

CRIMES CODE (18 PA.C.S.) AND DOMESTIC RELATIONS CODE (23
PA.C.S.) - OMNIBUS AMENDMENTS

Act of Oct. 12, 2018, P.L. 519, No. 79

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No. 2018-79

HB 2060

AN ACT

Amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in firearms and other dangerous articles, further providing for persons not to possess, use, manufacture, control, sell or transfer firearms and providing for relinquishment of firearms and firearm licenses by convicted persons and for abandonment of firearms, weapons or ammunition; and, in protection from abuse, further providing for definitions, for commencement of proceedings, for hearings, for relief, for return of relinquished firearms, other weapons and ammunition and additional relief, for relinquishment for consignment sale, lawful transfer or safekeeping and for relinquishment to third party for safekeeping, imposing a penalty and providing for order to seal record from public view.

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

Section 1. Section 6105(a)(2), (a.1)(2) and (3) and (c)(6) and (9) of Title 18 of the Pennsylvania Consolidated Statutes are amended and subsection (c) is amended by adding a paragraph to read:

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

(a) Offense defined.--

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(2) (i) [A] **Except as otherwise provided in this paragraph, a person who is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm under paragraph (1) or subsection (b) or (c) shall have a reasonable period of time, not to exceed 60 days from the date of the imposition of the disability under this subsection, in which to sell or transfer that person's firearms to another eligible person who is not a member of the prohibited person's household.**

(ii) This paragraph shall not apply to any person whose disability is imposed pursuant to subsection (c)(6).

(iii) **A person whose disability is imposed pursuant to subsection (c)(9) shall relinquish any firearms and firearm licenses under that person's possession or control, as described in section 6105.2 (relating to relinquishment of firearms and firearm licenses by convicted persons).**

(iv) **A person whose disability is imposed pursuant to a protection from abuse order shall relinquish any firearms, other weapons, ammunition and firearm licenses under that person's possession or control, as described in 23 Pa.C.S. § 6108(a)(7) (relating to relief).**

(a.1) Penalty.--

* * *

(2) A person who is the subject of an active **final** protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 [(relating to relief)], **is the subject of any other active protection from abuse order issued pursuant to 23 Pa.C.S. § 6107(b) (relating to hearings)**, which [order] provided for the relinquishment of firearms[,], **or** other weapons or ammunition during the period of time the order is in effect, **or is otherwise prohibited from possessing or acquiring a firearm under 18 U.S.C. § 922(g)(8) (relating to unlawful acts)**, commits a misdemeanor of the [first] **second** degree if he intentionally or knowingly fails to relinquish a firearm[,], **or** other weapon or ammunition to the sheriff **or appropriate law enforcement agency as defined in 23 Pa.C.S. § 6102 (relating to definitions)** as required by the order unless, in lieu of relinquishment, he provides an affidavit which lists the firearms[,], **or** other weapons or ammunition to the sheriff in accordance with [either] 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 (relating to relinquishment to third party for safekeeping).

(3) (i) A person commits a misdemeanor of the third degree if he intentionally or knowingly accepts possession of a firearm, other weapon or ammunition from [a] **another** person he knows is the subject of **an active final protection from abuse order issued pursuant to 23 Pa.C.S. § 6108** or an active protection from abuse order issued pursuant to 23 Pa.C.S. § [6108] **6107(b)**, which order provided for the relinquishment of the firearm, other weapon or ammunition during the period of time the order is in effect.

(ii) This paragraph shall not apply to:

(A) a third party who accepts possession of a firearm, other weapon or ammunition relinquished pursuant to 23 Pa.C.S. § 6108.3; or

(B) a dealer licensed pursuant to section 6113 (relating to licensing of dealers) or subsequent purchaser from a dealer licensed pursuant to section 6113, who accepts possession of a firearm, other weapon or ammunition relinquished pursuant to 23 Pa.C.S. § 6108.2.

