TO THE
17 DEPARTMENT OF PUBLIC WELFARE FOR USE FOR VICTIMS OF SEXUAL
18 ASSAULT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 2333 OF
19 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
20 ADMINISTRATIVE CODE OF 1929.

21 (4) THE SURCHARGE ALLOCATED UNDER PARAGRAPHS (1) AND (3)
22 SHALL BE USED TO SUPPLEMENT AND NOT TO SUPPLANT ANY OTHER
23 SOURCE OF FUNDS RECEIVED FOR THE PURPOSE OF CARRYING OUT THE
24 PROVISIONS OF THIS CHAPTER.

25 (d) Service.--

26 (1) The court shall adopt a means of prompt and
27 effective service. If the court so orders, the sheriff or
28 another court-designated agency or individual shall serve the
29 petition and protection order. Under no circumstances shall
30 the plaintiff be obligated to serve the petition or

1 protection order. The petition and protection order shall be <--
2 served upon the defendant, and the order shall be served upon
3 the police departments, sheriff and district attorney in the
4 jurisdiction where the order was entered within two business
5 days.

6 (2) THE PETITION AND ORDER SHALL BE SERVED UPON THE <--
7 DEFENDANT.

8 (3) WITHIN TWO BUSINESS DAYS, THE ORDER SHALL BE SERVED
9 UPON THE POLICE DEPARTMENT, SHERIFF AND DISTRICT ATTORNEY IN
10 THE JURISDICTION WHERE THE ORDER WAS ENTERED.

11 (4) A CERTIFIED COPY OF THE ORDER SHALL BE ISSUED TO THE
12 PLAINTIFF.

13 (5) IN THE CASE OF A MINOR VICTIM, A COPY OF THE
14 PETITION AND ORDER SHALL BE SERVED UPON THE COUNTY AGENCY AND
15 THE DEPARTMENT OF PUBLIC WELFARE. FOR PURPOSES OF THIS
16 SUBPARAGRAPH, THE TERM "COUNTY AGENCY" SHALL BE AS DEFINED IN
17 23 PA.C.S. 6303 (RELATING TO DEFINITIONS).

18 (6) A COPY OF THE ORDER SHALL BE ISSUED AS OTHERWISE
19 ORDERED BY THE COURT OR HEARING OFFICER.

20 ~~(2)~~ (7) Failure to serve the police department, sheriff <--
21 or district attorney's office shall not stay the effect of a
22 valid order.

23 (e) Assistance and advice to plaintiff.--The courts and
24 hearing officers shall:

25 (1) Provide simplified forms and clerical assistance in
26 English and Spanish to help with the writing and filing of
27 the petition for a sexual violence protection AN order for an <--
28 individual not represented by counsel.

29 (2) Provide the plaintiff with written and oral
30 referrals, in English and Spanish, to local sexual assault

1 services, to the local legal services office and to the
2 county bar association's lawyer referral service.

3 ~~(3) Provide the plaintiff with a certified copy of any~~ <--
4 ~~protection order entered by the court.~~

5 (f) Effect of departure and nonresidence.--The right of the
6 plaintiff to relief under this chapter shall not be affected by
7 the defendant's absence from this Commonwealth or the
8 defendant's nonresidence in this Commonwealth, provided that the
9 court has personal jurisdiction over the defendant in accordance
10 with section 5322 (relating to bases of personal jurisdiction
11 over persons outside this Commonwealth).

12 § 6206 62A06. Hearings. <--

13 (a) General rule.--Within ten business days of the filing of
14 a petition under this chapter, an expedited hearing shall be <--
15 held before the court, at which the plaintiff must assert that
16 the plaintiff or the person on whose behalf the petition is
17 brought is a victim of sexual violence committed by the
18 defendant and must prove the need for protection from the
19 defendant by a preponderance of the evidence. The court shall,
20 at the time the defendant is given notice of the hearing, advise
21 the defendant of the right to be represented by counsel. A <--

22 PETITION UNDER THIS CHAPTER, A HEARING SHALL BE HELD BEFORE THE
23 COURT, WHERE THE PLAINTIFF MUST:

24 (1) ASSERT THAT THE PLAINTIFF OR ANOTHER INDIVIDUAL, AS
25 APPROPRIATE, IS A VICTIM OF SEXUAL VIOLENCE COMMITTED BY THE
26 DEFENDANT; AND

27 (2) PROVE BY PREPONDERANCE OF THE EVIDENCE THAT THE
28 PLAINTIFF OR ANOTHER INDIVIDUAL, AS APPROPRIATE, IS AT A
29 CONTINUED RISK OF HARM FROM THE DEFENDANT.

