

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 681 Session of 2013

INTRODUCED BY GREENLEAF, ALLOWAY, ARGALL, BLAKE, BOSCOLA, BROWNE, BRUBAKER, ERICKSON, FARNESE, FERLO, FOLMER, FONTANA, HUGHES, KITCHEN, PILEGGI, RAFFERTY, SCHWANK, SOLOBAY, STACK, TARTAGLIONE, TEPLITZ, TOMLINSON, WASHINGTON, WILLIAMS, WOZNIAK AND LEACH, MARCH 13, 2013

AS AMENDED ON THIRD CONSIDERATION, JUNE 3, 2013

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for the
3 protection of victims of sexual violence, for duties of law
4 enforcement agencies, for procedure and for penalties; and,
5 in juvenile matters, further providing for definitions.

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

8 Section 1. Title 42 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 62

11 SEXUAL VIOLENCE VICTIM PROTECTION

12 Sec.

13 6201. Scope of chapter.

14 6202. Findings and purpose.

15 6203. Definitions.

16 6204. Responsibilities of law enforcement agencies.

17 6205. Commencement of proceedings.

18 6206. Hearings.

- 1 6207. Relief.
- 2 6208. Service of orders.
- 3 6209. Emergency relief by minor judiciary.
- 4 6210. Sexual assault counselor.
- 5 6211. Disclosure of addresses.
- 6 6212. Arrest for violation of order.
- 7 6213. Private criminal complaints for violation of order.
- 8 6214. Contempt for violation of order.
- 9 6215. Civil contempt or modification for violation of order.
- 10 6216. Confidentiality.
- 11 6217. Procedure and other remedies.
- 12 6218. Applicability.
- 13 § 6201. Scope of chapter.

14 This chapter relates to sexual violence victim protection.

15 § 6102. Findings and purpose.

16 The General Assembly finds and declares that:

17 (1) Sexual violence is the most heinous crime against a
18 person other than murder.

19 (2) Sexual violence inflicts humiliation, degradation
20 and terror on the victim.

21 (3) According to the Department of Justice, someone is
22 sexually assaulted every two minutes in the United States.

23 (4) Rape is recognized as one of the most underreported
24 crimes, and studies indicate that only one in three rapes is
25 reported to law enforcement.

26 (5) Victims of sexual violence desire safety and
27 protection from future interactions with their offender,
28 regardless of whether they seek criminal prosecution.

29 (6) This chapter provides the victim with a civil remedy
30 requiring the offender to stay away from the victim, as well

1 as other appropriate relief.

2 § 6203. Definitions.

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

6 "ADULT." AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR OLDER. <--

7 "CERTIFIED COPY." A PAPER COPY OF THE ORIGINAL ORDER OF THE
8 ISSUING COURT ENDORSED BY THE APPROPRIATE CLERK OF THAT COURT OR
9 AN ELECTRONIC COPY OF THE ORIGINAL ORDER OF THE ISSUING COURT
10 ENDORSED WITH A DIGITAL SIGNATURE OF THE JUDGE OR APPROPRIATE
11 CLERK OF THAT COURT, REGARDLESS OF WHETHER OR NOT THERE IS A
12 RAISED SEAL ON THE COPY OF THE ORDER OF THE ISSUING COURT.

13 "Confidential communications." As defined in section 5945.1
14 (relating to confidential communications with sexual assault
15 counselors).

16 "Coparticipant." As defined in section 5945.1 (relating to
17 confidential communications with sexual assault counselors).

18 "Court." The court or magisterial district judge having
19 jurisdiction over the matter under and exercised as provided in
20 this title or as otherwise provided or prescribed by law.

21 "FAMILY OR HOUSEHOLD MEMBERS." SPOUSES OR PERSONS WHO HAVE <--
22 BEEN SPOUSES, PERSONS LIVING AS SPOUSES OR WHO LIVED AS SPOUSES,
23 PARENTS AND CHILDREN, OTHER PERSONS RELATED BY CONSANGUINITY OR
24 AFFINITY, CURRENT OR FORMER SEXUAL OR INTIMATE PARTNERS OR
25 PERSONS WHO SHARE BIOLOGICAL PARENTHOOD.

26 "Hearing officer." A magisterial district judge, judge of
27 the Philadelphia Municipal Court, bail commissioner appointed
28 under section 1123 (relating to jurisdiction and venue) or
29 master appointed under section 1126 (relating to masters).