* * *

(c) Other persons.--In addition to any person who has been convicted of any offense listed under subsection (b), the following persons shall be subject to the prohibition of subsection (a):

* * *

(6) A person who is the subject of an active **final** protection from abuse order issued pursuant to 23 Pa.C.S. § 6108, **is the subject of any other active protection from abuse order issued pursuant to 23 Pa.C.S. § 6107(b)**, which [order] provided for the relinquishment of firearms during the period of time the order is in effect **or is otherwise prohibited from possessing or acquiring a firearm under 18 U.S.C. § 922(g)(8)**. This prohibition shall terminate upon the expiration or vacation of [an active protection from abuse] **the** order or portion thereof relating to the relinquishment of firearms.

* * *

(9) A person who is prohibited from possessing or acquiring a firearm under 18 U.S.C. § 922(g)(9) [(relating to unlawful acts)]. If the offense which resulted in the prohibition under 18 U.S.C. § 922(g)(9) was committed, as provided in 18 U.S.C. § 921(a)(33)(A)(ii) (relating to definitions), by a person in any of the following relationships:

(i) the current or former spouse, parent or guardian of the victim;

(ii) a person with whom the victim shares a child in common;

(iii) a person who cohabits with or has cohabited with the victim as a spouse, parent or guardian; or

(iv) a person similarly situated to a spouse, parent or guardian of the victim;

then the relationship need not be an element of the offense to meet the requirements of this paragraph.

(10) A person who has been convicted of an offense under subsection (a.1)(2). The prohibition shall terminate five years after the date of conviction, final release from confinement or final release from supervision, whichever is later.

* * *

Section 2. Title 18 is amended by adding sections to read:
§ 6105.2. Relinquishment of firearms and firearm licenses by convicted persons.

(a) Procedure.--

(1) A person subject to a firearms disability pursuant to section 6105(c)(9) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) shall relinquish any firearms under the person's possession or control to the appropriate law enforcement agency of the municipality as described in subsection (b) or to a dealer as described in subsection (c).

(2) The court of conviction shall order the relinquishment, and the order shall be transmitted to the appropriate law enforcement agency of the municipality and to the sheriff of the county of which the person is a resident. The order shall contain a list of any firearm ordered relinquished.

(3) The person shall inform the court in what manner the person will relinquish the firearms.

(4) If the person is present in court at the time of the order, the person shall inform the court whether relinquishment will be made under subsection (b) or (c).

(b) Relinquishment to law enforcement agency.--

(1) Relinquishment to an appropriate law enforcement agency shall be made within a period not longer than 24 hours following conviction, except for cause shown, in which case the court shall specify the time for relinquishment of any or all of the person's firearms.

(2) In securing custody of the person's relinquished firearms, the law enforcement agency shall provide the person subject to the relinquishment order with a signed and dated written receipt, which shall include a detailed description of each firearm and its condition.

(3) As used in this subsection, the term "cause" shall be limited to facts relating to the inability of the person to retrieve a specific firearm within a period not longer than 24 hours due to the then-current location of the firearm.

(c) Relinquishment to dealer.--

(1) In lieu of relinquishment to the local law enforcement agency, the person subject to a court order may, within 24 hours or within the time ordered by the court upon cause being shown as in subsection (b), relinquish firearms to a dealer licensed pursuant to section 6113 (relating to licensing of dealers).

(2) The dealer may charge the person a reasonable fee for accepting relinquishment.

(3) The person shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police, which shall include, at a minimum, the following:

(i) The caption of the case in which the person was convicted.

(ii) The name, address, date of birth and Social Security number of the person.

(iii) A list of the firearms, including the manufacturer, model and serial number.

(iv) The name and license number of the dealer licensed pursuant to section 6113 and the address of the licensed premises.

(v) An acknowledgment that the firearms will not be returned to the person, unless the person is no longer prohibited from possessing a firearm under Federal or State law, or sold or transferred to a person the dealer knows is a member of the defendant's household.

(vi) An acknowledgment that the firearms, if transferred, will be transferred in compliance with this chapter.

(4) Any person relinquishing a firearm pursuant to this subsection shall, within the specified time frame, provide to the appropriate law enforcement agency or the sheriff's office, or both, the affidavit required by this subsection and relinquish to the law enforcement agency any firearm ordered to be relinquished that is not specified in the affidavit.

