

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in protection from abuse, further providing for relief; and making editorial changes.

INTRODUCED _____ **20** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

See next page for additional co-sponsors.

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

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

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

6 Section 1. Section 6108(a) of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended and the section is amended by
8 adding a subsection to read:

9 § 6108. Relief.

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

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

16 (2) Granting possession to the plaintiff of the
17 residence or household to the exclusion of the defendant by
18 evicting the defendant or restoring possession to the

1 plaintiff if the residence or household is jointly owned or
2 leased by the parties, is owned or leased by the entireties
3 or is owned or leased solely by the plaintiff.

4 (3) If the defendant has a duty to support the plaintiff
5 or minor children living in the residence or household and
6 the defendant is the sole owner or lessee, granting
7 possession to the plaintiff of the residence or household to
8 the exclusion of the defendant by evicting the defendant or
9 restoring possession to the plaintiff or, with the consent of
10 the plaintiff, ordering the defendant to provide suitable
11 alternate housing.

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

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

23 (A) abused the minor children of the parties or
24 poses a risk of abuse toward the minor children of
25 the parties; or

26 (B) has been convicted of violating 18 Pa.C.S. §
27 2904 (relating to interference with custody of
28 children) within two calendar years prior to the
29 filing of the petition for protection order or that
30 the defendant poses a risk of violating 18 Pa.C.S. §

1 2904.

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

8 (iii) Where the court finds after a hearing under
9 this chapter that the defendant has inflicted serious
10 abuse upon the plaintiff or a child or poses a risk of
11 abuse toward the plaintiff or a child, the court may:

12 (A) award supervised visitation in a secure
13 visitation facility; or

14 (B) deny the defendant custodial access to a
15 child.

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

30 (v) Nothing in this paragraph shall bar either party

1 from filing a petition for custody under Chapter 53
2 (relating to child custody) or under the Pennsylvania
3 Rules of Civil Procedure.

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

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

1 the issuance of the protection order. If a complaint for
2 support is not filed, that portion of the protection order
3 requiring the defendant to pay support is void. When there is
4 a subsequent ruling on a complaint for support, the portion
5 of the protection order requiring the defendant to pay
6 support expires.

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

13 (6.1) Requiring a GPS electronic monitoring device be
14 placed on the defendant if the defendant is found to present
15 a substantial risk of violating the final protection from
16 abuse order or committing a crime punishable by imprisonment.
17 The following shall apply:

18 (i) A GPS shall monitor the defendant's location
19 relative to all persons for whom protection is sought.
20 The court shall determine the distance at which the
21 defendant is to remain from all persons seeking
22 protection from abuse and specific locations from which
23 the defendant shall refrain.

24 (ii) Except as provided under subparagraph (iii),
25 the court shall order the defendant to wear the GPS
26 monitoring device for the entire period of time that the
27 final protection from abuse order is in effect.

28 (iii) The court may only order the GPS electronic
29 monitoring device be removed from the defendant prior to
30 the expiration of the final protection from abuse order

1 if the court notifies the plaintiff covered by the final
2 protection from abuse order that the GPS electronic
3 monitoring device has been ordered by the court to be
4 removed.

5 (7) Ordering the defendant to temporarily relinquish to
6 the sheriff the defendant's other weapons and ammunition
7 which have been used or been threatened to be used in an
8 incident of abuse against the plaintiff or the minor children
9 and the defendant's firearms and prohibiting the defendant
10 from acquiring or possessing any firearm for the duration of
11 the order and requiring the defendant to relinquish to the
12 sheriff any firearm license issued under section 6108.3
13 (relating to relinquishment to third party for safekeeping)
14 or 18 Pa.C.S. § 6106 (relating to firearms not to be carried
15 without a license) or 6109 (relating to licenses) the
16 defendant may possess. A copy of the court's order shall be
17 transmitted to the chief or head of the police force or
18 police department of the municipality and to the sheriff of
19 the county of which the defendant is a resident. When
20 relinquishment is ordered, the following shall apply:

21 (i) (A) The court's order shall require the
22 defendant to relinquish such firearms, other weapons,
23 ammunition and any firearm license pursuant to the
24 provisions of this chapter within 24 hours of service
25 of a temporary order or the entry of a final order or
26 the close of the next business day as necessary by
27 closure of the sheriffs' offices, except for cause
28 shown at the hearing, in which case the court shall
29 specify the time for relinquishment of any or all of
30 the defendant's firearms.

1 (B) A defendant subject to a temporary order
2 requiring the relinquishment of firearms, other
3 weapons or ammunition shall, in lieu of relinquishing
4 specific firearms, other weapons or ammunition which
5 cannot reasonably be retrieved within the time for
6 relinquishment in clause (A) due to their current
7 location, provide the sheriff with an affidavit
8 listing the firearms, other weapons or ammunition and
9 their current location. If the defendant, within the
10 time for relinquishment in clause (A), fails to
11 provide the affidavit or fails to relinquish,
12 pursuant to this chapter, any firearms, other weapons
13 or ammunition ordered to be relinquished which are
14 not specified in the affidavit, the sheriff shall, at
15 a minimum, provide immediate notice to the court, the
16 plaintiff and appropriate law enforcement
17 authorities. The defendant shall not possess any
18 firearms, other weapons or ammunition specifically
19 listed in the affidavit provided to the sheriff
20 pursuant to this clause for the duration of the
21 temporary order.

