

DOMESTIC RELATIONS CODE (23 PA.C.S.) - AMEND PROTECTION FROM
ABUSE ORDERS

Act of Jun. 22, 2001, P.L. 576, No. 39

Cl. 23

Session of 2001
No. 2001-39

SB 130

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for protection from abuse orders.

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

Section 1. Section 6102(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read: § 6102. Definitions.

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

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"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court. A raised seal on the copy of the order of the issuing court shall not be required.

"Comparable court." A foreign court that:

(1) has subject matter jurisdiction and is authorized to issue ex parte, emergency, temporary or final protection orders in that jurisdiction; and

(2) possessed jurisdiction over the parties when the protection order was issued in that jurisdiction.

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"Foreign protection order." A protection order as defined by 18 U.S.C. § 2266 (relating to definitions) issued by a comparable court of another state, the District of Columbia, Indian tribe or territory, possession or commonwealth of the United States.

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Section 2. Section 6104 of Title 23 is amended to read: [§ 6104. Registration of order.

(a) Registry.--The prothonotary shall maintain a registry in which it shall enter certified copies of orders entered by courts from other jurisdictions in this Commonwealth pursuant to this chapter.

(b) Registration of order in any county.--A plaintiff who obtains a valid order under this chapter may register that order without fee or cost in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. A court shall recognize and enforce a valid order under this chapter which has been issued by another court but properly registered with a county within the judicial district of the court where enforcement is sought or recorded in the registry of the Pennsylvania State Police. County registries shall not be required when the Pennsylvania State Police registry provided for in section 6105(e) (relating to responsibilities of law

enforcement agencies) is established and is fully operational. A court shall recognize and enforce a valid order which has been issued by a comparable court in another state and properly registered within a county where enforcement is sought or recorded in the registry of the Pennsylvania State Police.

(c) Certified copy.--A valid order under this chapter may be registered by the plaintiff in a county other than the issuing county by obtaining a certified copy of the order of the issuing court endorsed by the prothonotary of that court and presenting that certified order to the prothonotary where the order is to be registered.

(d) Proof of registration.--Upon receipt of a certified order for registration, the prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

(e) Registration not required.--Registration of orders under this section shall not be required upon the establishment and operation of the Pennsylvania State Police registry provided for in section 6105(e).]

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

(a) General rule.--A court shall recognize and enforce a valid foreign protection order issued by a comparable court. The validity of a foreign protection order shall only be determined by a court.

(b) Affirmative defense.--Failure by a comparable court to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign protection order. A comparable court shall have complied with that court's notice requirements and shall have given the defendant the opportunity to be heard before the foreign order was issued. In the case of ex parte orders, the comparable court shall have complied with that court's notice requirements and have given the defendant an opportunity to be heard within a reasonable period of time after the order was issued, consistent with due process.

(c) Invalid orders.--A foreign protection order issued by a comparable court against a party who has filed a petition, complaint or other written pleading for a protection order is not valid and not entitled to full faith and credit if:

- (1) no cross or counter petition, complaint or other written pleading was filed seeking the protection order; or
- (2) a cross or counter petition, complaint or other written pleading was filed and the court did not make a specific finding that each party was entitled to a protection order.

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

- (1) Filing of a foreign protection order shall be without fee or cost.
- (2) Upon filing of a foreign protection order, a prothonotary shall transmit, in a manner prescribed by the Pennsylvania State Police, a copy of the order to the Pennsylvania State Police registry of protection orders.
- (3) Filing of a foreign protection order shall not be a prerequisite for enforcement.

(e) Orders issued in another judicial district within this Commonwealth.--The filing of an order issued in another judicial

district within this Commonwealth is not required for enforcement purposes.

Section 3. Section 6105(e)(1) of Title 23 is amended and the section is amended by adding subsections to read:

§ 6105. Responsibilities of law enforcement agencies.

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(e) Statewide registry.--

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

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

(ii) The name and address of the defendant.

(iii) The date the order was entered.

(iv) The date the order expires.

(v) The relief granted under sections 6108(a)(1), (2), (4), (6) and (7) (relating to relief) and 6110(a) (relating to emergency relief by minor judiciary).

(vi) The judicial district in which the order was entered.

(vii) Where furnished, the Social Security number and date of birth of the defendant.

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(h) **Enforcement of foreign protection orders.--**

(1) **All foreign protection orders shall have the presumption of validity in this Commonwealth, and police officers shall make arrests for violations thereof in the same manner as set for violations of protection orders issued within this Commonwealth. Until a foreign order is declared to be invalid by a court, it shall be enforced by all law enforcement personnel in this Commonwealth.**

(2) A police officer shall rely upon any copy of a foreign protection order which has been presented to the officer by any source and may verify the existence of a protection order consistent with the provisions of section 6113(a) (relating to arrest for violation of order). The fact that a foreign protection order has not been filed with a prothonotary or entered into the Pennsylvania State Police registry shall not be grounds for law enforcement to refuse to enforce the order.

(i) **Immunity.--The following entities shall be immune from civil liability for good faith conduct in any action arising in connection with a court's finding that the foreign order is invalid or unenforceable:**

(1) Law enforcement agencies and their agents and employees.

(2) County correctional and detention facilities and their agents and employees.

(3) Prothonotaries and their agents and employees.

Section 4. Section 6106 of Title 23 is amended by adding a subsection to read:

§ 6106. Commencement of proceedings.

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(g.1) Service of original process of a foreign protection order.--There shall be no prepayment of fees for service of original process of a foreign protection order.

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Section 5. Sections 6113(a), 6113.1(a), 6114(a) and (a.1) and 6114.1(a) and (b) of Title 23 are amended to read:

§ 6113. Arrest for violation of order.

(a) General rule.--An arrest for violation of an order issued pursuant to this chapter **or a foreign protection order** may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer in circumstances where the defendant has violated a provision of an order consistent with section 6108(a)(1), (2), (3), (4), (6) [or (7)], **(7) or (9)** (relating to relief). The police officer may verify[, if necessary,] the existence of a protection order by telephone [or radio communication with the appropriate police department, county registry or issuing authority.], **radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry, protection order file or issuing authority.** A police officer shall arrest a defendant for violating an order issued under this chapter by a court within the judicial district, issued by a court in another judicial district within this Commonwealth or **a foreign protection order** issued by [another state and registered pursuant to this chapter or verified through the Pennsylvania State Police registry] **a comparable court.**

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

(a) General rule.--A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a noneconomic violation of any provision of an order or court-approved consent agreement issued under this chapter **or a foreign protection order**, with the court, the office of the district attorney or the district justice in the jurisdiction or county where the violation occurred, except that, in a city of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

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§ 6114. Contempt for violation of order or agreement.

(a) General rule.--Where the police or the plaintiff have filed charges of indirect criminal contempt against a defendant for violation of a protection order issued under this chapter, **a foreign protection order** or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(a.1) Jurisdiction.--A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order **issued pursuant to this chapter or a foreign protection order** in the county where the violation occurred.

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§ 6114.1. Civil contempt or modification for violation of an order or agreement.

(a) General rule.--A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-approved agreement issued under this chapter **or a foreign protection order.**

(b) Civil contempt order.--Upon finding of a violation of a protection order or court-approved consent agreement issued

under this chapter **or a foreign protection order**, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain him in accordance with law.

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Section 6. Section 6118 of Title 23 is repealed.

Section 7. This act shall take effect in 60 days.

APPROVED--The 22nd day of June, A. D. 2001.

THOMAS J. RIDGE