THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 501 Session of 2017

INTRODUCED BY KILLION, COSTA, DINNIMAN, FARNESE, HAYWOOD, HUGHES, LEACH, McGARRIGLE, McILHINNEY, SABATINA, SCHWANK, STREET, TOMLINSON AND WILLIAMS, MARCH 28, 2017

REFERRED TO JUDICIARY, MARCH 28, 2017

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, providing for relinquishment of firearms and firearm licenses by convicted persons and further providing for firearms not to be carried without a license and for loans on, or lending or giving firearms prohibited; 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 and for relinquishment for consignment sale, lawful transfer or safekeeping and repealing provisions relating to relinquishment to third party for safekeeping.

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

Section 1. Section 6105(a)(2), (a.1)(2), (3) and (5) and (c)(6) and (9) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

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

(a) Offense defined.--

* * *
(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)] described in 23 Pa.C.S. § 6108(b) is the subject of any other active protection from abuse
order issued pursuant to 23 Pa.C.S. § 6108, 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 degree if he intentionally or knowingly fails to relinquish a firearm[,] or other weapon or ammunition to the sheriff 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)[,] or 6108.2 (relating to relinquishment for consignment sale[,] or 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 protection from abuse order issued pursuant to 23 Pa.C.S. § 6108, 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 20170SB0501PN0604 - 3 -
6113, who accepts possession of a firearm, other
weapon or ammunition relinquished pursuant to 23
Pa.C.S. § 6108.2.

* * *

[(5) A person who has accepted possession of a firearm,
other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3
commits a misdemeanor of the first degree if he intentionally
or knowingly returns a firearm, other weapon or ammunition to
a defendant or intentionally or knowingly allows a defendant
to have access to the firearm, other weapon or ammunition
prior to either of the following:

   (i) The sheriff accepts return of the safekeeping
       permit issued to the party pursuant to 23 Pa.C.S. §
       6108.3(d)(1)(i).

   (ii) The issuance of a court order pursuant to
       subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to
       return of relinquished firearms, other weapons and
       ammunition and additional relief) which modifies a valid
       protection from abuse order issued pursuant to 23 Pa.C.S.
       § 6108, which order provided for the relinquishment of
       the firearm, other weapon or ammunition by allowing the
       defendant to take possession of the firearm, other weapon
       or ammunition that had previously been ordered
       relinquished.]

* * *

(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] or a person who is subject to a court order and is otherwise prohibited from possessing or acquiring firearms, ammunition or explosives under 18 U.S.C. § 922(g)(8), which order provided for the relinquishment of firearms during the period of time the order is in effect or a person who is the subject of any other active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108. 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.
Section 2. Title 18 is amended by adding a section 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 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) Any relinquished firearm shall be considered to be abandoned if not transferred within six months pursuant to subsection (e) and the law enforcement agency may dispose of it after that period, provided the person is notified of the disposal and receives any proceeds from the disposal, less the costs to the law enforcement agency associated with taking possession of, storing and disposing of the firearm.

(4) 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 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.

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

(4) A person relinquishing a firearm pursuant to this subsection shall, within the specified time frame, provide to the appropriate law enforcement agency 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 a 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 described in this section shall also relinquish to the appropriate law enforcement agency any firearm license issued under section 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) that the person possesses.

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

Section 3. Sections 6106(b)(8) and 6115(b)(4) of Title 18
are amended to read:

§ 6106. Firearms not to be carried without a license.

* * *

(b) Exceptions.--The provisions of subsection (a) shall not apply to:

* * *

(8) Any person while carrying a firearm which is not loaded and is in a secure wrapper from the place of purchase to his home or place of business, or to a place of repair, sale or appraisal or back to his home or place of business, or in moving from one place of abode or business to another or from his home to a vacation or recreational home or dwelling or back, or to recover stolen property under section 6111.1(b)(4) (relating to Pennsylvania State Police), or to a place of instruction intended to teach the safe handling, use or maintenance of firearms or back or to a location to which the person has been directed to relinquish firearms under 23 Pa.C.S. § 6108 (relating to relief) or back upon return of the relinquished firearm or to a licensed dealer's place of business for relinquishment pursuant to 23 Pa.C.S. § 6108.2 (relating to relinquishment for consignment sale[,] or lawful transfer [or safekeeping]) or back upon return of the relinquished firearm [or to a location for safekeeping pursuant to 23 Pa.C.S. § 6108.3 (relating to relinquishment to third party for safekeeping) or back upon return of the relinquished firearm].