(d) Notice of noncompliance.--

(1) If the person fails to relinquish any firearm within 24 hours or within the time ordered by the court upon cause being shown, the law enforcement agency shall, at a minimum, provide immediate notice to the court, the victim, the prosecutor and the sheriff.

(2) For purposes of this subsection, "victim" shall have the same meaning as "direct victim" in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(e) Alternate relinquishment to dealer.--

(1) If the person relinquishes firearms to the appropriate law enforcement agency pursuant to subsection (b), the person may request that the appropriate law enforcement agency make one transfer of any such firearm to a dealer licensed pursuant to section 6113 within six months of relinquishment.

(2) If requesting a subsequent transfer, the person shall provide the appropriate law enforcement agency with the dealer affidavit described in subsection (c).

(3) The appropriate law enforcement agency shall make the transfer, if the person complies with this subsection, and may charge the person for any costs associated with making the transfer.

(f) Recordkeeping.--Any portion of an order or petition or other paper that includes a list of firearms ordered to be relinquished shall be kept in the files of the court as a

permanent record and withheld from public inspection, except upon an order of the court granted upon cause shown, after redaction of information relating to the firearms, or, as necessary, by law enforcement and court personnel.

(g) Relinquishment of licenses.--

(1) A person convicted of a crime resulting in a firearm disability pursuant to section 6105(c)(9) shall also relinquish to the sheriff any firearm license issued under section 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) or 23 Pa.C.S. § 6108.3 (relating to relinquishment to third party for safekeeping).

(2) The provisions of subsections (a)(2) and (3), (b), (d) and (f) shall also apply to firearm licenses of the person.

(h) Penalty.--A person convicted of a crime resulting in a firearm disability pursuant to section 6105(c)(9) commits a misdemeanor of the second degree if the person intentionally or knowingly fails to relinquish a firearm or other weapon or ammunition to an appropriate law enforcement agency or a dealer in accordance with this section.

(i) Definition.--As used in this section, the term "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.
§ 6128. Abandonment of firearms, weapons or ammunition.

(a) General rule.--Firearms, weapons or ammunition which are itemized on a list required under 23 Pa.C.S. § 6108(a)(7)(v) (relating to relief) or the possession or acquisition of which is prohibited under 18 U.S.C. § 922(g)(9) (relating to unlawful acts) and relinquished into or otherwise coming into the custody of a police department, Pennsylvania State Police, coroner, medical examiner, district attorney, sheriff or licensed dealer shall be deemed abandoned when:

(1) Relinquished by its lawful owner pursuant to court order or executed warrant, and no written request to return or otherwise dispose of the firearms, weapons or ammunition is made by the lawful owner or the lawful owner's attorney or duly appointed representative after a period of one year from the date an order of relinquishment or seizure has expired.

(2) Found, discovered or otherwise passed into the custody of the police department, Pennsylvania State Police, coroner, medical examiner, district attorney, sheriff or licensed dealer and no owner can be determined after a documented search of the database of firearms sales maintained by the Pennsylvania State Police is made at the time the firearms come into the custody of the police department, coroner, medical examiner, district attorney, sheriff or licensed dealer and is again made one year from the date of the first documented search.

(b) Methods of disposal.--If firearms, weapons or ammunition are deemed abandoned under subsection (a), the custodian may dispose of the firearms, weapons or ammunition by:

(1) Arranging for the sale of the firearms, weapons or ammunition to a federally licensed firearms dealer by sealed bid with proceeds of the sale to be retained by the custodian.

(2) Arranging for the lawful and complete destruction of the firearms, weapons or ammunition. Firearms, weapons or ammunition that cannot lawfully be sold to a federally

licensed firearms dealer in this Commonwealth shall be destroyed.

(c) Limitation.--A custodian may not dispose of firearms, weapons or ammunition deemed abandoned under subsection (a) (1) without first notifying the person who relinquished the firearms, weapons or ammunition. If the person who relinquished the firearms, weapons or ammunition fails to respond within 20 days to the notice, the custodian may proceed with disposal of the firearms, weapons or ammunition. Notification shall be by certified mail to:

(1) an address where the person relinquishing the firearms, weapons or ammunition is now known by the custodian to reside;

(2) the last known address of the person relinquishing the firearms, weapons or ammunition;

(3) the address of the person relinquishing the firearms, weapons or ammunition which was provided at the time of relinquishment; or

(4) the address of the person relinquishing the firearms, weapons or ammunition which is found after searching the available sources of address data maintained in the Commonwealth's databases of motor vehicle registration, motor vehicle driver licensing, occupational and professional licensure, corrections facilities and public assistance.

