

DOMESTIC RELATIONS CODE (23 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Oct. 6, 1994, P.L. 574, No. 85

Cl. 23

Session of 1994

No. 1994-85

HB 1717

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for definitions, for registration of protection from abuse orders, for responsibilities of law enforcement agencies, for commencement of protection from abuse proceedings, for hearings on petitions for protection from abuse, for relief, for service of protection from abuse orders, for emergency relief by the minor judiciary, for disclosure of addresses, for arrest, for violation of orders and for indirect criminal contempt; imposing a surcharge against defendants where a protection order is entered; providing for private criminal complaints for violations of orders or agreements and for civil contempt; further providing for confidential communications and for procedure and remedies; and providing for full faith and credit regarding certain orders.

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

Section 1. Sections 6102, 6104, 6105, 6106, 6107, 6108, 6109(b), 6110(a) and (b), 6111, 6112 and 6113 of Title 23 of the Pennsylvania Consolidated Statutes are amended 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:

"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon.

(2) Placing [by physical menace] another in **reasonable** fear of imminent serious bodily injury.

(3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).

(5) **Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).**

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

"Confidential communications." [Information] **All information**, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. [and in confidence by a means which,

insofar as the victim is aware, discloses the information to no third person other than to those who are present to further the interest of the victim in the consultation or assistance, to those who are coparticipants in the counseling service or to those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purpose for which the domestic violence counselor or advocate is consulted.] The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports [or working papers], **statistical data, memoranda or working papers, records or the like**, given or made in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, [who provides services to victims of domestic violence] **the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence**, who has undergone 40 hours of training. [and who is under the control of a direct services supervisor of a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence.]

"Domestic violence program." A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

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

"Hearing officer." A district justice, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue) and master appointed under 42 Pa.C.S. § 1126 (relating to masters).

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

"Secure visitation facility." A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

"Victim." A person who is physically or sexually abused by a family or household member. **For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.**

(b) Other terms.--Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses).

§ 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).

§ 6105. Responsibilities of [local] law enforcement agencies.

(a) **General rule.**--The police department of each municipal corporation, **the Pennsylvania State Police and the sheriff of each county** shall insure that all [its officers] **their officers, deputies** and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers[.] **and deputies. All law enforcement agencies within this Commonwealth shall adopt a written domestic violence policy.**

(b) **Notice of services and rights.**--Each law enforcement agency shall provide the abused person with oral and written notice of the availability of safe shelter and of domestic violence services in the community, including the hotline number for domestic violence services. The written notice, which shall be in English and Spanish and any additional language required by local rule of court, shall include the following statement:

"If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection From Abuse Act (23 Pa.C.S. Ch. 61), which could include the following:

- (1) An order restraining the abuser from further acts of abuse.
- (2) An order directing the abuser to leave your household.
- (3) An order preventing the abuser from entering your residence, school, business or place of employment.
- (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
- (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(c) **Mandatory report.**--Each law enforcement agency shall make an incident report, on a form prescribed by the Pennsylvania State Police, consistent with the report required by the Federal National Incident-Based Reporting System (NIBRS). The mandate for incident report completion shall not be operative until the Pennsylvania State Police have implemented NIBRS. The incident report may include the following:

(1) Names, addresses and telephone numbers of the victim, the accused, any witnesses and the caller.

(2) A second permanent address and telephone number for the victim, such as a close family member or a friend.

(3) A statement of the relationship between the victim and the accused.

(4) A narrative for the incident, including the date, time and whether the accused appeared intoxicated or under the influence of a controlled substance.

(5) What, if any, weapons were used or threatened to be used.

(6) A description of any injuries observed by the officer.

(7) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.

(8) Documentation of any evidence that would tend to establish that a crime was committed.

(9) An indication of whether an arrest was made and the reason for electing not to arrest, whether there was a warrantless arrest, an arrest with a warrant or no arrest.

(10) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.

(11) The crimes with which the accused was charged.

(12) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.

(13) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.

(14) The names and ages of any children present in the household and their address and telephone number if children were relocated.

(15) Notation of previous incidents of which the officer is personally aware.

(16) Notation of previous incidents reported by the victim or witnesses.

(17) If an officer was injured in the incident, the nature and circumstances of the injury.

(d) Notice of arrest.--All law enforcement agencies shall make reasonable efforts to notify any adult or emancipated minor protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.

(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. 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.

(2) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of the protection order or approved consent agreement to the Statewide registry of protection orders so that it is received within 24 hours of the entry of the order. Likewise, amendments to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry of protection orders within eight hours of receipt.

(3) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order involving any defendant.

(f) Information concerning crimes of violence.--Each police department in a city, borough or township and the Pennsylvania State Police shall transmit to the Pennsylvania State Police, in a manner prescribed by the Pennsylvania State Police, the information specified in subsection (c) related to crimes of violence between family or household members.

