

LEGISLATIVE REFERENCE BUREAU

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L.R.B. Form No. 4 (Rev. 3/25/10)

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\_\_\_\_

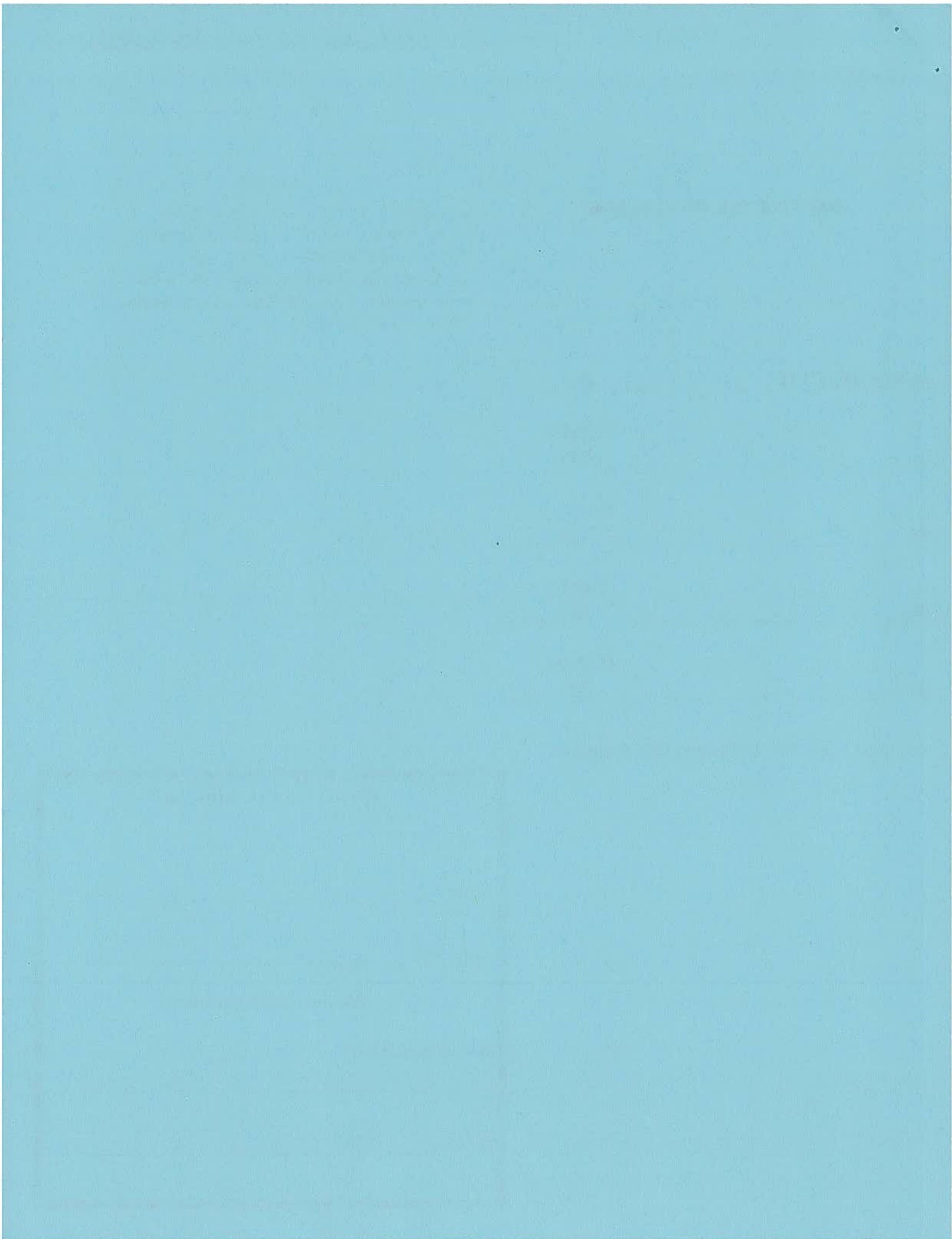
Reported \_\_\_\_\_ 20\_\_\_\_

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)(4) and (5) of Title 23 of the  
7 Pennsylvania Consolidated Statutes are amended, subsection (a)  
8 is amended by adding a paragraph and the section is amended by  
9 adding a subsection to read:

10 § 6108. Relief.