(d) Illegal seizure.--A custodian who sells or destroys seized firearms, weapons or ammunition with pending or unresolved evidentiary challenges to the legality of the seizure shall be liable to the lawful owner of the illegally seized firearms, weapons or ammunition for the actual value of the illegally seized firearms, weapons or ammunition plus reasonable attorney fees. Actual value shall be determined by the owner, who shall be required to obtain an estimate of value from a private third-party licensed firearms dealer.

(e) Public inspection.--A portion of an order or petition or other paper which includes a list of firearms or other weapons or ammunition in possession of a custodian under this section shall be withheld from public inspection except:

(1) upon an order of a court granted upon cause shown;

(2) as necessary, by law enforcement and court personnel; or

(3) after redaction of information listing firearms, other weapons or ammunition.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Custodian." A police department, Pennsylvania State Police, coroner, medical examiner, district attorney, sheriff or licensed dealer into whose custody firearms, weapons or ammunition has passed.

"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.

Section 3. Section 6102(a) of Title 23 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:

* * *

"Appropriate law enforcement agency." The duly constituted municipal law enforcement agency that regularly provides primary

police services to a political subdivision or, in the absence of any such municipal law enforcement agency, the Pennsylvania State Police installation that regularly provides primary police services to the political subdivision.

* * *

"Commercial armory." A for-profit entity which holds the appropriate Federal and State licenses to possess and secure firearms of third persons.

* * *

Section 4. Section 6106(d) of Title 23 is amended and the section is amended by adding a subsection to read:

§ 6106. Commencement of proceedings.

* * *

(a.3) Notification of need to protect plaintiff.--The plaintiff shall notify the court anytime during the period commencing upon filing the petition and granting of an order or approving a consent agreement at a hearing held under section 6107(a) (relating to hearings) if the plaintiff has reason to believe the plaintiff's safety is at risk. In such a case, the court shall direct the Pennsylvania State Police, the municipal police or the sheriff to accompany the plaintiff to the plaintiff's residence to retrieve personal belongings or to accompany the plaintiff while the petition or order is served upon the defendant by the sheriff or competent adult, as set forth in the Pennsylvania Rules of Civil Procedure.

* * *

(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 \$100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.

(2) \$50 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(i) \$25 shall be used by the sheriff.

(ii) \$25 shall be used by the court.

(3) \$25 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

* * *

Section 5. Section 6107(a) and (c) of Title 23 are amended to read:

§ 6107. Hearings.

(a) General rule.--Within ten business 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, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel, **of the right to present evidence, of the right to compel attendance of witnesses, of the method by which witnesses may be compelled,** of the possibility that any firearm, other weapon or ammunition owned and any firearm license possessed may be ordered temporarily relinquished, of the options for relinquishment of a firearm pursuant to this chapter, of the possibility that Federal **or State** law may prohibit the

possession of firearms, including an explanation of 18 U.S.C. § 922(g)(8) (relating to unlawful acts) **and 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms)**, and that any protection order granted by a court may be considered in any subsequent proceedings under this title. This notice shall be printed and delivered in a manner which easily attracts attention to its content and shall specify that child custody is one of the proceedings where prior protection orders may be considered.

* * *

(c) Continued hearings.--

(1) If a hearing under subsection (a) is continued and no temporary order is issued, the court may make ex parte temporary orders under subsection (b) as it deems necessary.

(2) **If a hearing is scheduled to take place within three business days after a defendant is served under section 6106 (relating to commencement of proceedings), the court shall grant a continuance until the three-business-day period has elapsed, if requested by the defendant.**

(3) **The court shall notify the defendant of the right to such continuance.**

Section 6. Section 6108(a) introductory paragraph and (7) of Title 23 are amended, subsection (e)(1) is amended by adding a subparagraph and the section is amended by adding subsections to read:

§ 6108. Relief.

