

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2224 Session of
2003

INTRODUCED BY DALLY, ARMSTRONG, CAPPELLI, CORRIGAN, CRAHALLA,
DALEY, DENLINGER, GEIST, GRUCELA, HENNESSEY, HORSEY, MUNDY,
REICHLEY, SAYLOR, SCAVELLO, E. Z. TAYLOR, TIGUE, WASHINGTON,
YOUNGBLOOD AND THOMAS, DECEMBER 8, 2003

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 10, 2004

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for a Statewide registry of protective
4 orders; further providing for protective orders, for notice
5 on protective orders and for violation of orders; providing
6 for civil protective orders; and making editorial changes.

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

9 Section 1. Sections 2709.1(c)(2), 4954, 4954.1, 4955(a)(1)
10 and (2)(i) and (b) and 4956(a) of Title 18 of the Pennsylvania
11 Consolidated Statutes are amended to read:

12 § 2709.1. Stalking.

13 * * *

14 (c) Grading.--

15 * * *

16 (2) A second or subsequent offense under this section or
17 a first offense under subsection (a) if the person has been
18 previously convicted of a crime of violence involving the

1 same victim, family or household member, including, but not
2 limited to, a violation of section 2701 (relating to simple
3 assault), 2702 (relating to aggravated assault), 2705
4 (relating to recklessly endangering another person), 2901
5 (relating to kidnapping), 3121 (relating to rape) or 3123
6 (relating to involuntary deviate sexual intercourse), an
7 order issued under section 4954 (relating to criminal
8 protective orders) or an order issued under 23 Pa.C.S. § 6108
9 (relating to relief) shall constitute a felony of the third
10 degree.

11 * * *

12 § 4954. [Protective] Criminal protective orders.

13 (a) Authority of court.--Any court with jurisdiction over
14 any criminal matter may, after a hearing and in its discretion,
15 [upon] issue a criminal protective order for an individual. To
16 issue an order under this subsection, the court must find, by
17 substantial evidence, which may include hearsay or the
18 declaration of the prosecutor, that [a witness or victim] an
19 individual has been intimidated or threatened or is reasonably
20 likely to be intimidated[, issue protective orders, including,
21 but not limited to,] or threatened. An order under this section
22 includes the following:

23 (1) An order that a defendant not violate any provision
24 of this [subchapter or section 2709 (relating to harassment)
25 or 2709.1 (relating to stalking)] title.

26 (2) An order that [a person] an individual other than
27 the defendant, including, but not limited to, a subpoenaed
28 witness, not violate any provision of this [subchapter]
29 title.

30 (3) An order that [any person] an individual described

1 in paragraph (1) or (2) maintain a prescribed geographic
2 distance from any [specified witness or victim] individual
3 designated by the court.

4 (4) An order that [any person] an individual described
5 in paragraph (1) or (2) have no communication whatsoever with
6 any [specified witness or victim] individual designated by
7 the court, except through an attorney under such reasonable
8 restrictions as the court may impose.

9 (5) Any other order which the court deems appropriate to
10 prevent or bring about a cessation of intimidation or
11 threatening behavior toward an individual designated by the
12 court.

13 (b) Contents.--A criminal protective order shall comply with
14 all of the following:

15 (1) Specify the issuing court.

16 (2) Identify the individual against whom the order is
17 issued. This paragraph includes:

18 (i) name;

19 (ii) address;

20 ~~(iii) Social Security number;~~ <—

21 ~~(iv) height and weight;~~

22 ~~(v) age; and~~

23 (III) HEIGHT AND WEIGHT; <—

24 (IV) AGE;

25 (V) RACE;

26 (VI) GENDER; AND

27 ~~(vi) (VII) other information deemed appropriate by~~ <—
28 the issuing court.

29 (c) Clerk of court.--The clerk of court shall send, on a
30 form prescribed by the Pennsylvania State Police, a copy of the

criminal protective order under this section and any amendment or revocation of the order to the appropriate registry under section 9203 (relating to Statewide registry of civil and criminal protective orders). The form shall be sent within 24 hours of the entry of the order.

(d) Availability.--An order under this section shall be available at all times to inform courts, police dispatchers and law enforcement officers of its issuance.

§ 4954.1. Notice on criminal protective order.

All criminal protective orders issued under section 4954 (relating to criminal protective orders) shall contain in large print at the top of the order a notice that the [witness or victim] individual designated by the court should immediately call the police if the defendant violates the criminal protective order. The notice shall contain the telephone number of the police department where the [victim or witness] individual designated by the court resides and [where the victim or witness] is employed.

§ 4955. Violation of criminal protective orders.

(a) Punishment.--[Any person] An individual violating any order made pursuant to section 4954 (relating to criminal protective orders) may be punished in any of the following ways:

(1) For any substantive offense described in this [subchapter] title, where such violation of an order is a violation of any provision of this subchapter.

(2) As a contempt of the court making such order. No finding of contempt shall be a bar to prosecution for a substantive offense under section 2709 (relating to harassment), 2709.1 (relating to stalking), 4952 (relating to intimidation of witnesses or victims) or 4953 (relating to

retaliation against witness [or], victim or party), but:

(i) any [person] individual so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed on conviction of said substantive offense; and

* * *

(b) Arrest.--An arrest for a violation of [an] a criminal protective order issued under section 4954 may be without warrant upon probable cause whether or not the violation is committed in the presence of a law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a criminal protective order by telephone [or], radio communication or other electronic means with the appropriate police department or by accessing the appropriate registry under section 9203 (relating to Statewide registry of civil and criminal protective orders).

