

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1243 Session of  
1975

INTRODUCED BY HILL, HOWARD AND MYERS, DECEMBER 10, 1975

SENATOR HILL, JUDICIARY, AS AMENDED, JUNE 14, 1976

## AN ACT

1 Relating to abuse of adults and children by a person who resides  
2 with them; and providing for remedies and procedures.

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

5 Section 1. Short Title.--This act shall be known and may be  
6 cited as the "Protection From Abuse Act."

7 ~~Section 2. Definitions. As used in this act:~~

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8 ~~"Abuse" means to engage in conduct against one or more~~  
9 ~~persons with whom one resides in which one or more of the~~  
10 ~~following has occurred:~~

11 ~~(i) Maliciously striking or attempting to strike a person~~  
12 ~~with whom one resides.~~

13 ~~(ii) Threatening physical harm with a weapon against a~~  
14 ~~person with whom one resides.~~

15 ~~(iii) Threatening physical harm against a person with whom~~  
16 ~~one resides by gesture or with words in such a manner as to~~  
17 ~~cause the person threatened reasonably to fear for his or her~~  
18 ~~physical well being.~~

~~(iv) Recklessly endangering the physical well being of a person with whom one resides.~~

~~(v) To engage in emotionally destructive behavior.~~

~~"Court" means the court of common pleas of any county.~~

~~"Emotionally destructive behavior" means:~~

~~(i) habitual inebriety;~~

~~(ii) drug abuse;~~

~~(iii) improper sexual advance towards, improper sexual assaults upon, or improper sexual contact with minor children with whom one resides; when such conduct endangers or tends to endanger the emotional well being of any person with whom one resides; or~~

~~(iv) any course of conduct that endangers or tends to endanger the emotional well being of any person with whom one resides.~~

~~"Resides" means not only dwells permanently at the time at which a petition is brought under this act, but also to have recently dwelled permanently, having left the premises as a result of the actions of the respondent complained of in the petition.~~

~~Section 3. Jurisdiction. The court shall have jurisdiction over all proceedings in which an adult is alleged to be or to have been abusive to another adult or minor child or children with whom the respondent resides.~~

~~Section 4. Commencement of Proceedings. Any person who resides with respondent, may petition the court seeking relief in cases in which the well being of the petitioner or any other person residing in the household is endangered, on the basis of abuse or emotionally destructive behavior by the respondent.~~

~~Section 5. Venue. A proceeding under this act may be~~

~~commenced in the county in which the acts referred to in the  
petition allegedly occurred or in which the parties reside.~~

~~Section 6. Subpoenas. Upon application of any party to the  
proceedings, the court shall issue subpoenas requiring  
attendance and testimony of witnesses and production of papers  
at any hearing under this act.~~

~~Section 7. Hearings. (a) After the petition has been filed,  
the court, upon notice to the other party, shall schedule a  
hearing within five days.~~

~~(b) The court may enter such temporary orders as it deems  
necessary to maintain the status of the parties or to protect  
the safety of the petitioner or any minor child, upon good cause  
shown based upon affidavit filed or sworn testimony, without a  
hearing. If such preliminary and temporary relief is granted  
without a hearing, the court shall schedule a hearing within  
five days thereafter.~~

~~(c) All hearings shall be recorded.~~

~~(d) Should any hearing be continued, the court may make any  
temporary order it deems necessary to maintain the status of the  
parties, to protect the safety of any person therein involved,  
or to render a separation of the parties during the period of  
the continuance.~~

~~(e) The petitioning party must prove the allegations of the  
petition by clear and convincing evidence.~~

~~(f) The court shall advise the respondent of a right to be  
represented by counsel of respondent's choosing and to have a  
continuance to secure counsel.~~

~~Section 8. Relief. (a) For good cause shown, the court  
shall be empowered to grant any form of equitable relief  
necessary and proper to safeguard the physical health or safety~~

1 ~~or the emotional well being of all adults or any children~~  
2 ~~residing with them including:~~

3 ~~(1) Granting exclusive possession of the premises to any~~  
4 ~~adult, by eviction from, or restoration to, the premises whether~~  
5 ~~or not such premises are owned by the entireties, jointly owned,~~  
6 ~~or jointly leased.~~

7 ~~(2) Granting exclusive possession of the premises to any~~  
8 ~~adult, by eviction from, or restoration to, the premises owned~~  
9 ~~or leased solely by the excluded party if such party has a duty~~  
10 ~~to support the other adults or any child remaining in that~~  
11 ~~adult's custody.~~

12 ~~(3) Ordering the respondent to restrain from physically~~  
13 ~~striking, or from threatening to physically harm by instrument,~~  
14 ~~gesture, or words the other adults or children.~~

15 ~~(4) Award custody of or establish visitation with regard to~~  
16 ~~any children residing in the household.~~

17 ~~(b) Any relief granted shall be for such period of time as~~  
18 ~~the court deems necessary.~~

19 ~~(c) The court may amend its order from time to time upon the~~  
20 ~~petition of either party.~~