(g) Annual report.--The Pennsylvania State Police shall annually compile and analyze the incident report data received and publish a Statewide report which includes aggregate, county and department-based statistical profiles. The Pennsylvania State Police shall transmit a copy of the annual report to the Governor, the General Assembly and each domestic violence program in this Commonwealth.

§ 6106. Commencement of proceedings.

(a) General rule.--An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(a.1) False reports.--A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).

(b) [Affidavit of insufficient funds for fees.--If the plaintiff files an affidavit stating that plaintiff does not have funds available to pay the fees for filing and service, the] **No prepayment of fees.**--The petition shall be filed and service shall be made without [payment of fees] **prepayment of fees.**[, and leave of court to proceed in forma pauperis shall not be required.]

(c) Determination of indigency.--When the petition is filed without payment of fees, the court shall determine at the hearing on the petition whether the plaintiff is able to pay the costs of filing and service. If the plaintiff is unable to pay the costs of filing and service, the court may waive the payment of costs or, if the plaintiff prevails in the action, assign them to the defendant. This subsection and subsection (b) apply to courts of common pleas and hearing officers.]

(c) Assessment of fees and costs.--If the plaintiff prevails in the action, fees and costs shall be assigned to the defendant, or, should the court determine that the defendant is not able to pay the costs of filing and service, the court shall waive fees and costs. If the plaintiff does not prevail, costs of filing and service may be assigned to the plaintiff or, should the court determine that the plaintiff is not able to pay the costs of filing and service, the court shall waive fees and costs.

(d) **Surcharge on order.**--When a protection order is granted under section 6107(a) (relating to hearings), other than pursuant to an agreement of the parties, a surcharge of \$25 shall be assessed against the defendant. All moneys received from surcharges shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).

[(d)] (e) Court to adopt means of service.--The court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

[(e)] (f) Service by sheriff.--[If the plaintiff files an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service or if] **If** the court so orders, the sheriff or other designated agency or individual shall serve the petition and order [without prepayment of costs].

[(f)] (g) Service of petition and orders.--The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police. Failure to serve shall not stay the effect of a valid order.

[(g)] (h) Assistance and advice to plaintiff.--The courts and hearing officers shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.

(2) [Advise a plaintiff not represented by counsel of the right to file an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service and assist with the writing and filing of the affidavit] **Provide the plaintiff with written and oral referrals, in English and Spanish, to the local domestic violence program, to the local legal services office and to the county bar association's lawyer referral service.**

§ 6107. Hearings.

(a) General rule.--Within ten days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of the right to be represented by counsel.

(b) Temporary orders.--If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding. The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse. **The order shall remain in effect until modified or terminated by the court after notice and hearing. Any order issued under this section shall, where furnished by the plaintiff, specify the Social Security number and date of birth of the defendant.**

(c) Continued hearings.--If a hearing under subsection (a) is continued **and no temporary order is issued**, the court may make [or extend such] **ex parte** temporary orders under subsection (b) as it deems necessary.

[(d)] Costs.--If the plaintiff prevails, the court shall assign costs to the defendant unless the parties agree otherwise. If the defendant is indigent, costs shall be waived.]

§ 6108. Relief.

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

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

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, [by consent agreement, allowing] **with the consent of the plaintiff, ordering** the defendant to provide suitable alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. A defendant shall not be granted custody [or] , partial custody **or unsupervised visitation** where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant abused the minor children of the parties or where the defendant has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order. **Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute an affidavit of accountability. Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may award supervised visitation in a secure visitation facility or may deny the defendant custodial access to a child.** If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). **Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff.** Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure. [The] **In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.**

(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support[.], **requiring the defendant,**

under sections 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the unreimbursed medical expenses of a spouse or minor child of the defendant to the provider or to the plaintiff when he or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

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

(7) Ordering the defendant to temporarily relinquish to the sheriff the defendant's weapons which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children **and prohibiting the defendant from acquiring or possessing any other weapons for the duration of the order**. The court's order shall provide for the return of the weapons to the defendant subject to any restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse through the use of weapons.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; **costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the direction of the defendant**; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees. **An award under this chapter shall not constitute a bar to litigation for civil damages for injuries sustained from the acts of abuse giving rise to the award or a finding of contempt under this chapter.**

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

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

(b) **Identifying information.--Any order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant.**

(c) **Mutual orders of protection.--Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate**

findings and, where issuing orders on behalf of both petitioners, enter separate orders.

[(b)] (d) Duration and amendment of order or agreement.--A protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

[(c) Title to real property unaffected.--No order or agreement under this chapter shall in any manner affect title to any real property.]

(e) Extension of protection orders.--

(1) An extension of a protection order may be granted:

(i) Where the court finds, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 6106 and 6107, that the defendant committed one or more acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor child.

(ii) When a contempt petition or charge has been filed, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition.

(2) Service of an extended order shall be made in accordance with section 6109 (relating to service of orders).

(3) There shall be no limitation on the number of extensions that may be granted.