* * *

§ 4956. Pretrial release.

(a) Conditions for pretrial release.--Any pretrial release of any defendant whether on bail or under any other form of recognizance shall be deemed, as a matter of law, to include a condition that the defendant neither do, nor cause to be done, nor permit to be done on his behalf, any act proscribed by section 4952 (relating to intimidation of witnesses or victims) or 4953 (relating to retaliation against witness or victim) and any willful violation of said condition is subject to punishment as prescribed in section [4955(3)] 4955(a)(3) (relating to violation of criminal protective orders) whether or not the defendant was the subject of an order under section 4954 (relating to criminal protective orders).

1 * * *

2 Section 2. Title 18 is amended by adding a chapter to read:

3 CHAPTER 92

4 PROTECTIVE ORDERS

5 Sec.

6 9201. Definitions.

7 9202. Responsibilities of law enforcement agencies.

8 9203. Statewide registry of civil and criminal protective
9 orders.

10 9204. County registry of civil and criminal protective orders.

11 § 9201. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Protective order." An order issued under:

16 (1) section 4954 (relating to criminal protective
17 orders); or

18 (2) 42 Pa.C.S. Ch. 59 Subch. E (relating to civil
19 protective orders).

20 § 9202. Responsibilities of law enforcement agencies.

21 (a) General rule.--The police department of each municipal
22 corporation, the Pennsylvania State Police and the sheriff of
23 each county shall ensure that all its officers, deputies and
24 employees are familiar with the provisions of 42 Pa.C.S. Ch. 59
25 Subch. E (relating to civil protective orders). Instruction
26 regarding civil protective orders shall be made a part of the
27 training curriculum for all trainee officers and deputies. All
28 law enforcement agencies within this Commonwealth shall adopt a
29 written policy regarding civil protective orders.

30 (b) Mandatory report.--

1 (1) Each law enforcement agency shall make an incident
2 report, on a form prescribed by the Pennsylvania State
3 Police, consistent with the report required by the Federal
4 National Incident-Based Reporting System (NIBRS).

5 (2) The incident report may include the information set
6 forth in 23 Pa.C.S. § 6105(c) (relating to responsibilities
7 of law enforcement agencies).

8 (c) Notice of arrest.--All law enforcement agencies shall
9 make reasonable efforts to notify any adult or emancipated minor
10 protected by a civil protective order of the arrest of the
11 individual against whom a protective order is issued for a
12 violation of the protective order as soon as possible. Unless
13 the individual cannot be located, notice of the arrest shall be
14 provided not more than 24 hours after proceeding under 42
15 Pa.C.S. § 5999.2(b) (relating to indirect criminal contempt).
16 § 9203. Statewide registry of civil and criminal protective
17 orders.

18 (a) Permanent registry.--

19 (1) The Pennsylvania State Police shall establish a
20 permanent Statewide registry of protective orders.

21 (2) The registry shall include a complete and systematic
22 record and index of all protective orders issued pursuant to
23 section 4954 (relating to criminal protective orders) and 42
24 Pa.C.S. Ch. 59 Subch. E (relating to civil protective
25 orders).

26 (3) The registry shall be in addition to and maintained
27 separate from the Statewide registry under 23 Pa.C.S. §
28 6105(e) (relating to responsibilities of law enforcement
29 agencies).

30 (4) The registry shall include at least the following

1 information:

2 (i) The issuing court.

3 (ii) The name of the individual who obtained the
4 order.

5 (iii) The name and address of the protected
6 individual.

7 (iv) Identification of the individual against whom
8 the order is issued. This subparagraph includes:

9 (A) name;

10 (B) address;

11 ~~(C) Social Security number;~~ <—

12 ~~(D) height and weight;~~

13 ~~(E) age; and~~

14 ~~(F) other identifying characteristics deemed~~
15 ~~appropriate by issuing court.~~

16 (C) HEIGHT AND WEIGHT; <—

17 (D) AGE;

18 (E) RACE;

19 (F) GENDER; AND

20 (G) OTHER IDENTIFYING CHARACTERISTICS DEEMED
21 APPROPRIATE BY THE ISSUING COURT.

22 (v) The date the order was entered.

23 (vi) The date the order expires.

24 (vii) The relief granted by the court.

25 (b) Temporary registry.--The Pennsylvania State Police shall
26 establish and maintain a temporary registry until the permanent
27 registry is fully operational.

28 (c) Duty of prothonotary.--The prothonotary shall send, on a
29 form prescribed by the Pennsylvania State Police, a copy of the
30 protective order, as appropriate, to the temporary and permanent

1 Statewide registry of protective orders so that it is received
2 within 24 hours of the entry of the order. Likewise, amendments
3 to or revocation of an order shall be transmitted by the
4 prothonotary within 24 hours of the entry of the order for
5 modification or revocation. The Pennsylvania State Police shall
6 enter orders, amendments and revocations, as appropriate, in the
7 temporary and permanent Statewide registry of protective orders
8 within eight hours of receipt.

9 (d) Availability of registry.--The registry shall be
10 available at all times to inform courts, police dispatchers and
11 law enforcement officers of any valid protective order.

12 (e) Criminal history records.--If a civil protective order
13 granting relief under 42 Pa.C.S. § 5997(a)(4) (relating to
14 relief) has been entered by a court, the information shall be
15 available to the Pennsylvania State Police for the purpose of
16 conducting a criminal history records check in compliance with
17 applicable provisions of Subchapter A of Chapter 61 (relating to
18 Uniform Firearms Act).