21 ~~(d) No order shall in any manner affect title to any real~~  
22 ~~estate of any party. Should the excluded party have exclusive~~  
23 ~~title to the residence from which he or she is evicted, that~~  
24 ~~person shall be prohibited from bringing any legal or equitable~~  
25 ~~action designed to give him or her possession of the premises~~  
26 ~~for the duration of the court's order.~~

27 ~~(e) The remedies provided herein are cumulative and are in~~  
28 ~~addition to and may be employed concurrently with other remedies~~  
29 ~~provided in law or in equity.~~

30 SECTION 2. DEFINITIONS.--AS USED IN THIS ACT:

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1 "ABUSE" MEANS THE OCCURRENCE OF ONE OR MORE OF THE FOLLOWING  
2 ACTS BETWEEN FAMILY OR HOUSEHOLD MEMBERS WHO RESIDE TOGETHER:

3 (I) ATTEMPTING TO CAUSE OR INTENTIONALLY, KNOWINGLY OR  
4 RECKLESSLY CAUSING BODILY INJURY OR SERIOUS BODILY INJURY WITH  
5 OR WITHOUT A DEADLY WEAPON.

6 (II) PLACING BY PHYSICAL MENACE ANOTHER IN FEAR OF IMMINENT  
7 SERIOUS BODILY INJURY.

8 (III) SEXUALLY ABUSING MINOR CHILDREN AS DEFINED PURSUANT TO  
9 THE ACT OF NOVEMBER 26, 1975 (NO.124), KNOWN AS THE "CHILD  
10 PROTECTIVE SERVICES LAW."

11 "ADULT" MEANS ANY PERSON 18 YEARS OF AGE OR OLDER.

12 "COURT" SHALL MEAN THE COURT OF COMMON PLEAS.

13 "FAMILY OR HOUSEHOLD MEMBERS" MEANS SPOUSES, PERSONS LIVING  
14 AS SPOUSES, PARENTS AND CHILDREN, OR OTHER PERSONS RELATED BY  
15 CONSANGUINITY OR AFFINITY.

16 TERMS NOT OTHERWISE DEFINED BY THIS ACT SHALL HAVE THE  
17 MEANING GIVEN TO THEM BY THE CRIMES CODE.

18 SECTION 3. JURISDICTION.--THE COURT SHALL HAVE JURISDICTION  
19 OVER ALL PROCEEDINGS UNDER THIS ACT. THE PLAINTIFF'S RIGHT TO  
20 RELIEF UNDER THIS ACT SHALL NOT BE AFFECTED BY HIS OR HER  
21 LEAVING THE RESIDENCE OR HOUSEHOLD TO AVOID FURTHER ABUSE.

22 SECTION 4. COMMENCEMENT OF PROCEEDING.--A PERSON MAY SEEK  
23 RELIEF UNDER THIS ACT FOR HIMSELF OR HERSELF, OR ANY PARENT OR  
24 ADULT HOUSEHOLD MEMBER MAY SEEK RELIEF UNDER THIS ACT ON BEHALF  
25 OF MINOR CHILDREN BY FILING A PETITION WITH THE COURT ALLEGING  
26 ABUSE BY THE DEFENDANT.

27 SECTION 5. HEARINGS.--(A) WITHIN TEN DAYS OF THE FILING OF A  
28 PETITION UNDER THIS ACT A HEARING SHALL BE HELD AT WHICH THE  
29 PLAINTIFF MUST PROVE THE ALLEGATION OF ABUSE BY A PREPONDERANCE  
30 OF THE EVIDENCE. THE COURT SHALL ADVISE THE DEFENDANT OF HIS

1 RIGHT TO BE REPRESENTED BY COUNSEL.

2 (B) THE COURT MAY ENTER SUCH TEMPORARY ORDERS AS IT DEEMS  
3 NECESSARY TO PROTECT THE PLAINTIFF OR MINOR CHILDREN FROM ABUSE,  
4 UPON GOOD CAUSE SHOWN IN AN EX PARTE PROCEEDING. IMMEDIATE AND  
5 PRESENT DANGER OF ABUSE TO THE PLAINTIFF OR MINOR CHILDREN SHALL  
6 CONSTITUTE GOOD CAUSE FOR PURPOSES OF THIS SECTION.

7 (C) IF A HEARING UNDER SUBSECTION (A) IS CONTINUED, THE  
8 COURT MAY MAKE OR EXTEND SUCH TEMPORARY ORDERS UNDER SUBSECTION  
9 (B) AS IT DEEMS NECESSARY.

10 SECTION 6. RELIEF.--(A) THE COURT SHALL BE EMPOWERED TO  
11 GRANT ANY PROTECTION ORDER OR APPROVE ANY CONSENT AGREEMENT TO  
12 BRING ABOUT A CESSATION OF ABUSE OF THE PLAINTIFF OR MINOR  
13 CHILDREN, WHICH MAY INCLUDE:

14 (1) DIRECTING THE DEFENDANT TO REFRAIN FROM ABUSING THE  
15 PLAINTIFF OR MINOR CHILDREN.