(f) Support procedure.--The domestic relations section shall enforce any support award in a protection order where the plaintiff files a complaint for support under subsection (a) (5).

(g) Notice.--Notice shall be given to the defendant, in orders issued under this section, stating that violations of an order will subject the defendant to arrest under section 6113 (relating to arrest for violation of order) or contempt of court under section 6114 (relating to contempt for violation of order or agreement). Resumption of coresidency on the part of the plaintiff and defendant shall not nullify the provisions of the court order.

(h) Title to real property unaffected.--No order or agreement under this chapter shall in any manner affect title to any real property.

§ 6109. Service of orders.

* * *

(b) Placement in [county] registry.--Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof. **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.**

§ 6110. Emergency relief by minor judiciary.

(a) General rule.--When:

(1) in counties with less than four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning;

(ii) from the end of the business week to the beginning of the business week; and

(iii) during the business day by reason of duties outside the county, illness or vacation;

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

(i) from the close of business at the end of each day to the resumption of business the next morning; and

(ii) from the end of the business week to the beginning of the business week;

a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(1) [and (2) or (1) and (3)], **(2) and (6) or (1) and (6)** (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.--An order issued under subsection (a) shall expire [as of the resumption of business of the court at the beginning] **at the end** of the next business day[, at which time the] **the court deems itself available. The** court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

* * *

§ 6111. Domestic violence counselor/advocate.

A domestic violence counselor/advocate may accompany a party to [a] **any legal proceeding or** hearing under this chapter.

§ 6112. Disclosure of addresses.

During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program. **Where the court concludes that the defendant poses a threat of continued danger to the plaintiff and where the plaintiff requests that his or her address, telephone number and information about whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts (both in which a plaintiff's child in custody of the plaintiff is or has been enrolled) shall not disclose the presence of the plaintiff or the child in the jurisdiction or district or furnish any address, telephone number or any other demographic information about the plaintiff and child except by further order of the court.**

§ 6113. Arrest for violation of order.

(a) General rule.--An arrest for violation of an order issued pursuant to this chapter 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) (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. **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 issued by another state and registered pursuant to this chapter or verified through the Pennsylvania State Police registry.**

(b) Seizure of weapons.--Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer

shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) Procedure following arrest.--Subsequent to an arrest, the defendant shall be taken by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a district justice designated as appropriate by local rules of court **or, in the city of Pittsburgh, to a magistrate of the Pittsburgh Magistrates Court** or, in counties of the first class, to the appropriate hearing officer. **For purposes of procedure relating to arraignments for arrest for violation of an order issued under this chapter, the judges of Pittsburgh Magistrates Court shall be deemed to be district justices.**

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

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

(f) Hearing.--A hearing [on a charge or allegation of indirect criminal contempt] **shall be scheduled within ten days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication** shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing **or adjudication** on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

[(g) Notice.--Notice shall be given to the defendant, in orders issued pursuant to section 6108 (relating to relief), of the possible ramifications of resumption of residence in the family domicile contrary to court order. Resumption of co-residence on the part of the plaintiff and defendant shall not nullify the provisions of the court order directing the defendant to refrain from abusing the plaintiff or minor children.]

Section 2. Title 23 is amended by adding a section to read:
§ 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, 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.

(b) Procedure service.--Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule.

Section 3. Section 6114 of Title 23 is amended to read:
§ 6114. Contempt for violation of order or agreement.

(a) General rule.--[Upon] **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 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 in the county where the violation occurred.

(b) Trial and punishment.--A sentence for contempt under this chapter may include imprisonment up to six months or a fine [not to exceed] **of not less than \$100 nor more than \$1,000, or both,** and may include other relief set forth in this chapter. **All moneys received under this section shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).** The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.

(c) Notification upon release.-- The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (b). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody. The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) Multiple remedies.--Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

Section 4. Title 23 is amended by adding a section to read:

§ 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.

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

(c) Sentencing.--A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions in the order or consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.--The defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

Section 5. Sections 6116 and 6117 of Title 23 are amended to read:

§ 6116. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate or a coparticipant who is present during domestic violence counseling/advocacy shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective

services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

§ 6117. Procedure and other remedies.

Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. **The plaintiff and the defendant may seek modification of an order issued under section 6108 (relating to relief) at any time during the pendency of an order. Modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.**

Section 6. Title 23 is amended by adding a section to read:
§ 6118. **Full faith and credit.**

(a) **General rule.--Any protection order issued by a court of another state and registered under section 6104 (relating to registration of order) shall be accorded full faith and credit by the courts of common pleas of this Commonwealth and enforced as if it were issued in this Commonwealth only if the issuing court had jurisdiction under the law of the other state at the time of issuance.**

(b) **Affirmative defense.--A defendant must have been given reasonable notice and the opportunity to be heard before the order of the other state was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process. Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to enforcement of the registered protection order.**

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

APPROVED--The 6th day of October, A. D. 1994.

ROBERT P. CASEY