30 (A.1) RIGHT TO COUNSEL.--THE COURT SHALL, AT THE TIME THE

1 DEFENDANT IS GIVEN NOTICE OF THE HEARING, ADVISE THE DEFENDANT
2 OF THE RIGHT TO BE REPRESENTED BY COUNSEL. THE NOTICE SHALL BE
3 PRINTED AND DELIVERED IN A MANNER THAT EASILY ATTRACTS ATTENTION
4 TO ITS CONTENTS.

5 (b) Temporary orders.--If a ~~petitioner seeks a temporary~~ <--
6 ~~protection order~~ PLAINTIFF SEEKS A TEMPORARY ORDER for <--
7 protection from an immediate and present danger, the court shall
8 conduct an ex parte proceeding. The court may enter ~~such a~~ <--
9 temporary order as it deems necessary to protect the plaintiff
10 OR ANOTHER INDIVIDUAL, AS APPROPRIATE, when it finds the <--
11 plaintiff OR ANOTHER INDIVIDUAL is in immediate and present <--
12 danger FROM THE DEFENDANT. The temporary order shall remain in <--
13 effect until modified or terminated by the court after notice
14 and hearing.

15 (c) Continued hearings.--The court may grant a continuance <--
16 of the hearing for good cause shown by either party. If a
17 hearing under subsection (a) is continued and no temporary
18 ~~protection~~ order is issued, the court may make ex parte <--
19 temporary orders under subsection (b), as it deems necessary.
20 § 6207 62A07. Relief. <--

21 (a) Order or consent agreement.--The court may issue a <--
22 ~~protection~~ AN order or approve a consent agreement to protect <--
23 the plaintiff OR ANOTHER INDIVIDUAL, AS APPROPRIATE, from the <--
24 defendant.

25 (b) General rule.--A ~~protection order or~~ AN ORDER OR A <--
26 consent agreement may include:

27 (1) Prohibiting the defendant from having any contact
28 with the ~~plaintiff~~ VICTIM, including, but not limited to, <--
29 restraining the defendant from entering the ~~plaintiff's~~ <--
30 VICTIM'S residence, place of employment, business or school. <--

1 This may include prohibiting indirect contact through third
2 parties and also prohibiting direct or indirect contact with
3 other designated persons.

4 (2) Granting any other appropriate relief sought by the
5 plaintiff.

6 (c) Duration and amendment of order or agreement.--A
7 protection order or an approved consent agreement shall be for a
8 fixed period of time not to exceed 36 months. The court may
9 amend its order or agreement at any time upon subsequent
10 petition filed by either party.

11 (d) Extension of protection orders.--

12 (1) An extension of a ~~protection~~ AN order may be <--
13 granted:

14 (i) Where the court ~~finds~~, after a duly filed <--
15 petition, notice to the defendant and a hearing, in
16 accordance with the procedures set forth in sections ~~6205~~ <--
17 62A05 (relating to commencement of proceedings) and ~~6206~~ <--
18 62A06 (relating to hearings), ~~that the protection~~ FINDS <--
19 THAT THE EXTENSION is necessary because the defendant
20 engaged in one or more acts or FINDS some other <--
21 circumstances that, in the discretion of the court,
22 demonstrate a continued risk of harm to the ~~plaintiff~~ <--
23 VICTIM. <--

24 (ii) When a contempt petition or charge has been
25 filed with the court or, in a county of the first class,
26 a hearing officer, 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.