16 (2) GRANTING POSSESSION TO THE PLAINTIFF OF THE RESIDENCE OR  
17 HOUSEHOLD TO THE EXCLUSION OF THE DEFENDANT BY EVICTING THE  
18 DEFENDANT AND/OR RESTORING POSSESSION TO THE PLAINTIFF WHEN THE  
19 RESIDENCE OR HOUSEHOLD IS JOINTLY OWNED OR LEASED BY THE  
20 PARTIES.

21 (3) WHEN THE DEFENDANT HAS A DUTY TO SUPPORT THE PLAINTIFF  
22 OR MINOR CHILDREN LIVING IN THE RESIDENCE OR HOUSEHOLD AND THE  
23 DEFENDANT IS THE SOLE OWNER OR LESSEE, GRANTING POSSESSION TO  
24 THE PLAINTIFF OF THE RESIDENCE OR HOUSEHOLD TO THE EXCLUSION OF  
25 THE DEFENDANT BY EVICTING THE DEFENDANT AND/OR RESTORING  
26 POSSESSION TO THE PLAINTIFF, OR BY CONSENT AGREEMENT ALLOWING  
27 THE DEFENDANT TO PROVIDE SUITABLE, ALTERNATE HOUSING.

28 (4) AWARDING TEMPORARY CUSTODY OF AND/OR ESTABLISHING  
29 TEMPORARY VISITATION RIGHTS WITH REGARD TO MINOR CHILDREN.

30 (B) ANY PROTECTION ORDER OR APPROVED CONSENT AGREEMENT SHALL

1 BE FOR A FIXED PERIOD OF TIME NOT TO EXCEED ONE YEAR. THE COURT  
2 MAY AMEND ITS ORDER OR AGREEMENT AT ANY TIME UPON SUBSEQUENT  
3 PETITION FILED BY EITHER PARTY.

4 (C) NO ORDER OR AGREEMENT UNDER THIS ACT SHALL IN ANY MANNER  
5 AFFECT TITLE TO ANY REAL PROPERTY.

6 SECTION 7. NOTIFICATION.--A COPY OF ANY ORDER UNDER THIS ACT  
7 SHALL BE ISSUED TO THE PLAINTIFF, THE DEFENDANT AND THE POLICE  
8 DEPARTMENT WITH APPROPRIATE JURISDICTION TO ENFORCE THE ORDER OR  
9 AGREEMENT.

10 SECTION 8. EMERGENCY RELIEF.--(A) WHEN THE COURT IS  
11 UNAVAILABLE FROM THE CLOSE OF BUSINESS AT THE END OF THE WEEK TO  
12 THE RESUMPTION OF BUSINESS AT THE BEGINNING OF THE WEEK A  
13 PETITION MAY BE FILED BEFORE A DISTRICT JUSTICE WHO MAY GRANT  
14 RELIEF IN ACCORDANCE WITH SECTION 6(A),(2) OR (3) IF THE  
15 DISTRICT JUSTICE DEEMS IT NECESSARY TO PROTECT THE PLAINTIFF OR  
16 MINOR CHILDREN FROM ABUSE, UPON GOOD CAUSE SHOWN IN AN EX PARTE  
17 PROCEEDING. IMMEDIATE AND PRESENT DANGER OF ABUSE TO THE  
18 PLAINTIFF OR MINOR CHILDREN SHALL CONSTITUTE GOOD CAUSE FOR  
19 PURPOSES OF THIS SECTION.

20 (B) ANY ORDER ISSUED UNDER SUBSECTION (A) SHALL EXPIRE AS OF  
21 THE RESUMPTION OF BUSINESS OF THE COURT AT THE BEGINNING OF THE  
22 WEEK OR WITHIN 72 HOURS, WHICHEVER OCCURS SOONER; AT WHICH TIME,  
23 THE PLAINTIFF MAY SEEK A TEMPORARY ORDER FROM THE COURT.

24 (C) ANY ORDER ISSUED UNDER THIS SECTION AND ANY  
25 DOCUMENTATION IN SUPPORT THEREOF SHALL BE IMMEDIATELY CERTIFIED  
26 TO THE COURT. SUCH CERTIFICATION TO THE COURT SHALL HAVE THE  
27 EFFECT OF COMMENCING PROCEEDINGS UNDER SECTION 4 AND INVOKING  
28 THE OTHER PROVISIONS OF THIS ACT.

29 SECTION 9. PROCEDURE.--ANY PROCEEDING UNDER THIS ACT SHALL  
30 BE IN ACCORDANCE WITH THE RULES OF CIVIL PROCEDURE AND SHALL BE

1 IN ADDITION TO ANY OTHER AVAILABLE CIVIL OR CRIMINAL REMEDIES.

2 SECTION 10. CONTEMPT.--UPON VIOLATION OF A PROTECTION ORDER

3 OR A COURT APPROVED CONSENT AGREEMENT THE COURT MAY HOLD THE

4 DEFENDANT IN CONTEMPT AND PUNISH HIM IN ACCORDANCE WITH LAW.

5 Section ~~9~~ 11. Effective Date.--This act shall take effect in <—

6 60 days.