19 § 9204. County registry of civil and criminal protective
20 orders.

21 Each county shall maintain a registry of protective orders,
22 including orders issued under section 4954 (relating to criminal
23 protective orders) and orders under 42 Pa.C.S. Ch. 59 Subch. E
24 (relating to civil protective orders). Police departments in the
25 county shall assure the registry is current at all times and
26 that orders are removed upon their expiration. County registries
27 shall be maintained until the registry under section 9203(a)
28 (relating to Statewide registry of civil and criminal protective
29 orders) is fully operational.

30 Section 3. Sections ~~4136(a)(3)(ii)~~ and 4136(A) INTRODUCTORY

<—

1 PARAGRAPH AND (3)(II), 4137(a) introductory paragraph, 4138(a)
2 introductory paragraph and 4139(a) introductory paragraph of
3 Title 42 are amended to read:

4 § 4136. Rights of persons charged with certain indirect
5 criminal contempts.

6 (a) General rule.--A person charged with indirect criminal
7 contempt for violation of a restraining order or injunction
8 issued by a court shall [enjoy] BE PROVIDED: <—

9 * * *

10 (3) * * *

11 (ii) The requirement of subparagraph (i) shall not
12 be construed to apply to contempts:

13 (A) Committed in the presence of the court or so
14 near thereto as to interfere directly with the
15 administration of justice, or to apply to the
16 misbehavior, misconduct, or disobedience of any
17 officer of the court in respect to the writs, orders,
18 or process of the court.

19 (B) Subject to 23 Pa.C.S. § 6114 (relating to
20 contempt for violation of order or agreement).

21 (B.1) Subject to ~~42 Pa.C.S. §§~~ SECTIONS 5999.2 <—
22 (relating to indirect criminal contempt) and 5999.3
23 (relating to criminal contempt).

24 (C) Subject to 75 Pa.C.S. § 4108(c) (relating to
25 nonjury criminal contempt proceedings).

26 * * *

27 § 4137. Contempt powers of district justices.

28 (a) General rule.--[District] Except as set forth in section
29 5999.3(c) (relating to criminal contempt), district justices
30 shall have the power to issue attachments and impose summary

1 punishments for criminal contempts of a district justice court
2 in the following cases:

3 * * *

4 § 4138. Contempt powers of Pittsburgh Magistrates Court.

5 (a) General rule.--[The] Except as set forth in section
6 5999.3(c) (relating to criminal contempt), the Pittsburgh
7 Magistrates Court shall have the power to issue attachments and
8 impose summary punishments for criminal contempts in the
9 following cases:

10 * * *

11 § 4139. Contempt powers of Traffic Court of Philadelphia.

12 (a) General rule.--[The] Except as set forth in section
13 5999.3(c) (relating to criminal contempt), the Traffic Court of
14 Philadelphia shall have the power to issue attachments and
15 impose summary punishments for criminal contempts in the
16 following cases:

17 * * *

18 Section 4. Chapter 59 of Title 42 is amended by adding a
19 subchapter to read:

20 SUBCHAPTER E

21 CIVIL PROTECTIVE ORDERS

22 Sec.

23 5991. Scope.

24 5992. Legislative intent.

25 5993. Definitions.

26 5994. Jurisdiction.

27 5995. ~~Commencement of proceedings.~~ PROCEEDINGS.

<—

28 5996. Hearings.

29 5997. Relief.

30 5998. Service.

1 5999. Disclosure of addresses.

2 5999.1. Contempt.

3 5999.2. Indirect criminal contempt.

4 5999.3. Criminal contempt.

5 5999.4. Reporting abuse and immunity.

6 5999.5. Enforcement.

7 § 5991. Scope.

8 Except for proceedings commenced pursuant to 23 Pa.C.S. Ch.
9 61 (relating to protection from abuse), this subchapter shall
10 apply to civil actions.

11 § 5992. Legislative intent.

12 The General Assembly finds and declares as follows:

13 (1) A mechanism should be created by which courts of
14 this Commonwealth may issue civil protective orders to
15 prevent abuse even if there is no familial relationship
16 between the parties.

17 (2) The registry should be created.

18 (3) Civil protective orders by law enforcement should be
19 enforced throughout this Commonwealth.

20 § 5993. Definitions.

21 The following words and phrases when used in this subchapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Abuse." The occurrence of one or more of the following acts
25 between individuals:

26 (1) Intentionally, knowingly or recklessly causing or
27 attempting to cause bodily injury or serious bodily injury.

28 (2) Placing or attempting to place another in reasonable
29 fear of imminent serious bodily injury.

30 (3) Committing or attempting to commit an offense under

any of the following provisions of 18 Pa.C.S.:

(i) Section 2903 (relating to false imprisonment).

(ii) Section 3121 (relating to rape).

(iii) Section 3122.1 (relating to statutory sexual assault).

(iv) Section 3123 (relating to involuntary deviate sexual intercourse).

(v) Section 3124.1 (relating to sexual assault).

(vi) Section 3125 (relating to aggravated indecent assault).

(4) Physical or sexual abuse of a minor child, including violation of 23 Pa.C.S. Ch. 63 (relating to child protective services).

(5) Knowingly or recklessly engaging in a course of conduct or repeatedly committing acts toward another individual, including following the individual, without proper authority, under circumstances which place the individual in reasonable fear of bodily injury.