30 (2) Service of an extended ~~protection~~ order shall be <--

1 ~~made in accordance with sections 6205(d) 62A05(D) and 6208~~ <--
2 ~~62A08 (relating to service of orders).~~

3 ~~(3) There shall be no limitation~~ SECTION 62A05(D) on the <--
4 ~~number of extensions that may be granted.~~

5 (e) Notice.--Notice shall be given to the defendant stating
6 that violations of the ~~protection~~ order will subject the <--
7 defendant to arrest under section ~~6212~~ 62A12 (relating to arrest <--
8 for violation of order) or contempt of court under section ~~6214~~ <--
9 62A14 (relating to contempt for violation of order). <--

10 (f) Incarceration.--When the defendant is or was
11 incarcerated and will be released from custody in the next 90
12 days or has been released from custody within the past 90 days,
13 a plaintiff does not need to show that the defendant engaged in
14 one or more acts that indicate A continued risk of harm to the <--
15 plaintiff VICTIM in order to obtain an extension or a subsequent <--
16 protection order under this act.

17 (G) IDENTIFYING INFORMATION.--ANY ORDER ISSUED UNDER THIS <--
18 CHAPTER SHALL, WHEN FURNISHED BY EITHER PARTY, SPECIFY THE
19 SOCIAL SECURITY NUMBER AND DATE OF BIRTH OF THE DEFENDANT.

20 ~~§ 6208. Service of orders.~~ <--

21 ~~A copy of a protection order shall be issued to the~~
22 ~~plaintiff, the defendant, the sheriff and the police department~~
23 ~~with appropriate jurisdiction to enforce the order in accordance~~
24 ~~with the provisions of this chapter or as ordered by the court~~
25 ~~or hearing officer.~~

26 § 62A08. (RESERVED). <--

27 ~~§ 6209~~ 62A09. Emergency relief by minor judiciary. <--

28 (a) General rule.--When:
29 (1) in counties with fewer than four judges, the court
30 is unavailable:

1 (i) from the close of business at the end of each
2 day to the resumption of business the next morning;
3 (ii) from the end of the business week to the
4 beginning of the business week; and
5 (iii) during the business day by reason of duties
6 outside the county, illness or vacation;

7 (2) in counties with at least four judges, the court is
8 unavailable:

9 (i) from the close of business at the end of each
10 day to the resumption of business the next morning; and
11 (ii) from the end of the business week to the
12 beginning of the business week;

13 a petition may be filed before a hearing officer who may grant
14 relief in accordance with section 6207 62A07 (relating to <--
15 relief) if the hearing officer deems it necessary to protect the
16 plaintiff VICTIM upon good cause shown in an ex parte <--
17 proceeding. Immediate and present danger to the plaintiff POSED <--
18 BY THE DEFENDANT TO THE VICTIM shall constitute good cause for
19 the purposes of this subsection.

20 (b) Expiration of order.--A protection AN order issued under <--
21 subsection (a) shall expire at the end of the next business day
22 the court deems itself available. The court shall schedule
23 hearings on orders entered by hearing officers under subsection
24 (a) and shall review and continue in effect protection orders <--
25 that are necessary to protect the plaintiff OR ANOTHER <--
26 INDIVIDUAL, AS APPROPRIATE, until the hearing, at which time the
27 plaintiff may seek a temporary protection order from the court. <--

28 (c) Certification of order to court.--An emergency
29 protection order issued under this section and any documentation <--
30 in support thereof shall be immediately certified to the court.

1 The certification to the court shall have the effect of
2 commencing proceedings under section ~~6205~~ 62A05 (relating to <--
3 commencement of proceedings) and invoking the other provisions
4 of this chapter. If it is not already alleged in a petition for
5 an emergency order, the plaintiff shall file a verified
6 statement setting forth the reasons for the need for protection
7 at least five days prior to the hearing. Service of the verified
8 statement shall be made subject to section ~~6205(d)~~ 62A05(D). <--

9 (d) Instructions regarding the commencement of
10 proceedings.--Upon issuance of an emergency ~~protection~~ order, <--
11 the hearing officer shall provide the plaintiff instructions
12 regarding the commencement of proceedings in the court at the
13 beginning of the next business day and regarding the procedures
14 for initiating a contempt charge should the defendant violate
15 the emergency ~~protection~~ order. The hearing officer shall also <--
16 advise the plaintiff of the existence of rape crisis centers in
17 the county or in nearby counties and inform the plaintiff of the
18 availability of legal assistance without cost if the plaintiff
19 is unable to pay for them.