* * *

§ 6115. Loans on, or lending or giving firearms prohibited.

* * *

(b) Exception.--
[(4) Nothing in this section shall prohibit the relinquishment of firearms to a third party in accordance with 23 Pa.C.S. § 6108.3 (relating to relinquishment to third party for safekeeping).]

Section 4. The definitions of "domestic violence counselor/advocate" and "safekeeping permit" in section 6102(a) of Title 23 are amended and the subsection is amended by adding a definition 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.

* * *

"Domestic violence counselor/advocate." An individual who:

(1) is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence[, who];

(2) has undergone 40 hours of training[.]; and

(3) is under the supervision of a supervisor of a domestic violence program.

* * *

"Safekeeping permit." A permit issued by a sheriff allowing
a person to take possession of any firearm, other weapon or
ammunition that a judge ordered a defendant to relinquish in a
protection from abuse proceeding.]

* * *

Section 5. Section 6106(e) and (f) of Title 23 are amended
and the section is amended by adding a subsection to read:
§ 6106. Commencement of proceedings.

* * *

[(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.]

(f) Service by sheriff.--[If the court so orders, the
sheriff or other designated agency or individual shall serve the
petition and order.] For all petitions and temporary orders for
protection from abuse, original process shall be served by a
sheriff or by the sheriff's duly authorized deputy, which deputy
may not be a party to or a family member of a party to the
protection from abuse petition, unless the petitioner chooses an
alternative means of personal service.

(f.1) Court to adopt means of service.--The court shall, by
local rule, adopt a procedure to immediately transmit the
petition and order for service to the sheriff or, if the
petitioner requests, to the petitioner.

* * *

Section 6. Sections 6107(a), (b)(4) and (c), 6108(a)(3) and
(7), 6108.1 and 6108.2 heading, (a), (c) and (e) 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.

(b) Temporary orders.--

* * *

(4) If the court orders the defendant to temporarily relinquish any firearm, other weapon or ammunition pursuant to paragraph (3), the defendant shall decide in what manner the defendant is going to relinquish any firearm, other weapon or ammunition listed in the order. Relinquishment may be to the sheriff pursuant to section 6108(a)(7) [or to a
third party for safekeeping pursuant to section 6108.3
(relating to relinquishment to third party for safekeeping)]
or to a dealer pursuant to section 6108.2 (relating to
relinquishment for consignment sale or lawful transfer).

(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 96
hours after a defendant receives notice under section 6106
(relating to commencement of proceedings), the court shall
grant a continuance until the 96-hour period has elapsed, if
requested by the defendant.

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

§ 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 the following, except that any final order or
agreement 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 firearm license prohibition and
relinquishment provisions under paragraph (7):

* * *

(3) If 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, with the consent of
the plaintiff, ordering the defendant to provide suitable
alternate housing. An order may not grant possession to the
plaintiff of the residence or household to the exclusion of
the defendant other than as provided under paragraph (2) or
this paragraph.

* * *

(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] any firearms under the defendant's possession or
control, and requiring the defendant to relinquish to the
sheriff 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]
appropriate law enforcement agency of the municipality 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 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 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 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[,] or lawful transfer [or safekeeping]) [or 6108.3] or to the sheriff pursuant to this paragraph. Where the sheriff is designated, the sheriff 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 shall comply with 18 Pa.C.S. § [6105(f)(4)] 6105(f)(3) (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 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 will be considered abandoned if the defendant does not request return within six months after expiration of the order or dismissal of a petition for a protection from abuse order, as provided under section 6108.1 (relating to return of relinquished firearms, other weapons and ammunition and additional relief). The sheriff may dispose of the firearms, other weapons or ammunition after that period, provided the defendant is notified of the disposal and receives any proceeds from the disposal, less the costs to the sheriff associated with taking possession of, storing and disposing of the firearms, other weapons or ammunition.