"Adult." An individual who is at least 18 years of age.

"Adult household member." Includes a stepparent, foster parent, adult sibling and an adult standing in loco parentis to a minor.

"Bodily injury." The term shall have the same meaning as given to it in 18 Pa.C.S. § 2301 (relating to definitions).

"Certified copy." Any of the following:

(1) A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court.

(2) An electronic copy of the original civil protective order endorsed with a digital signature of the judge or appropriate clerk of that court.

1 A raised seal on the copy of the civil protective order of the
2 issuing court shall not be required.

3 "Civil protective order." An order issued under section 5997
4 (relating to relief).

5 "Complainant." Any of the following who seeks relief from
6 abuse under this subchapter:

7 (1) A party in an underlying action.

8 (2) A witness or prospective witness in an underlying
9 action.

10 (3) A judge or member of the minor judiciary exercising
11 jurisdiction over an underlying action.

12 (4) A member of the staff of the issuing court
13 exercising jurisdiction over an underlying action.

14 (5) A QUASI-JUDICIAL OFFICER. <—

15 (6) A MEMBER OF THE FEDERAL JUDICIARY PRESIDING OVER A
16 CIVIL MATTER AND SITTING WITHIN THIS COMMONWEALTH.

17 ~~"Contemner"~~ CONTEMNOR." An individual against whom relief is <—
18 granted under this subchapter.

19 "Court." Any court of the Commonwealth. The term includes
20 the minor judiciary.

21 "Issuing court." A court which issues a protective order.

22 "Minor." An individual who is under 18 years of age.

23 "QUASI-JUDICIAL OFFICER." AN OFFICER APPOINTED TO HEAR A <—
24 MATTER. THE TERM INCLUDES A MASTER, CONFERENCE OFFICER AND A
25 JUDGE PRO TEMPORE.

26 "Serious bodily injury." The term shall have the same
27 meaning given to it in 18 Pa.C.S. § 2301 (relating to
28 definitions).

29 "Underlying action." The civil action in connection with
30 which abuse occurs.

1 § 5994. Jurisdiction.

2 (A) UNIFIED JUDICIAL SYSTEM.--A court of this Commonwealth <—
3 with jurisdiction over a civil matter, including an appeal, may,
4 as provided in this subchapter, issue a civil protective order
5 to prevent or bring about a cessation of abuse.

6 (B) FEDERAL COURTS.--IF A COMPLAINANT IS A MEMBER OF THE <—
7 FEDERAL JUDICIARY PRESIDING OVER A CIVIL MATTER AND SITTING
8 WITHIN THIS COMMONWEALTH, THE COURT OF COMMON PLEAS WITHIN THE
9 JUDICIAL DISTRICT IN WHICH THE FEDERAL COURT SITS MAY, AS
10 PROVIDED IN THIS SUBCHAPTER, ISSUE A CIVIL PROTECTIVE ORDER TO
11 PREVENT OR BRING ABOUT A CESSATION OF ABUSE.

12 § 5995. ~~Commencement of proceedings.~~ PROCEEDINGS. <—

13 (a) General rule.--

14 (1) A complainant may seek relief under this subchapter
15 by filing a petition with the court alleging abuse.

16 (2) If a complainant is a minor, any parent, adult
17 household member or guardian ad litem may file the petition
18 under this subsection on behalf of that complainant.

19 (3) If a complainant has been declared incompetent under
20 20 Pa.C.S. Ch. 55 (relating to incapacitated persons), a
21 guardian of the person may file the petition under this
22 subsection on behalf of that complainant.

23 (b) Costs.--

24 (1) The petition may be filed and service shall be made
25 without prepayment of costs.

26 (2) If the complainant prevails, the court shall:

27 (i) assess costs against the ~~contemner~~ CONTEMNOR; or <—

28 (ii) if the court determines that the ~~contemner~~ <—

29 CONTEMNOR is unable to pay the costs, waive costs. <—

30 (3) If the complainant does not prevail, the court

1 shall:

2 (i) assess costs against the complainant; or

3 (ii) if the court determines that the complainant is
4 not able to pay the costs, waive costs.

5 (c) Surcharge.--If a civil protective order is issued, a
6 surcharge of \$25 shall be assessed against the ~~contemner~~ <—
7 CONTEMNOR. Money received from surcharges shall be forwarded to <—
8 the Commonwealth and shall be used by the Pennsylvania State
9 Police to implement 18 Pa.C.S. § 9203 (relating to Statewide
10 registry of civil and criminal protective orders).

11 (d) Means of service.--

12 (1) The court shall adopt a means of prompt and
13 effective service for cases in which the complainant avers
14 that service cannot be safely effected by an adult other than
15 a law enforcement officer.

16 (2) If the court orders, the sheriff or other designated
17 agency or individual shall serve a petition or a civil
18 protective order.

19 (e) Service.--

20 (1) A petition shall be served upon the alleged
21 ~~contemner~~ CONTEMNOR. <—

22 (2) A civil protective order shall be served upon all of
23 the following:

24 (i) The ~~contemner~~ CONTEMNOR. <—

25 (ii) Each police department with appropriate
26 jurisdiction to enforce the civil protective order.

27 Service under this subparagraph shall be made promptly.
28 Failure to serve under this subparagraph shall not stay
29 the effect of a civil protective order.