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

29 § ~~6210~~ 62A10. Sexual assault counselor. <--

30 A sexual assault counselor may accompany and provide

1 assistance to a plaintiff in any legal proceeding or hearing
2 under this chapter.

3 § ~~6211~~ 62A11. Disclosure of addresses. <--

4 (a) General rule.--During the course of a proceeding under
5 this chapter, the court or hearing officer may consider whether
6 the plaintiff OR VICTIM, AS APPROPRIATE, is endangered by <--
7 disclosure of the permanent or temporary address of the
8 plaintiff OR VICTIM. The court shall consider the wishes of the <--
9 plaintiff regarding the disclosure of the address. Neither in
10 the pleadings nor during proceedings or hearings under this
11 chapter shall the court or hearing officer require disclosure of
12 the address of a rape crisis center or the plaintiff OR VICTIM, <--
13 AS APPROPRIATE.

14 (b) Order.--Where the court concludes that the defendant
15 poses a threat of continued danger to the plaintiff POSES A <--
16 CONTINUED RISK OF HARM TO THE VICTIM and where the plaintiff
17 requests that the address, telephone number and information
18 about the ~~plaintiff's~~ VICTIM'S whereabouts not be disclosed, the <--
19 court shall enter an order directing that law enforcement
20 agencies, human service agencies and school districts shall not
21 disclose the presence of the ~~plaintiff~~ VICTIM in the <--
22 jurisdiction or district or furnish any address, telephone
23 number or any other demographic information about the ~~plaintiff~~ <--
24 VICTIM except by further order of the court. <--

25 § ~~6212~~ 62A12. Arrest for violation of order. <--

26 (a) General rule.--An arrest for a violation of a ~~protection~~ <--
27 ~~order or court approved consent agreement~~ AN ORDER issued under
28 this chapter may be without warrant upon probable cause, whether
29 or not the violation is committed in the presence of the police
30 officer or sheriff, in circumstances where the defendant has

1 violated a provision of a ~~protection~~ AN order consistent with <--
2 section ~~6207~~ 62A07 (relating to relief). The police officer or <--
3 sheriff may verify the existence of a ~~protection~~ AN order by <--
4 telephone, radio or other electronic communication with the
5 appropriate police department, PENNSYLVANIA STATE POLICE <--
6 REGISTRY or issuing authority. A police officer or sheriff shall
7 arrest a defendant for violating a ~~protection~~ AN order by a <--
8 court within the judicial district or issued by a court in
9 another judicial district within this Commonwealth.

10 (b) Procedure following arrest.--

11 (1) Subsequent to an arrest, the defendant shall be
12 taken by the police officer or sheriff without unnecessary
13 delay before the court in the judicial district where the
14 contempt is alleged to have occurred.

15 (2) When that court is unavailable, the police officer
16 or sheriff shall convey the defendant to a magisterial
17 district judge designated as appropriate by local rules of
18 court or, in counties of the first class, to the appropriate
19 hearing officer.

20 (c) Preliminary arraignment.--The defendant shall be
21 afforded a preliminary arraignment without unnecessary delay.

22 (d) Other emergency powers unaffected.--This section shall
23 not be construed to in any way limit any of the other powers for
24 emergency relief provided under this chapter.

25 (e) Hearing.--An ~~expedited~~ A hearing shall be scheduled <--
26 within ten business days of the filing of the charge or
27 complaint of indirect criminal contempt. The hearing and any
28 adjudication shall not preclude a hearing on other criminal
29 charges underlying the contempt, nor shall a hearing or
30 adjudication on other criminal charges preclude a hearing on a

1 charge of indirect criminal contempt.