(a) General rule.--[The] **Subject to subsection (a.1), 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:

* * *

(7) [Ordering] **Prohibiting the defendant from acquiring or possessing any firearm for the duration of the order, ordering** the defendant to temporarily relinquish to the sheriff [the defendant's other weapons and ammunition which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children and the defendant's firearms and prohibiting the defendant from acquiring or possessing any firearm for the duration of the order] **or the appropriate law enforcement agency any firearms under the defendant's possession or control, and requiring the defendant to relinquish to the sheriff or the appropriate law enforcement agency any firearm license issued under section 6108.3 (relating to relinquishment to third party for safekeeping) or 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) the defendant may possess. The court may also order the defendant to relinquish the defendant's other weapons or ammunition that have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. A copy of the court's order shall be transmitted to the chief or head of the [police force or police department of the municipality] appropriate law enforcement agency and to the sheriff of the county of which the defendant is a resident. When relinquishment is ordered, the following shall apply:**

(i) (A) The court's order shall require the defendant to relinquish such firearms, other weapons, ammunition and any firearm license pursuant to the provisions of this chapter within 24 hours of service of a temporary order or the entry of a final order

or the close of the next business day as necessary by closure of the sheriffs' offices, except for cause shown at the hearing, in which case the court shall specify the time for relinquishment of any or all of the defendant's firearms.

(B) A defendant subject to a temporary order requiring the relinquishment of firearms, other weapons or ammunition shall, in lieu of relinquishing specific firearms, other weapons or ammunition which cannot reasonably be retrieved within the time for relinquishment in clause (A) due to their current location, provide the sheriff **or the appropriate law enforcement agency** with an affidavit listing the firearms, other weapons or ammunition and their current location. If the defendant, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, pursuant to this chapter, any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, the sheriff **or the appropriate law enforcement agency** shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement authorities. The defendant shall not possess any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff **or the appropriate law enforcement agency** pursuant to this clause for the duration of the temporary order.

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

(ii) The court's order shall contain a list of any firearm, other weapon or ammunition ordered relinquished. Upon the entry of a final order, the defendant shall inform the court in what manner the defendant is going to relinquish any firearm, other weapon or ammunition ordered relinquished. Relinquishment may occur pursuant to section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 or to the sheriff **or the appropriate law enforcement agency** pursuant to this paragraph. Where the sheriff **or the appropriate law enforcement agency** is designated, the sheriff **or the appropriate law enforcement agency** shall secure custody of the defendant's firearms, other weapons or ammunition and any firearm license listed in the court's order for the duration of the order or until otherwise directed by court order. In securing custody of the defendant's relinquished firearms, the sheriff **or the appropriate law enforcement agency** shall comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms). In securing custody of the defendant's other weapons and ammunition, the sheriff **or the appropriate law enforcement agency** shall provide the defendant with a signed and dated written receipt which shall include a detailed description of the other weapon or ammunition and its condition. **The court shall inform the defendant that firearms, other weapons or ammunition shall be**

deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(iii) The sheriff or the appropriate law enforcement agency shall provide the plaintiff with the name of the person to which any firearm, other weapon or ammunition was relinquished.

(iv) Unless the defendant has complied with subparagraph (i)(B) or section 6108.2 or 6108.3, if the defendant fails to relinquish any firearm, other weapon, ammunition or firearm license within 24 hours or upon the close of the next business day due to closure of sheriffs' or appropriate law enforcement agencies' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies, as appropriate.

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

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

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

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

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

* * *

(a.1) Final order or agreement.--The following apply:

(1) Any final order must direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and must order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition relinquishment provisions under subsection (a)(7).

(2) A final agreement may direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and may order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition and relinquishment provisions under subsection (a)(7).

* * *

(e) Extension of protection orders.--

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

* * *

(iii) If the plaintiff files a petition for an extension of the order and the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days. The plaintiff does not need to show that the defendant committed one or more acts of abuse

subsequent to the entry of the order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor children as set forth in subparagraph (i).