30 (f) Assistance and advice to complainant.--The court shall

1 do all of the following:

2 (1) Provide simplified forms and clerical assistance in
3 English and Spanish to help with writing and filing of a
4 petition under this subchapter for an individual not
5 represented by counsel.

6 (2) Provide the complainant with written and oral
7 referrals, in English and Spanish, to services, including,
8 where appropriate, the local legal services office, the local
9 county bar association's lawyer referral service and the
10 local domestic violence program.

11 (g) Procedure and other remedies.--Unless otherwise provided
12 in this subchapter, a proceeding under this subchapter shall be
13 in accordance with applicable general rules and shall be in
14 ~~addition to any other available civil or criminal remedies. The~~ <—
15 ~~complainant and the contemner may seek modification of a civil~~
16 ~~protective order during the pendency of the civil protective~~
17 ~~order. Modification may be ordered by the court after the filing~~
18 ~~of a petition for modification, service of the petition and a~~
19 ~~hearing on the petition.~~ ADDITION TO ANY OTHER AVAILABLE CIVIL <—
20 OR CRIMINAL REMEDIES.

21 (H) MODIFYING AND VACATING.--

22 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE COURT MAY
23 MODIFY OR VACATE A CIVIL PROTECTIVE ORDER AS FOLLOWS:

24 (I) UPON:

25 (A) FILING BY A COMPLAINANT OR A CONTEMNOR OF A
26 PETITION TO MODIFY OR VACATE;

27 (B) SERVICE OF THE PETITION; AND

28 (C) A HEARING ON THE PETITION UNDER CLAUSE (A).

29 (II) UPON:

30 (A) THE COURT'S OWN MOTION BECAUSE OF A

1 CIRCUMSTANCE WHICH THE COURT DEEMS APPROPRIATE;

2 (B) NOTICE TO ALL PARTIES; AND

3 (C) A HEARING ON THE MOTION UNDER CLAUSE (A).

4 (2) IN NO CASE SHALL A COURT MODIFY OR VACATE A CIVIL
5 PROTECTIVE ORDER IF, AT A HEARING UNDER PARAGRAPH (1)(I)(C)
6 OR (II)(C), THE COMPLAINANT PROVES BY A PREPONDERANCE OF THE
7 EVIDENCE THAT THE COMPLAINANT IS OR IS LIKELY TO BE A VICTIM
8 OF ABUSE.

9 (3) THE COURT MAY VACATE A CIVIL PROTECTIVE ORDER UPON
10 THE DEATH OF THE CONTEMNOR.

11 § 5996. Hearings.

12 (a) Time and place.--

13 (1) Within ten days of filing of a petition under
14 section 5995 (relating to ~~commencement of~~ proceedings), a <—
15 hearing shall be held on the petition.

16 (2) Except as set forth in paragraph (3), the hearing
17 shall be held before the court exercising jurisdiction over
18 the underlying action.

19 (3) ~~If the complainant is the judge or the member of the~~ <—
20 ~~minor judiciary exercising jurisdiction over the underlying~~
21 ~~action,~~ a A hearing shall be held, as determined by court <—
22 rule, before an appropriate judge of the court of common
23 pleas in the judicial district where underlying action takes
24 place IF THE COMPLAINANT IS: <—

25 (I) THE JUDGE OR A MEMBER OF THE MINOR JUDICIARY
26 EXERCISING JURISDICTION OVER THE UNDERLYING ACTION;

27 (II) A STAFF MEMBER OF THE ISSUING COURT;

28 (III) A QUASI-JUDICIAL OFFICER; OR

29 (IV) A MEMBER OF THE FEDERAL JUDICIARY.

30 (b) Right to counsel.--When the alleged ~~contemner~~ CONTEMNOR <—

1 is given notice of the hearing, the court shall advise the
2 alleged ~~contemner~~ CONTEMNOR of the right to be represented by <—
3 counsel.

4 (c) Burden of proof.--At the hearing, the complainant must
5 prove abuse by a preponderance of the evidence.

6 (d) Temporary orders.--

7 (1) A complainant may petition the court for a temporary
8 civil protective order under this subchapter if the
9 complainant alleges immediate and present danger of abuse to
10 the complainant or a minor. In such a case, the court shall
11 conduct an ex parte proceeding. The court may enter a
12 temporary order as it deems necessary to protect the
13 complainant or a minor if it finds there is an immediate and
14 present danger of abuse. The temporary civil protective order
15 shall remain in effect until modified or terminated by the
16 court after notice and hearing.

17 (2) If a hearing under this section is continued and no
18 temporary civil protective order is issued, the court may
19 make an ex parte temporary order as it deems necessary.

20 § 5997. Relief.

21 (a) General rule.--A court may issue a civil protective
22 order which justice requires to protect the complainant from
23 abuse or to bring about cessation of abuse, including:

24 (1) Directing the ~~contemner~~ CONTEMNOR to refrain from <—
25 abusing, harassing, intimidating or stalking the complainant,
26 the complainant's relatives or the complainant's minor
27 children.

28 (2) Restraining the ~~contemner~~ CONTEMNOR from entering <—
29 the residence, property, school or place of employment or
30 business of the complainant or the complainant's ~~minor~~ <—

1 ~~children~~ RELATIVES and directing the ~~contemner~~ CONTEMNOR to <—
2 stay away from any specified place named in the order which
3 is frequented regularly by the complainant.