2 § ~~6213~~ 62A13. Private criminal complaints for violation of <--
3 order OR AGREEMENT. <--

4 (a) General rule.--A plaintiff may file a private criminal
5 complaint against a defendant, alleging indirect criminal
6 contempt for a violation of any provision of a protection AN <--
7 order or court-approved consent agreement issued under this
8 chapter, with the court, the office of the district attorney or
9 the magisterial district judge in the jurisdiction or county
10 where the violation occurred, EXCEPT THAT IN A COUNTY OF THE <--
11 FIRST CLASS, A COMPLAINT MAY ONLY BE FILED WITH THE FAMILY
12 DIVISION OF THE COURT OF COMMON PLEAS OR THE OFFICE OF DISTRICT
13 ATTORNEY.

14 (b) Procedure service.--

15 (1) Procedure for filing and service of a private
16 criminal complaint shall be provided as set forth by local
17 rule.

18 (2) Nothing in this subsection is intended to expand or
19 diminish the court's authority to enter an order pursuant to
20 Pa.R.C.P. No. 1023.1 (relating to ~~scope. signing of~~ <--
21 documents. representations to the court. violation SCOPE. <--
22 SIGNING OF DOCUMENTS. REPRESENTATIONS TO THE COURT.
23 VIOLATION).

24 (c) Fees and costs.--

25 (1) No fees or costs associated with the prosecution of
26 the private criminal complaint shall be assigned to the
27 plaintiff, including, but not limited to, filing, service,
28 failure to prosecute, withdrawal or dismissal.

29 (2) (i) After a finding of indirect criminal contempt,
30 fees and costs may be assigned against the defendant.

1 (ii) The court shall waive fees and costs imposed
2 under this chapter upon a showing of good cause or if the
3 court makes a finding that the defendant is not able to
4 pay the costs associated with the indirect criminal
5 contempt action.

6 (3) Nothing in this subsection shall be construed to
7 expand or diminish the court's authority to enter an order
8 under Pa.R.C.P. No.1023.1 ~~(relating to Scope. Signing of~~ <--
9 Documents. Representation to Court. Violation).

10 ~~§ 6214~~ 62A14. Contempt for violation of order. <--

11 (a) General rule.--Where the police department, sheriff or
12 the plaintiff has filed charges of indirect criminal contempt
13 against a defendant for violation of a ~~protection~~ AN order or <--
14 court-approved CONSENT agreement entered into under this <--
15 chapter, the court may hold the defendant in indirect criminal
16 contempt and punish the defendant in accordance with law.

17 (b) Jurisdiction.--A court shall have jurisdiction over
18 indirect criminal contempt charges for violation of a protection
19 order in the county where the violation occurred AND IN THE <--
20 COUNTY WHERE THE ORDER WAS GRANTED.

21 (c) Minor defendant.--Any defendant who is a minor and who
22 is charged with indirect criminal contempt for allegedly
23 violating a protection order shall be considered to have
24 committed an alleged delinquent act as that term is defined in
25 section 6302 (relating to definitions) and shall be treated as
26 provided in Chapter 63 (relating to juvenile matters).

27 (d) Trial and punishment.--

28 (1) Notwithstanding section 4136(a) (relating to rights
29 of persons charged with certain indirect criminal contempts),
30 the defendant shall not have the right to a jury trial on the

1 charge of indirect criminal contempt; however, the defendant
2 shall be entitled to counsel.

3 (2) A sentence for indirect criminal contempt under this
4 act may include:

5 (i) A fine of not less than \$300 nor more than
6 \$1,000 ~~or~~ AND imprisonment for a period not exceeding six <--
7 months, ~~or both.~~ <--

8 (ii) A fine of not less than \$300 nor more than
9 \$1,000 ~~or~~ AND supervised probation for a period not <--
10 exceeding six months, ~~or both.~~ <--

11 (iii) An order for any other relief provided for
12 under this act.

13 (3) Upon conviction for indirect criminal contempt and
14 at the request of the plaintiff, the court shall also grant
15 an extension of the protection order for an additional term.

