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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2363 Session of  
2020

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INTRODUCED BY TOOHL, STEPHENS, SCHLOSSBERG, FREEMAN, BERNSTINE,  
READSHAW, HOWARD, BOBACK, PICKETT, MIZGORSKI, THOMAS, ROZZI,  
MENTZER, DeLUCA AND BROWN, MARCH 13, 2020

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 2020

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in protection from abuse, further  
3 providing for relief.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 6108(a)(4) of Title 23 of the  
7 Pennsylvania Consolidated Statutes is amended to read:

8 § 6108. Relief.

9 (a) General rule.--Subject to subsection (a.1), the court  
10 may grant any protection order or approve any consent agreement  
11 to bring about a cessation of abuse or to prevent further abuse  
12 of the plaintiff or minor children. The order or agreement may  
13 include:

14 \* \* \*

15 (4) Awarding temporary custody of or establishing  
16 temporary visitation rights with regard to minor children.  
17 Relief under this paragraph shall have the effect of  
18 temporarily establishing a custody order or modifying an

1 existing custody order, as appropriate. Notwithstanding the  
2 provisions of Chapter 53 (relating to child custody) or any  
3 other law to the contrary, in order to provide relief under  
4 this paragraph, the court shall not be required to engage in  
5 a full custody analysis as specified in Chapter 53. In  
6 determining whether to award temporary custody or establish  
7 temporary visitation rights pursuant to this paragraph, the  
8 court shall consider any risk posed by the defendant to the  
9 children as well as risk to the plaintiff. The following  
10 shall apply:

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

15 (A) abused the minor children of the parties or  
16 poses a risk of abuse toward the minor children of  
17 the parties; or

18 (B) has been convicted of violating 18 Pa.C.S. §  
19 2904 (relating to interference with custody of  
20 children) within two calendar years prior to the  
21 filing of the petition for protection order or that  
22 the defendant poses a risk of violating 18 Pa.C.S. §  
23 2904.

24 (ii) Where the court finds after a hearing under  
25 this chapter that the defendant has inflicted abuse upon  
26 the plaintiff or a child, the court may require  
27 supervised custodial access by a third party. The third  
28 party must agree to be accountable to the court for  
29 supervision and execute an affidavit of accountability.

30 (iii) Where the court finds after a hearing under

1 this chapter that the defendant has inflicted serious  
2 abuse upon the plaintiff or a child or poses a risk of  
3 abuse toward the plaintiff or a child, the court may:

4 (A) award supervised visitation in a secure  
5 visitation facility; or

6 (B) deny the defendant custodial access to a  
7 child.

8 (iv) If a plaintiff petitions for a temporary order  
9 under section 6107(b) (relating to hearings) and the  
10 defendant has partial, shared or full custody of the  
11 minor children of the parties by order of court or  
12 written agreement of the parties, the custody shall not  
13 be disturbed or changed unless the court finds that the  
14 defendant is likely to inflict abuse upon the children or  
15 to remove the children from the jurisdiction of the court  
16 prior to the hearing under section 6107(a). Where the  
17 defendant has forcibly or fraudulently removed any minor  
18 child from the care and custody of a plaintiff, the court  
19 shall order the return of the child to the plaintiff  
20 unless the child would be endangered by restoration to  
21 the plaintiff.

22 (v) Nothing in this paragraph shall bar either party  
23 from filing a petition for custody under Chapter 53  
24 [(relating to custody)] or under the Pennsylvania Rules  
25 of Civil Procedure.

26 (vi) In order to prevent further abuse during  
27 periods of access to the plaintiff and child during the  
28 exercise of custodial rights, the court shall consider,  
29 and may impose on a custody award, conditions necessary  
30 to assure the safety of the plaintiff and minor children

1 from abuse.

2 (vii) The court may approve any custody provisions  
3 agreed to by the parties.

4 (viii) If relief is sought under this paragraph and  
5 the court does not order relief, the court shall state on  
6 the record or in the order why no relief under this  
7 paragraph has been granted.

8 \* \* \*

9 Section 2. This act shall take effect in 180 days.