(iii) The sheriff 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' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(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).

* * *

§ 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 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 defendant or owner must provide reasonable proof
of ownership or of rightful possession of the firearms, other
weapon or ammunition seized.

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

(3) 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.

(4) The defendant or owner must have been given a
clearance by the Pennsylvania State Police Instant Check
System Unit, 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 finding that the
defendant is ineligible to regain possession of the firearms,
other weapons or ammunition, the defendant or owner may file a
petition seeking their return. A copy of the petition must be
served upon the sheriff's office, the district attorney's office
and counsel for the plaintiff in the protection from abuse order
petition.
(a.4) Abandonment.--

(1) Any firearms, other weapons or ammunition shall be presumed abandoned if the defendant does not request return within six months after expiration of the order or dismissal of a petition for a protection from abuse order.

(2) The sheriff may dispose of the firearms, other weapons or ammunition after the six-month period, provided the defendant is notified of the disposal and receives any proceeds from the disposal, less the costs to the sheriff associated with taking possession of, storing and disposing of the firearms, other weapons or ammunition.

(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.

[(c) Modification of court's order to provide for alternative means of relinquishing firearms, other weapons or ammunition.--The defendant may petition the court for modification of the order to provide for an alternative means of relinquishment in accordance with this chapter. The petition shall be served upon the plaintiff, and the plaintiff shall have
an opportunity to be heard at the hearing as provided in
subsection (d). Where the court orders a modification pursuant
to this subsection providing for alternative means of
relinquishment, the sheriff shall proceed as directed by the
court.]
(d) Hearing.--Within ten business days of the filing of any
petition under this section, a hearing shall be held before the
court.
(e) Definitions.--As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection:
"Other person." Any person, except the defendant, who is the
lawful owner of a firearm, other weapon or ammunition
relinquished pursuant to this chapter.
"Safekeeping." The secure custody of a firearm, other
weapon or ammunition ordered relinquished by an active
protection from abuse order.]
§ 6108.2. Relinquishment for consignment sale[,] or 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] or a temporary order which 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 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[,] or 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.

* * *

(c) Failure to provide affidavit.--A defendant relinquishing
firearms, other weapons or ammunition to a dealer pursuant to
subsection (a) shall, within the time frame specified in the
order for relinquishing firearms, other weapons or ammunition,
provide to the sheriff the affidavit obtained pursuant to
subsection (b) and relinquish to the sheriff any firearms, other
weapons or ammunition ordered to be relinquished which are not
specified in the affidavit[,] or in an affidavit provided in
accordance with section 6108(a)(7)(i)(B) (relating to relief)
[or in an acknowledgment of receipt from a third party provided
to the sheriff pursuant to section 6108.3 (relating to
relinquishment to third party for safekeeping)]. If the
defendant fails to comply with this subsection, the sheriff
shall, at a minimum, provide immediate notice to the court, the
plaintiff and appropriate law enforcement agencies.

* * *

[(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 7. Section 6108.3 of Title 23 is repealed:

[§ 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.

(b) Transfer to third party.--

(1) A defendant wishing to relinquish firearms, other
weapons or ammunition to a third party pursuant to subsection
(a) shall, within the time frame specified in the order for
relinquishing firearms, other weapons and ammunition, report
to the sheriff's office in the county where the order was
entered along with the third party.

(2) Upon determination by the sheriff that the third
party is not prohibited from possessing firearms, other
weapons or ammunition pursuant to any Federal or State law
and after the defendant and third party have executed the
affidavits required under paragraph (3), the sheriff shall
issue a safekeeping permit to the third party, which shall
include, at a minimum, a list of the firearms, other weapons
and ammunition which will be relinquished to the third party.
The permit shall be issued at no cost to the third party or
defendant. The permit shall require the third party to
possess the defendant's firearms, other weapons and ammunition until the time that:

(i) the sheriff revokes the safekeeping permit pursuant to subsection (c)(1); or

(ii) the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(3) (i) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party 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:

(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address, date of birth and the Social Security number of the defendant.