16 (4) Upon conviction for indirect criminal contempt, the
17 court shall notify the sheriff of the jurisdiction which
18 issued the protection order of the conviction.

19 (5) ALL MONEYS RECEIVED UNDER THIS SECTION SHALL BE <--
20 DISTRIBUTED IN THE FOLLOWING ORDER OF PRIORITY:

21 (I) ONE HUNDRED DOLLARS SHALL BE FORWARDED TO THE
22 COMMONWEALTH AND SHALL BE USED BY THE PENNSYLVANIA STATE
23 POLICE TO ESTABLISH AND MAINTAIN THE STATEWIDE REGISTRY
24 OF PROTECTION ORDERS PROVIDED FOR IN SECTION 62A04(C)
25 (RELATING TO RESPONSIBILITIES OF LAW ENFORCEMENT
26 AGENCIES).

27 (II) ONE HUNDRED DOLLARS SHALL BE RETAINED BY THE
28 COUNTY AND SHALL BE USED TO CARRY OUT THE PROVISIONS OF
29 THIS CHAPTER AS FOLLOWS:

30 (A) FIFTY DOLLARS SHALL BE USED BY THE SHERIFF.

1 (B) FIFTY DOLLARS SHALL BE USED BY THE COURT.

2 (III) ONE HUNDRED DOLLARS SHALL BE FORWARDED TO THE
3 DEPARTMENT OF PUBLIC WELFARE FOR USE FOR VICTIMS OF
4 SEXUAL ASSAULT IN ACCORDANCE WITH THE PROVISIONS OF
5 SECTION 2333 OF THE ACT OF APRIL 9, 1929 (P.L.177,
6 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

7 (IV) ANY ADDITIONAL MONEY SHALL BE DISTRIBUTED IN
8 THE MANNER UNDER SUBPARAGRAPH (I).

9 (e) Notification upon release.--

10 (1) The appropriate releasing authority or other
11 official as designated by local rule shall use all reasonable
12 means to notify the victim sufficiently in advance of the
13 release of the offender from any incarceration imposed under
14 subsection (d). Notification shall be required for work
15 release, furlough, medical leave, community service,
16 discharge, escape and recapture. Notification shall include
17 the terms and conditions imposed on any temporary release
18 from custody.

19 (2) The plaintiff must keep the appropriate releasing
20 authority or other official as designated by local rule
21 advised of contact information; failure to do so will
22 constitute waiver of any right to notification under this
23 section.

24 (f) Multiple remedies.--Disposition of a charge of indirect
25 criminal contempt shall not preclude the prosecution of other
26 criminal charges associated with the incident giving rise to the
27 contempt, nor shall disposition of other criminal charges
28 preclude prosecution of indirect criminal contempt associated
29 with the criminal conduct giving rise to the charges.

30 § ~~6215~~ 62A15. Civil contempt or modification for violation of <--

1 order OR AGREEMENT. <--

2 (a) General rule.--A plaintiff may file a petition for civil
3 contempt with the issuing court alleging that the defendant has
4 violated any provision of a ~~protection~~ AN order or <--
5 court-approved CONSENT agreement entered into under this <--
6 chapter.

7 (b) Civil contempt order.--Upon finding of a violation of a
8 protection order OR COURT-APPROVED CONSENT AGREEMENT ISSUED <--
9 UNDER THIS CHAPTER, the court, either pursuant to petition for
10 civil contempt or on its own accord, may hold the defendant in
11 civil contempt and constrain the defendant in accordance with
12 law.

13 (c) Sentencing.--A sentence for civil contempt under this
14 chapter may include imprisonment until the defendant complies
15 with provisions of the order or COURT-APPROVED CONSENT AGREEMENT <--
16 OR demonstrates the intent to do so, but in no case shall a term
17 of imprisonment under this section exceed a period of six
18 months.