4 (3) Restraining the ~~contemner~~ CONTEMNOR from making <—
5 contact with the complainant. This paragraph includes
6 forbidding the ~~contemner~~ CONTEMNOR from personally or through <—
7 an agent initiating communication likely to cause annoyance
8 or alarm, including personal, written ~~or telephone~~, TELEPHONE <—
9 OR ELECTRONIC contact with the complainant; the complainant's
10 employer, employees, fellow workers or relatives; or others
11 with whom communication would be likely to cause annoyance or
12 alarm to the complainant.

13 (4) Ordering the ~~contemner~~ CONTEMNOR to temporarily <—
14 relinquish to the sheriff the ~~contemner's~~ CONTEMNOR'S weapons <—
15 which have been used or could be used to threaten the
16 complainant or the complainant's children, prohibiting the
17 ~~contemner~~ CONTEMNOR from acquiring or possessing any other <—
18 weapons for the duration of the order and requiring the
19 ~~contemner~~ CONTEMNOR to relinquish to the sheriff any firearm <—
20 license the ~~contemner~~ CONTEMNOR may possess. The order under <—
21 this paragraph shall provide for the return of the weapons
22 and any firearm license subject to any conditions or
23 restrictions as the court deems appropriate. A copy of the
24 court's order under this paragraph shall be transmitted to
25 the chief or head of the police force or police department of
26 the municipality and to the sheriff of the county of which
27 the ~~contemner~~ CONTEMNOR is a resident. <—

28 (5) Directing the ~~contemner~~ CONTEMNOR to pay the <—
29 complainant for reasonable losses suffered as a result of
30 abuse, including medical, dental, relocation and moving

1 expenses; counseling; loss of earnings or support; costs of
2 repair or replacement of real or personal property damaged,
3 destroyed or taken by ~~the contemner or at the direction of~~ <—
4 ~~the contemner; and other~~ THE CONTEMNOR OR AT THE DIRECTION OF <—
5 THE CONTEMNOR; AND OTHER out-of-pocket loss for injuries
6 sustained. In addition to out-of-pocket losses, the court may
7 direct the ~~contemner~~ CONTEMNOR to pay reasonable attorney <—
8 fees. An award under this paragraph shall not constitute a
9 bar to litigation for civil damages for injuries sustained
10 from the acts which give rise to the issuance of an order or
11 a finding of contempt under this subchapter.

12 (6) Ordering the ~~contemner~~ CONTEMNOR to undergo <—
13 counseling, anger management or other course of therapy or
14 treatment, including drug and alcohol treatment.

15 (7) Granting any other relief that the complainant seeks
16 which the court deems appropriate.

17 (b) Contents.--A civil protective order shall comply with
18 all of the following:

19 (1) Specify the issuing court.

20 (2) Identify the individual against whom the civil
21 protective order is issued. This paragraph includes:

22 (i) name;

23 (ii) address;

24 ~~(iii) Social Security number;~~ <—

25 ~~(iv) height and weight;~~

26 ~~(v) age; and~~

27 ~~(vi) other information deemed appropriate by the~~
28 ~~issuing court.~~

29 (III) HEIGHT AND WEIGHT; <—

30 (IV) AGE;

1 (V) RACE;
2 (VI) GENDER; AND
3 (VII) OTHER INFORMATION DEEMED APPROPRIATE BY THE
4 ISSUING COURT.

5 (c) Mutual civil protective orders.--

6 (1) Mutual civil protective orders shall not be issued
7 unless both parties have filed timely written petitions,
8 complied with service requirements as provided in this
9 subchapter and are eligible for protection under this
10 subchapter.

11 (2) If the requirements of paragraph (1) are met, the
12 issuing court shall make separate findings and, when issuing
13 a civil protective order on behalf of two parties, enter
14 separate civil protective orders.

15 (d) Duration and amendment.--A civil protective order shall
16 be for a fixed period of time not to exceed ~~18~~ 24 months. The <—
17 court ~~may amend the civil protective order upon subsequent~~ <—
18 ~~petition filed by either the complainant or the contemner.~~ MAY <—
19 MODIFY OR VACATE THE CIVIL PROTECTIVE ORDER IN ACCORDANCE WITH
20 SECTION 5995(H) (RELATING TO PROCEEDINGS).

21 (e) Extension.--

22 (1) An extension of a civil protective order may be
23 granted under any of the following circumstances:

24 (i) The court finds, after a filed petition, notice
25 to ~~contemner~~ CONTEMNOR and a hearing in accordance with <—
26 section 5996 (relating to hearings), that the ~~contemner~~ <—
27 CONTEMNOR: <—

28 (A) committed one or more acts of abuse
29 subsequent to the entry of the civil protective
30 order; or

1 (B) engaged in a pattern or a practice that
2 indicates continued risk of harm to the complainant
3 or the complainant's minor children.

4 (ii) A temporary civil protective order under
5 section 5996(d) has been issued but the hearing has not
6 occurred before the expiration of the temporary civil
7 protective order. An extension under this subparagraph
8 shall be at least until the disposition of the contempt
9 petition.

10 (2) Service of an extension shall be made in accordance
11 with section 5998 (relating to service).

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

14 (f) Notice.--Notice of a civil protective order shall be
15 given to the ~~contemner~~ CONTEMNOR stating that a violation of the <—
16 order will subject the ~~contemner~~ CONTEMNOR to sections 5999.1 <—
17 (relating to contempt) and 5999.2(b) (relating to indirect
18 criminal contempt).

19 (g) Title to real property unaffected.--A civil protective
20 order shall not affect title to real property.