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

15 \* \* \*

16 (4) Awarding temporary custody of or establishing  
17 temporary visitation rights with regard to minor children. In  
18 determining whether to award temporary custody or establish

1 temporary visitation rights pursuant to this paragraph, the  
2 court shall consider any risk posed by the defendant to the  
3 children as well as risk to the plaintiff. The following  
4 shall apply:

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

9 (A) abused the minor children of the parties or  
10 poses a risk of abuse toward the minor children of  
11 the parties; or

12 (B) has been convicted of violating 18 Pa.C.S. §  
13 2904 (relating to interference with custody of  
14 children) within two calendar years prior to the  
15 filing of the petition for protection order or that  
16 the defendant poses a risk of violating 18 Pa.C.S. §  
17 2904.

18 (ii) Where the court finds after a hearing under  
19 this chapter that the defendant has inflicted abuse upon  
20 the plaintiff or a child, the court may require  
21 supervised custodial access by a third party. The third  
22 party must agree to be accountable to the court for  
23 supervision and execute an affidavit of accountability.

24 (iii) Where the court finds after a hearing under  
25 this chapter that the defendant has inflicted serious  
26 abuse upon the plaintiff or a child or poses a risk of  
27 abuse toward the plaintiff or a child, the court may:

28 (A) award supervised visitation in a secure  
29 visitation facility; or

30 (B) deny the defendant custodial access to a

1 child.

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

16 (v) Nothing in this paragraph shall bar either party  
17 from filing a petition for custody under Chapter 53  
18 (relating to child custody) or under the Pennsylvania  
19 Rules of Civil Procedure.

20 (vi) In order to prevent further abuse during  
21 periods of access to the plaintiff and child during the  
22 exercise of custodial rights, the court shall consider,  
23 and may impose on a custody award, conditions necessary  
24 to assure the safety of the plaintiff and minor children  
25 from abuse.

26 (5) After a hearing in accordance with section 6107(a),  
27 directing the defendant to pay financial support to those  
28 persons the defendant has a duty to support, requiring the  
29 defendant, under sections 4324 (relating to inclusion of  
30 spousal medical support) and 4326 (relating to mandatory

1 inclusion of child medical support), to provide health  
2 coverage for the minor child and spouse, directing the  
3 defendant to pay all of the unreimbursed medical expenses of  
4 a spouse or minor child of the defendant to the provider or  
5 to the plaintiff when he or she has paid for the medical  
6 treatment, and directing the defendant to make or continue to  
7 make rent or mortgage payments on the residence of the  
8 plaintiff to the extent that the defendant has a duty to  
9 support the plaintiff or other dependent household members.  
10 The support order shall be temporary, and any beneficiary of  
11 the order must file a complaint for support under the  
12 provisions of [Chapters] Chapter 43 (relating to support  
13 matters generally) and [45 (relating to reciprocal  
14 enforcement of support orders)] Parts VIII (relating to  
15 uniform interstate family support) and VIII-A (relating to  
16 intrastate family support) within two weeks of the date of  
17 the issuance of the protection order. If a complaint for  
18 support is not filed, that portion of the protection order  
19 requiring the defendant to pay support is void. When there is  
20 a subsequent ruling on a complaint for support, the portion  
21 of the protection order requiring the defendant to pay  
22 support expires.

23 \* \* \*

24 (6.1) Requiring a GPS electronic monitoring device be  
25 placed on the defendant if the defendant is found to present  
26 a substantial risk of violating the final protection from  
27 abuse order or committing a crime punishable by imprisonment.  
28 The following shall apply:

29 (i) A GPS shall monitor the defendant's location  
30 relative to all persons for whom protection is sought.

1       The court shall determine the distance at which the  
2       defendant is to remain from all persons seeking  
3       protection from abuse and specific locations from which  
4       the defendant shall refrain.

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

9       (iii) The court may only order the GPS electronic  
10      monitoring device be removed from the defendant prior to  
11      the expiration of the final protection from abuse order  
12      if the court notifies the plaintiff covered by the final  
13      protection from abuse order that the GPS electronic  
14      monitoring device has been ordered by the court to be  
15      removed.

16      \* \* \*

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

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

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

28              (1) actively and continuously monitors, identifies and  
29              reports location data within a 100-mile radius;

30              (2) permits the Pennsylvania State Police and any local

1 police department to receive location data, record it  
2 securely and confidentially retain it indefinitely;  
3 (3) may be worn around a person's wrist or ankle; and  
4 (4) once fitted around a person's wrist or ankle, cannot  
5 be removed without using specialized equipment specifically  
6 designed for that purpose and alerting the Pennsylvania State  
7 Police and each local police department that it has been  
8 removed.

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