19 (d) Jury trial and counsel.--Notwithstanding section 4136(a)
20 (relating to rights of persons charged with certain indirect
21 criminal contempts), the defendant shall not have a right to a
22 jury trial; however, the defendant shall be entitled to counsel.
23 § ~~6216~~ 62A16. Confidentiality. <--

24 (a) Nature of privilege.--

25 (1) Unless a victim who consults a sexual assault
26 counselor for the purpose of securing advice, counseling or
27 assistance waives the privilege in a signed writing prior to
28 testimony or disclosure, a sexual assault counselor or a
29 coparticipant who is present during sexual assault counseling
30 or advocacy shall not be competent nor permitted to testify,

1 release the records of or to otherwise disclose confidential
2 communications made to or by the counselor by or to the
3 victim. THE PRIVILEGE SHALL TERMINATE UPON THE DEATH OF THE <--
4 VICTIM.

5 (2) Neither the sexual assault counselor nor the victim
6 shall waive the privilege of confidential communications by
7 reporting facts of physical or sexual violence under 23
8 Pa.C.S. Ch. 63 (relating to child protective services), a
9 Federal or State mandatory reporting statute or a local
10 mandatory reporting ordinance.

11 (b) Scope.--The provisions of this section applicable to the
12 victim shall also apply to a person who seeks advice, counseling
13 or assistance from a sexual assault counselor regarding the
14 victim.

15 § 6217 62A17. Procedure and other remedies. <--

16 (A) GENERAL RULE.--Unless otherwise indicated under this <--
17 chapter, a proceeding under this chapter shall be in accordance
18 with applicable general rules and shall be in addition to any
19 other available civil or criminal remedies. The plaintiff and
20 the defendant may seek modification of a protection order issued
21 under section 6207 62A07 (relating to relief) at any time during <--
22 the pendency of the order. Modification EXCEPT AS OTHERWISE <--
23 PROVIDED IN THIS CHAPTER, MODIFICATION may be ordered after the
24 filing of a petition for modification, service of the petition,
25 and a hearing on the petition.

26 (B) REMEDIES FOR BAD FAITH.--NOTWITHSTANDING ANY OTHER <--
27 PROVISION OF LAW, UPON FINDING THAT AN INDIVIDUAL COMMENCED A
28 PROCEEDING UNDER THIS CHAPTER IN BAD FAITH, A COURT SHALL DIRECT
29 THE INDIVIDUAL TO PAY TO THE DEFENDANT ACTUAL DAMAGES AND
30 REASONABLE ATTORNEY FEES. FAILURE TO PROVE AN ALLEGATION OF

1 CONTINUED RISK OF HARM BY A PREPONDERANCE OF THE EVIDENCE SHALL
2 NOT, BY ITSELF, RESULT IN A FINDING OF BAD FAITH.

3 § ~~6218~~ 62A18. Applicability. <--

4 The provisions of the following acts relating to victims who
5 are protected by an order issued under 23 Pa.C.S. Ch. 61
6 (RELATING TO PROTECTION FROM ABUSE) shall apply also to victims <--
7 who are protected by an order issued under this chapter:

8 (1) The act of November 24, 1998 (P.L.882, No.111),
9 known as the Crime Victims Act.

10 (2) 23 Pa.C.S. Ch. 67 (relating to domestic and sexual
11 violence victim address confidentiality).

12 § 62A19. INABILITY TO PAY. <--

13 (A) ORDER FOR INSTALLMENT PAYMENTS.--UPON PLEA AND PROOF
14 THAT A PERSON IS WITHOUT THE FINANCIAL MEANS TO PAY A FINE, A
15 FEE OR A COST, A COURT MAY ORDER PAYMENT OF MONEY OWED IN
16 INSTALLMENTS APPROPRIATE TO THE CIRCUMSTANCES OF THE PERSON AND
17 SHALL FIX THE AMOUNTS, TIMES AND MANNER OF PAYMENT.

18 (B) ELECTRONIC PAYMENT.--THE TREASURER OF EACH COUNTY MAY
19 ALLOW THE USE OF CREDIT CARDS AND BANK CARDS IN THE PAYMENT OF
20 MONEY OWED UNDER THIS CHAPTER.

21 § 62A20. CONSTRUCTION.