21 § 5998. Service.

22 (a) Issuance.--A copy of a civil protective order shall be
23 issued to the complainant, the ~~contemner~~ CONTEMNOR, the <—
24 Pennsylvania State Police, the police departments with
25 jurisdiction where the complainant and the ~~contemner~~ CONTEMNOR <—
26 maintain residences, and any other police department which the
27 court deems appropriate.

28 (b) Placement in registry.--Upon receipt, a police
29 department shall immediately place the civil protective order in
30 a registry under 18 Pa.C.S. § 9204 (relating to county registry

1 of civil and criminal orders).

2 § 5999. Disclosure of addresses.

3 (a) Consideration.--During the course of a proceeding under
4 this subchapter, the court shall consider whether the
5 complainant or the complainant's relatives or minor children are
6 endangered by disclosure of their addresses.

7 (b) Order.--

8 (1) The court shall issue a nondisclosure order if:

9 (i) the court concludes that the ~~contemner~~ CONTEMNOR <—
10 poses a threat of continued abuse to the complainant; and

11 (ii) the complainant requests the nondisclosure
12 order.

13 (2) The nondisclosure order shall be directed to:

14 (i) law enforcement agencies and human service
15 agencies in the area where the complainant or the
16 complainant's children reside; and

17 (ii) school districts where the complainant's
18 children are or have been enrolled.

19 (3) The nondisclosure order shall forbid, without
20 permission of the court, disclosure of:

21 (i) the presence of the complainant or the
22 complainant's children; or

23 (ii) the address, telephone number or any other
24 geographic information about the complainant or the
25 complainant's children.

26 § 5999.1. Contempt.

27 (a) Direct.--If a ~~contemner~~ CONTEMNOR violates a civil <—
28 protective order in the presence of a court, that court may do
29 any of the following:

30 (1) Treat the violation as direct civil contempt and

1 impose appropriate sanctions. The court may act under this
2 paragraph on its own accord or in response to a petition by
3 the complainant.

4 (2) Impose sanctions under section 5999.3(d) (relating
5 to criminal contempt). This paragraph is subject to section
6 5999.3(c).

7 (b) Indirect.--If a ~~contemner~~ CONTEMNOR violates a civil <—
8 protective order outside the presence of a court, the following
9 apply:

10 (1) The issuing court or the court in the underlying
11 action may treat the violation as indirect civil contempt and
12 impose appropriate sanctions. The court may act under this
13 paragraph in response to a petition by the complainant.

14 (2) A court with jurisdiction under section 5999.3(c)
15 may impose sanctions under section 5999.3(d).

16 § 5999.2. Indirect criminal contempt.

17 (a) Private complaint.--A complainant who alleges violation
18 of a civil protective order may file a complaint for indirect
19 criminal contempt in accordance with Pa.R.Crim.P. No. 506
20 (relating to approval of private complaints).

21 (b) Arrest.--An arrest for violation of a civil protective
22 order may be without warrant upon probable cause whether or not
23 the violation is committed in the presence of a police officer.
24 The police officer may verify the existence of a civil
25 protective order by telephone, radio or other electronic
26 communication with the appropriate police department, the
27 Pennsylvania State Police, a registry under 18 Pa.C.S. § 9203
28 (relating to Statewide registry of civil and criminal protective
29 orders) or 9204 (relating to county registry of civil and
30 criminal protective orders) or the issuing court. A police

1 officer shall rely upon any copy of a civil protective order
2 which has been presented to the officer by any source. The fact
3 that an order has not been filed with or transmitted by a
4 prothonotary under section 5999.5(b) (relating to enforcement)
5 or entered into a registry under 18 Pa.C.S. § 9203 or 9204 shall
6 not be grounds for law enforcement to refuse or fail to enforce
7 the order.

8 (c) Territory.--A police officer shall arrest a ~~contemner~~ <—
9 CONTEMNOR for violating a civil protective order. The power of <—
10 arrest shall extend throughout this Commonwealth, irrespective
11 of whether the police officer is located in the same judicial
12 district as the court.

13 (d) Seizure of weapons.--

14 (1) Subsequent to an arrest, the police officer shall
15 seize all weapons used or threatened to be used during the
16 violation of the civil protective order or during prior
17 incidents of abuse.

18 (2) As soon as it is reasonably possible, the arresting
19 officer shall deliver the confiscated weapons to the office
20 of the sheriff. The sheriff shall maintain possession of the
21 weapons until the court issues an order specifying the
22 weapons to be relinquished and the individuals to whom the
23 weapons shall be relinquished.

24 (e) Procedure following arrest.--Subsequent to an arrest,
25 the ~~contemner~~ CONTEMNOR shall be taken by the police officer <—
26 without unnecessary delay before the court of common pleas in
27 the judicial district where the contempt is alleged to have
28 occurred. If the court is unavailable, the police officer shall
29 convey the ~~contemner~~ CONTEMNOR to the appropriate officer of the <—
30 minor judiciary as designated by court rule.

1 (f) Preliminary arraignment.--The ~~contemner~~ CONTEMNOR shall <—
2 be afforded a preliminary arraignment without unnecessary delay.
3 § 5999.3. Criminal contempt.

4 (a) Action.--Violation of a civil protective order
5 constitutes criminal contempt. If the violation is in the
6 presence of a court in the underlying action, it is direct
7 criminal contempt. If the violation is outside the presence of a
8 court, the violation is indirect criminal contempt.