22 (C) As used in this subparagraph, the term
23 "cause" shall be limited to facts relating to the
24 inability of the defendant to retrieve a specific
25 firearm within 24 hours due to the current location
26 of the firearm.

27 (ii) The court's order shall contain a list of any
28 firearm, other weapon or ammunition ordered relinquished.
29 Upon the entry of a final order, the defendant shall
30 inform the court in what manner the defendant is going to

1 relinquish any firearm, other weapon or ammunition
2 ordered relinquished. Relinquishment may occur pursuant
3 to section 6108.2 (relating to relinquishment for
4 consignment sale, lawful transfer or safekeeping) or
5 6108.3 or to the sheriff pursuant to this paragraph.
6 Where the sheriff is designated, the sheriff shall secure
7 custody of the defendant's firearms, other weapons or
8 ammunition and any firearm license listed in the court's
9 order for the duration of the order or until otherwise
10 directed by court order. In securing custody of the
11 defendant's relinquished firearms, the sheriff shall
12 comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons
13 not to possess, use, manufacture, control, sell or
14 transfer firearms). In securing custody of the
15 defendant's other weapons and ammunition, the sheriff
16 shall provide the defendant with a signed and dated
17 written receipt which shall include a detailed
18 description of the other weapon or ammunition and its
19 condition.

20 (iii) The sheriff shall provide the plaintiff with
21 the name of the person to which any firearm, other weapon
22 or ammunition was relinquished.

23 (iv) Unless the defendant has complied with
24 subparagraph (i)(B) or section 6108.2 or 6108.3, if the
25 defendant fails to relinquish any firearm, other weapon,
26 ammunition or firearm license within 24 hours or upon the
27 close of the next business day due to closure of
28 sheriffs' offices or within the time ordered by the court
29 upon cause being shown at the hearing, the sheriff shall,
30 at a minimum, provide immediate notice to the court, the

1 plaintiff and appropriate law enforcement agencies.

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

7 (A) upon an order of the court granted upon
8 cause shown;

9 (B) as necessary, by law enforcement and court
10 personnel; or

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

13 (vi) As used in this paragraph, the term
14 "defendant's firearms" shall, if the defendant is a
15 licensed firearms dealer, only include firearms in the
16 defendant's personal firearms collection pursuant to 27
17 CFR § 478.125a (relating to personal firearms
18 collection).

19 (7.1) If the defendant is a licensed firearms dealer,
20 ordering the defendant to follow such restrictions as the
21 court may require concerning the conduct of his business,
22 which may include ordering the defendant to relinquish any
23 Federal or State license for the sale, manufacture or
24 importation of firearms as well as firearms in the
25 defendant's business inventory. In restricting the defendant
26 pursuant to this paragraph, the court shall make a reasonable
27 effort to preserve the financial assets of the defendant's
28 business while fulfilling the goals of this chapter.

29 (8) Directing the defendant to pay the plaintiff for
30 reasonable losses suffered as a result of the abuse,

1 including medical, dental, relocation and moving expenses;
2 counseling; loss of earnings or support; costs of repair or
3 replacement of real or personal property damaged, destroyed
4 or taken by the defendant or at the direction of the
5 defendant; and other out-of-pocket losses for injuries
6 sustained. In addition to out-of-pocket losses, the court may
7 direct the defendant to pay reasonable attorney fees. An
8 award under this chapter shall not constitute a bar to
9 litigation for civil damages for injuries sustained from the
10 acts of abuse giving rise to the award or a finding of
11 contempt under this chapter.

12 (9) Directing the defendant to refrain from stalking or
13 harassing the plaintiff and other designated persons as
14 defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and
15 2709.1 (relating to stalking).

16 (10) Granting any other appropriate relief sought by the
17 plaintiff.

18 * * *

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

22 "GPS." A global positioning system operated by the
23 Department of Defense that provides specially coded satellite
24 signals that may be processed by a receiver to compute a
25 location.

26 "GPS electronic monitoring device." A device that enables
27 the location of a person wearing the device to be monitored
28 through use of a GPS and related technology and is designed so
29 that the device:

30 (1) actively and continuously monitors, identifies and

1 reports location data within a 100-mile radius;

2 (2) permits the Pennsylvania State Police and any local
3 police department to receive location data, record it
4 securely and confidentially retain it indefinitely;

5 (3) may be worn around a person's wrist or ankle; and

6 (4) once fitted around a person's wrist or ankle, cannot
7 be removed without using specialized equipment specifically
8 designed for that purpose and alerting the Pennsylvania State
9 Police and each local police department that it has been
10 removed.

11 Section 2. This act shall take effect in 60 days.