22 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PRECLUDE AN
23 ACTION FOR WRONGFUL USE OF CIVIL PROCESS IN ACCORDANCE WITH
24 SUBCHAPTER E OF CHAPTER 83 (RELATING TO WRONGFUL USE OF CIVIL
25 PROCEEDINGS) OR CRIMINAL PROSECUTION FOR A VIOLATION OF 18
26 PA.C.S. CH. 49 (RELATING TO FALSIFICATION AND INTIMIDATION).

27 Section 2. The definition of "delinquent act" in section
28 6302 of Title 42 is amended to read:

29 § 6302. Definitions.

30 The following words and phrases when used in this chapter

1 shall have, unless the context clearly indicates otherwise, the
2 meanings given to them in this section:

3 * * *

4 "Delinquent act."

5 (1) The term means an act designated a crime under the
6 law of this Commonwealth, or of another state if the act
7 occurred in that state, or under Federal law, or under local
8 ordinances or an act which constitutes indirect criminal
9 contempt under Ch. ~~62~~ 62A (relating to sexual violence victim <--
10 protection) or 23 Pa.C.S. Ch. 61 (relating to protection from
11 abuse).

12 (2) The term shall not include:

13 (i) The crime of murder.

14 (ii) Any of the following prohibited conduct where
15 the child was 15 years of age or older at the time of the
16 alleged conduct and a deadly weapon as defined in 18
17 Pa.C.S. § 2301 (relating to definitions) was used during
18 the commission of the offense which, if committed by an
19 adult, would be classified as:

20 (A) Rape as defined in 18 Pa.C.S. § 3121
21 (relating to rape).

22 (B) Involuntary deviate sexual intercourse as
23 defined in 18 Pa.C.S. § 3123 (relating to involuntary
24 deviate sexual intercourse).

25 (C) Aggravated assault as defined in 18 Pa.C.S.
26 § 2702(a)(1) or (2) (relating to aggravated assault).

27 (D) Robbery as defined in 18 Pa.C.S. § 3701(a)
28 (1)(i), (ii) or (iii) (relating to robbery).

29 (E) Robbery of motor vehicle as defined in 18
30 Pa.C.S. § 3702 (relating to robbery of motor

1 vehicle).

2 (F) Aggravated indecent assault as defined in 18
3 Pa.C.S. § 3125 (relating to aggravated indecent
4 assault).

5 (G) Kidnapping as defined in 18 Pa.C.S. § 2901
6 (relating to kidnapping).

7 (H) Voluntary manslaughter.

8 (I) An attempt, conspiracy or solicitation to
9 commit murder or any of these crimes as provided in
10 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902
11 (relating to criminal solicitation) and 903 (relating
12 to criminal conspiracy).

13 (iii) Any of the following prohibited conduct where
14 the child was 15 years of age or older at the time of the
15 alleged conduct and has been previously adjudicated
16 delinquent of any of the following prohibited conduct
17 which, if committed by an adult, would be classified as:

18 (A) Rape as defined in 18 Pa.C.S. § 3121.

19 (B) Involuntary deviate sexual intercourse as
20 defined in 18 Pa.C.S. § 3123.

21 (C) Robbery as defined in 18 Pa.C.S. § 3701(a)
22 (1)(i), (ii) or (iii).

23 (D) Robbery of motor vehicle as defined in 18
24 Pa.C.S. § 3702.

25 (E) Aggravated indecent assault as defined in 18
26 Pa.C.S. § 3125.

27 (F) Kidnapping as defined in 18 Pa.C.S. § 2901.

28 (G) Voluntary manslaughter.

29 (H) An attempt, conspiracy or solicitation to
30 commit murder or any of these crimes as provided in

1 18 Pa.C.S. §§ 901, 902 and 903.

2 (iv) Summary offenses, unless the child fails to
3 comply with a lawful sentence imposed thereunder, in
4 which event notice of such fact shall be certified to the
5 court.

6 (v) A crime committed by a child who has been found
7 guilty in a criminal proceeding for other than a summary
8 offense.

9 * * *

10 Section 3. This act shall take effect in 180 days.