(C) The name, address and date of birth of the third party.

(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.

(E) An acknowledgment that the defendant will not take possession of any firearm, other weapon or ammunition relinquished to the third party until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(F) A plain-language summary of 18 Pa.C.S. § 6105(a.1)(2) and (c)(6) (relating to persons not to possess, use, manufacture, control, sell or transfer
firearms).


(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:

(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address and date of birth of the defendant.

(C) The name, address, date of birth and the Social Security number of the third party.

(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.

(E) An acknowledgment that no firearm, other weapon or ammunition relinquished to the third party will be returned to the defendant until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(F) A plain-language summary of 18 Pa.C.S. §§ 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or transfer of firearms) and 6115 (relating to loans on, or lending or giving firearms prohibited).

(G) A plain-language summary of this section.

(H) An acknowledgment that the third party is
not prohibited from possessing firearms, other
weapons or ammunition pursuant to any Federal or
State law.

(I) An acknowledgment that the third party is
not subject to an active protection from abuse order.

(J) An acknowledgment that the defendant has
never been the subject of a protection from abuse
order issued on behalf of the third party.

(K) An acknowledgment that any firearms, other
weapons and ammunition relinquished to the third
party will be stored using a locking device as
defined in paragraph (1) of the definition of
"locking device" in 18 Pa.C.S. § 6142(f) (relating to
locking device for firearms) or in a secure location
to which the defendant does not have access.

(L) A detailed description of the third party
liability pursuant to this section relating to civil
liability.

(M) An acknowledgment that the third party shall
inform the sheriff of any change of address for the
third party within seven days of the change of
address.

(4) The defendant shall, within the time frame specified
in the order and in lieu of relinquishment to the sheriff,
relinquish the firearms, other weapons and ammunition
specified in the affidavits provided to the sheriff pursuant
to paragraph (3) to the third party who has been issued a
safekeeping permit pursuant to paragraph (2). Upon
relinquishment of the firearms to the third party, the third
party shall sign an acknowledgment of receipt on a form
prescribed by the Pennsylvania State Police, which shall include, at a minimum, an acknowledgment that the firearms were relinquished to the third party within the time frame specified in the order.

(5) Within 24 hours of the issuance of the safekeeping permit issued to the third party pursuant to paragraph (2) or by close of the next business day as necessary due to the closure of the sheriff's office, the defendant shall return the signed acknowledgment of receipt required under paragraph (4) to the sheriff in the county where the order was entered.

(6) If the defendant fails to provide the acknowledgment of receipt to the sheriff as required under paragraph (5), an affidavit prepared in accordance with section 6108(a)(7)(i) (B) (relating to relief), an affidavit under section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or fails to relinquish any firearms, other weapons or ammunition, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(c) Revocation of safekeeping permit.--

(1) The sheriff shall revoke a third party's safekeeping permit and require the third party to relinquish to the sheriff any firearms, other weapons or ammunition which were relinquished to the third party by a defendant pursuant to subsection (a) upon determining or being notified that any of the following apply:

   (i) A protection from abuse order has been entered against the third party.

   (ii) The third party is prohibited from possessing firearms, other weapons or ammunition pursuant to any
Federal or State law.

(iii) The defendant has been convicted of a violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or any other offense involving the use of a firearm.

(iv) The defendant has been held in indirect criminal contempt for violating a provision of the protection from abuse order consistent with section 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

(2) Upon revocation of a safekeeping permit, the sheriff shall seize the safekeeping permit and all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party. If revocation of the safekeeping permit was:

   (i) Required pursuant to paragraph (1)(i) or (ii), the sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may report to the sheriff's office in order to relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

   (ii) Required pursuant to paragraph (1)(iii) or (iv), the sheriff shall maintain possession of the firearms, other weapons and ammunition until the defendant is no longer prohibited from possessing firearms, other weapons and ammunition pursuant to any Federal or State law unless:

       (A) the defendant has the firearms, other weapons and ammunition relinquished to a licensed
dealer pursuant to section 6108.2; or

(B) the sheriff is directed to relinquish the
firearms, other weapons and ammunition pursuant to a
court order.