9 (b) Hearing.--Except as set forth in subsection (g), a
10 hearing shall be scheduled within ten days of the filing of a
11 charge under this section. There is no right to a jury trial.
12 The ~~contemner~~ CONTEMNOR is entitled to counsel. <—

13 (c) Jurisdiction.--Except as set forth in subsection (g),
14 jurisdiction for direct or indirect criminal contempt lies in
15 the court of common pleas in the judicial district where the
16 alleged contempt occurred.

17 (d) Penalty.--For direct or indirect criminal contempt, the
18 court shall sentence the ~~contemner~~ CONTEMNOR to a fine of not <—
19 less than \$100 nor more than \$1,000 or to imprisonment for not
20 more than six months, or both. Money from fines received under
21 this subsection shall be used by the Pennsylvania State Police
22 to establish and maintain the permanent Statewide registry of
23 protective orders.

24 (e) Notification upon release.--

25 (1) The appropriate releasing authority or other
26 official designated by local rule shall use all reasonable
27 means to notify the complainant sufficiently in advance of
28 the release of the ~~contemner~~ CONTEMNOR from incarceration <—
29 imposed under subsection (d).

30 (2) Notification shall be required for work release,

1 furlough, medical leave, community service, discharge, escape
2 and recapture. Notification shall include the terms and
3 conditions imposed on temporary release from custody.

4 (3) The complainant shall keep the appropriate releasing
5 authority or other official designated by local rule advised
6 of contact information. Failure to provide contact
7 information shall constitute waiver of a right to
8 notification under this subsection.

9 (f) Multiple remedies.--Disposition of a charge of indirect
10 criminal contempt shall not preclude the prosecution of other
11 criminal charges associated with the incident giving rise to the
12 contempt, nor shall disposition of other criminal charges
13 preclude prosecution of indirect criminal contempt associated
14 with the criminal conduct giving rise to the charges.

15 (g) Minors.--Notwithstanding subsections (b) and (c), a
16 minor charged under this section for violating a civil
17 protective order shall be considered to have committed an
18 alleged "delinquent act" as that term is defined in section 6302
19 (relating to definitions) and shall be treated as provided in
20 Chapter 63 (relating to juvenile matters). A private criminal
21 complaint shall be as provided by rule of court.

22 § 5999.4. Reporting abuse and immunity.

23 (a) Reporting.--An individual having reasonable cause to
24 believe that a complainant is being abused may report the
25 information to the local police department.

26 (b) Contents of report.--The report shall contain all of the
27 following:

28 (1) Name and address of the complainant.

29 (2) Information regarding the nature and extent of
30 abuse.

(3) Information which the reporter believes may be helpful to prevent further abuse.

(c) Immunity.--An individual who makes a report shall be immune from civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

§ 5999.5. Enforcement.

(a) Validity throughout Commonwealth.--A civil protective order is valid throughout this Commonwealth. Until a civil protective order is declared invalid by a court of competent jurisdiction, it shall be enforced by all law enforcement personnel in this Commonwealth.

(b) Filing.--A complainant may file a certified copy of a civil protective order with the prothonotary in any judicial district where the complainant believes enforcement may be necessary. The following provisions apply:

(1) Filing a protective order with a prothonotary shall be without fee or cost.

(2) Upon filing a certified copy, a prothonotary shall transmit, in a manner prescribed by the Pennsylvania State Police, a copy of the order to the Pennsylvania State Police for filing under 18 Pa.C.S. § 9203 (relating to Statewide registry of civil and criminal protective orders).

(c) Immunity.--The following entities shall be immune from civil liability for good faith conduct in any action arising in connection with enforcement of a civil protective order:

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

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

(3) Prothonotaries and their agents and employees.

1 Section 5. Section 8127(f) of Title 42 is amended to read:

2 § 8127. Personal earnings exempt from process.

3 * * *

4 (f) Victim of abuse.--This section shall not apply, and no
5 wage attachment shall be issued, against an abused person or
6 victim, as defined in 23 Pa.C.S. § 6102 (relating to
7 definitions), for physical damages related to residential leases
8 when said person:

9 (1) has obtained a civil protection order pursuant to 23
10 Pa.C.S. § 6101 et seq. (relating to protection from abuse)[,
11 or] ;

12 (2) has obtained a protective order pursuant to 18
13 Pa.C.S. § 4954 (relating to criminal protective orders)[, or]
14 ;

15 (3) is a victim-witness as defined by 18 Pa.C.S. § 4951
16 (relating to definitions), in a criminal proceeding against a
17 family or household member, as defined in 23 Pa.C.S. § 6102,
18 and it is determined by the court that the physical damages
19 were caused by the family or household member[.]; or

20 (4) has obtained an order under Subchapter E of Chapter
21 59 (relating to civil protective orders).

22 * * *

23 Section 6. When the Pennsylvania State Police have
24 implemented the Federal National Incident-Based Reporting
25 System, the Commissioner of the Pennsylvania State Police shall
26 transmit notice of the implementation to the Legislative
27 Reference Bureau for publication in the Pennsylvania Bulletin.

28 Section 7. This act shall take effect as follows:

29 (1) The following provisions shall take effect
30 immediately:

1 (i) Section 6 of this act.

2 (ii) This section.

3 (2) The addition of 18 Pa.C.S. § 9202(b) shall take
4 effect upon publication of the notice under section 6 of this
5 act.

6 (3) The remainder of this act shall take effect in 60
7 days.