* * *

(i) Third parties and affidavits.--A court requiring relinquishment of firearms under this section shall provide for the hearing of petitions by third parties who request the return of a firearm relinquished by the defendant under subsection (a) (7). The following apply:

(1) A third party claiming to be the lawful owner of a firearm relinquished by the defendant under subsection (a) (7) may request the return of the firearm by providing proof of ownership and a sworn affidavit.

(2) The affidavit under paragraph (1) must affirm all of the following:

(i) The third party who is the lawful owner will not intentionally or knowingly return to the defendant the firearm or allow access to the firearm by the defendant.

(ii) The third party who is the lawful owner understands that violating subparagraph (i) constitutes a misdemeanor of the second degree under 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(iii) If the third party who is the lawful owner is a family or household member of the defendant, any firearm returned under this section must be stored in a gun safe to which the defendant does not have access and will not be permitted to access, or stored in a location outside the third party's home to which the defendant does not have access.

(3) If the court orders the return of a firearm under this section, prior to the return of the firearm, the sheriff shall independently confirm that the person seeking relief under this section is legally eligible to possess firearms under Federal and State law. The sheriff shall conduct the background check as soon as practicable after the court enters an order under this section.

Section 7. Section 6108.1(a) and (b) of Title 23 are amended and the section is amended by adding subsections to read:

§ 6108.1. Return of relinquished firearms, other weapons and ammunition and additional relief.

(a) General rule.--Any court order requiring the relinquishment of firearms, other weapons or ammunition shall provide for the return of the relinquished firearms, other weapons or ammunition to the defendant upon expiration of the order or dismissal of a petition for a protection from abuse order. The defendant may take custody of the firearms, other weapons and ammunition provided that the defendant is otherwise eligible to lawfully possess the relinquished items. The defendant shall not be required to pay any fees, costs or charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition. **The sheriff's or the appropriate law enforcement agency's office shall maintain a weapons return form that the defendant may fill out and return to the office once a temporary or final protection from abuse order has been dismissed or expires.**

(a.1) Conditions for return.--The following conditions must be satisfied prior to the firearms, other weapons or ammunition being returned to the defendant:

(1) The firearms, other weapons or ammunition relinquished must not be evidence of a crime.

(2) The defendant or owner must not be otherwise prohibited by applicable Federal or State law, or another condition, including, but not limited to, bail, from taking possession of the firearms, other weapons or ammunition seized.

(3) The defendant or owner must have been given a clearance by the Pennsylvania State Police Instant Check System Unit or through the National Instant Criminal Background Check System (NICS), requested by the sheriff's office.

(a.2) Notice to plaintiff.--The plaintiff of the protection from abuse order shall be notified of the defendant's request to return the firearms, other weapons or ammunition.

(a.3) Petition for return.--If there is a determination under subsection (a.1) that the defendant is ineligible to regain possession of the firearms, other weapons or ammunition, the defendant or owner may file a petition appealing that determination and seeking their return. A copy of the petition must be served upon the plaintiff, sheriff and the district attorney.

(a.4) Abandonment.--Any firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(b) Modification of court's order providing for return of relinquished firearm, other weapon or ammunition.--

[(1) The defendant may petition the court to allow for the return of firearms, other weapons and ammunition to the defendant prior to the expiration of the court's order. The petition shall be served upon the plaintiff and the plaintiff shall be a party to the proceedings regarding that petition.

(2)] Any other person may petition the court to allow for the return of that other person's firearms, other weapons and ammunition prior to the expiration of the court's order. The petition shall be served upon the plaintiff, and the plaintiff shall be given notice and an opportunity to be heard regarding that petition.

* * *

Section 8. Section 6108.2(a) and (e) of Title 23 are amended to read:

§ 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.

(a) General rule.--Notwithstanding any other provision of law, a defendant who is the subject of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff **or the appropriate law enforcement agency**, relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers) any firearms, other weapons or ammunition for consignment sale, lawful transfer or safekeeping. **The dealer may charge the defendant a reasonable fee for accepting relinquishment and for storage of any firearms, other weapons or ammunition.**

* * *

(e) Transfer upon entry of final order.--Upon entry of a final protection from abuse order issued pursuant to section 6108, [which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect,] a defendant who had relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order may request that the firearms, other weapons or ammunition be relinquished to a dealer for consignment sale, lawful transfer or safekeeping pursuant to this section. If the defendant can identify a licensed dealer willing to accept the firearms, other weapons or ammunition in compliance with this section, the court shall order the sheriff to transport the firearms, other weapons or ammunition to the licensed dealer at no cost to the defendant or the licensed dealer.