(d) Return of safekeeping permit.--

(1) Following expiration of a protection from abuse
order, which order provided for the relinquishment of
firearms, other weapons or ammunition, the defendant and the
third party shall report to the sheriff's office to return
the safekeeping permit. Upon a determination by the sheriff
that the defendant is:

(i) Not prohibited from possessing firearms, other
weapons and ammunition, the sheriff shall accept the
return of the safekeeping permit, and the third party
shall relinquish to the defendant all of the defendant's
firearms, other weapons and ammunition which were
relinquished to the third party pursuant to this section.

(ii) Prohibited from possessing a firearm, other
weapon or ammunition pursuant to any Federal or State
law, the sheriff shall accept return of the permit and
seize from the third party all of the defendant's
firearms, other weapons and ammunition which were
relinquished to the third party pursuant to this section.
The sheriff shall return to the defendant any firearm,
other weapon or ammunition which the defendant is
lawfully entitled to possess.

(2) Upon issuance of a court order pursuant to 18
Pa.C.S. §§ 6105(f)(2) or 6108.1(b) (relating to return of
relinquished firearms, other weapons and ammunition and
additional relief) which modifies a valid protection from
abuse order by allowing the defendant to take possession of a
firearm, other weapon or ammunition that had previously been
ordered relinquished, the defendant and the third party shall
report to the sheriff's office to return the safekeeping
permit. The sheriff shall proceed as directed by the court
order.

(3) If a third party wishes to relinquish the
defendant's firearms, other weapons and ammunition prior to
return of the safekeeping permit pursuant to paragraph (1),
the sheriff shall accept return of the safekeeping permit and
shall seize all of the defendant's firearms, other weapons
and ammunition from the third party. The sheriff shall notify
the defendant that the firearms, other weapons and ammunition
which were relinquished to the third party are in the
sheriff's possession and that the defendant may relinquish
the firearms, other weapons and ammunition to a subsequent
third party pursuant to this section or to a licensed dealer
pursuant to section 6108.2.

(e) Civil liability.--A third party who intentionally or
knowingly violates any of the provisions of this section shall,
in addition to any other penalty prescribed in this chapter or
18 Pa.C.S. Ch. 61, be civilly liable to any person for any
damages caused thereby and, in addition, shall be liable to any
person for punitive damages in an amount not to exceed $5,000,
and the court shall award a prevailing plaintiff a reasonable
attorney fee as part of the costs.

(f) Forms.--The Pennsylvania State Police shall develop and
make available:

(1) Forms to be used by sheriffs to issue safekeeping
permits pursuant to subsection (b)(2).
(2) Affidavit forms and receipt forms to be used by
defendants and third parties as required under subsection (b)
(3) and (4).

(g) Transfer upon final entry.--A defendant who has
previously relinquished firearms, other weapons or ammunition to
the sheriff pursuant to a temporary order shall be permitted to
have the firearms, other weapons and ammunition relinquished to
a third party pursuant to this section following entry 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.

(h) Nondisclosure.--All copies of the safekeeping permit
issued under subsection (b)(2) retained by the sheriff and the
affidavits and forms obtained under subsection (b)(3) and (4)
shall not be subject to access under the act of June 21, 1957
(P.L.390, No.212), referred to as the Right-to-Know Law.

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

"Safekeeping." The secure custody of firearms, other weapons
or ammunition which were ordered relinquished by an active
protection from abuse order.

"Third party." A person, other than the defendant, who:

(1) Is not a member of the defendant's household.

(2) Is not prohibited from possessing firearms pursuant
to any Federal or State law.]

Section 8. This act shall take effect in 60 days.