* * *

Section 9. Section 6108.3(a) of Title 23 is amended and subsection (b)(3)(ii) is amended by adding clauses to read: § 6108.3. Relinquishment to third party for safekeeping.

(a) General rule.--A defendant who is the subject of a protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish any firearms, other weapons or ammunition [to a third party for safekeeping.] **for safekeeping to a third party who meets the requirements of a third party under subsection (b)(3).**

(b) Transfer to third party.--

* * *

(3) * * *

(ii) A third party who will be accepting possession of firearms, other weapons and ammunition pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

* * *

(N) An acknowledgment that the third party and the defendant are not family or household members.

(O) An acknowledgment that the third party is one of the following:

(I) An attorney at law, and further acknowledgment that the attorney at law and the defendant are in an attorney-client relationship. The attorney at law and the defendant shall sign a written agreement stating in substantially the following form: "Firearm(s) can be relinquished to the attorney at law upon the express, written condition that firearm(s) will be returned to the defendant, or otherwise transferred, only if in strict conformance with applicable law."

(II) A commercial armory, and further acknowledgment that the owner or operator of the commercial armory is not a family or household member of the defendant; the commercial armory is a secure storage facility designed to store firearms; the commercial armory possesses all Federal and State licenses to store firearms; and a form stating substantially the following: "Firearms can be relinquished to the commercial armory upon the express, written condition that firearm(s) will be returned, or transferred, to

the defendant only in strict conformance with applicable law."

* * *

Section 10. Title 23 is amended by adding sections to read:
§ 6108.6. Penalty for failure to secure firearms.

In addition to any other penalty provided by 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act), a commercial armory which violates the provisions of this chapter regarding safekeeping shall forfeit all Federal and State licenses related to firearms.

§ 6108.7. Order to seal record from public view.

(a) General rule.--Notwithstanding any other provision of this chapter, an individual who has entered into a consent agreement approved by the court under section 6108(a) (relating to relief) may petition the court for an order to seal the record of the individual from public view. The court may grant the order if the petitioner proves all of the following by clear and convincing evidence:

(1) The consent agreement for which the individual seeks relief under this section is the only such consent agreement to which the individual has ever been subject and that, during the period in which the consent agreement was in effect, the individual did not violate an order or consent agreement under section 6108.

(2) A period of at least ten years has elapsed since the expiration of the consent agreement.

(3) The individual has not been subject to another final protection from abuse order under section 6108.

(4) The individual has not been convicted of one of the following offenses where the victim is a family or household member:

(i) An offense set forth in 18 Pa.C.S. § 2711 (relating to probable cause arrests in domestic violence cases).

(ii) An offense equivalent to subparagraph (i) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(b) Notice to district attorney and plaintiff.--

(1) The petitioner shall serve a copy of the petition under subsection (a) to the district attorney and to the plaintiff within ten days of the filing of the petition.

(2) The district attorney and the plaintiff shall have an opportunity to be heard at the hearing.

(3) Within 30 days of receipt of notice, the district attorney or plaintiff may file objections to the petition.

(4) If no objection under paragraph (3) is timely filed, the court may grant the petition without further hearing if the requirements of this section have been met.

(5) As used in this subsection, the term "plaintiff" means the person who entered into the consent agreement with the defendant.

(c) Notice to prothonotary.--Notice of an order to seal the individual's record from public view shall promptly be submitted to the prothonotary of the county holding the record. The prothonotary may not permit a member of the public from accessing the individual's record regarding the consent agreement. Nothing in this section shall be construed to limit access of the record of the individual by a criminal justice agency as defined in 18 Pa.C.S. § 9102 (relating to definitions).

Section 11. This act shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of this section.

Section 12. This act shall take effect in 180 days.

APPROVED--The 12th day of October, A.D. 2018.

TOM WOLF