30 "Master for emergency relief." A member of the bar of the

1 Commonwealth appointed under section 6209(e) (relating to
2 emergency relief by minor judiciary).

3 "MINOR." AN INDIVIDUAL WHO IS NOT AN ADULT. <--

4 "PLAINTIFF." AN INDIVIDUAL WHO APPLIES FOR A PROTECTION
5 ORDER, EITHER FOR THE BENEFIT OF THAT INDIVIDUAL OR ON BEHALF OF
6 ANOTHER INDIVIDUAL.

7 "Protection order" or "order." A sexual violence victim
8 protection order issued under this chapter.

9 "Rape crisis center." As defined in section 5945.1 (relating
10 to confidential communications with sexual assault counselors).

11 "Sexual assault counselor." As defined in section 5945.1
12 (relating to confidential communications with sexual assault
13 counselors).

14 "Sexual violence." Conduct constituting a crime under any of
15 the following provisions of Title 18 (relating to crimes and
16 offenses) between persons who are not family or household
17 members; ~~who are not sexual or intimate partners or who do not~~ <--
18 ~~share biological parenthood.~~

19 ~~18 Pa.C.S. § 2709(a)(4) (relating to harassment).~~

20 ~~18 Pa.C.S. Ch. 30 (relating to trafficking of persons).~~

21 ~~18 Pa.C.S. Ch. 31 (relating to sexual offenses).~~

22 ~~18 Pa.C.S. § 4304 (relating to endangering welfare of~~
23 ~~children) if the offense involved sexual contact with the~~
24 ~~victim.~~

25 ~~18 Pa.C.S. § 5901 (relating to open lewdness).~~ <--

26 ~~18 Pa.C.S. § 5902(b.1) (relating to prostitution and~~
27 ~~related offenses).~~

28 ~~18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of~~
29 ~~minors).~~

30 ~~18 Pa.C.S. § 6312(b) (relating to sexual abuse of~~

1 children).

2 18 Pa.C.S. § 6318 (relating to unlawful contact with
3 minor).

4 18 Pa.C.S. § 6320 (relating to sexual exploitation of
5 children).

6 18 Pa.C.S. § 7507.1 (relating to invasion of privacy). <--

7 "Sheriff." The sheriff of a county or in a city of the first
8 class, the chief or head of the police department.

9 "Victim." A person who is the victim of sexual violence.

10 § 6204. Responsibilities of law enforcement agencies.

11 (a) General rule.--The police department of each municipal
12 corporation, the Pennsylvania State Police and the sheriff of
13 each county shall ensure that all their officers, deputies and
14 employees are familiar with the provisions of this chapter.
15 Instruction concerning sexual violence victim protection orders
16 shall be made a part of the training curriculum for all trainee
17 officers and deputies. All law enforcement agencies shall adopt
18 a written policy regarding sexual violence victim protection
19 orders.

20 (b) Notice of arrest.--The police department of each
21 municipal corporation and the Pennsylvania State Police shall
22 make reasonable efforts to notify any person protected by an
23 order issued under this chapter of the arrest of the defendant
24 for violation of an order as soon as possible. Unless the person
25 cannot be located, notice of the arrest shall be provided not
26 more than 24 hours after preliminary arraignment.

27 (C) STATEWIDE REGISTRY.--A RECORD AND INDEX OF ALL VALID <--
28 TEMPORARY AND FINAL COURT ORDERS OF PROTECTION ISSUED UNDER THIS
29 CHAPTER SHALL BE ENTERED AND MAINTAINED IN THE DATABASE
30 ESTABLISHED AND MAINTAINED BY THE PENNSYLVANIA STATE POLICE

1 PURSUANT TO 23 PA.C.S. § 6105(E) (RELATING TO RESPONSIBILITIES
2 OF LAW ENFORCEMENT AGENCIES).

3 § 6205. Commencement of proceedings.

4 (a) General rule.--An action for a sexual violence victim
5 protection order may be commenced by filing a petition with the
6 court requesting protection from the defendant. An adult or
7 emancipated minor may seek relief under this chapter for that
8 person or any parent, adult household member or guardian ad
9 litem may seek relief under this chapter on behalf of a minor
10 child or the guardian of the person of an adult who has been
11 declared incapacitated under 20 Pa.C.S. Ch. 55 (relating to
12 incapacitated persons) may seek relief on behalf of an
13 incapacitated adult.

14 (b) No prepayment of fees.--The petition shall be filed and
15 service shall be made without the prepayment of fees.

16 (c) Assessment of fees and costs.--

17 (1) (i) No plaintiff seeking relief under this chapter
18 shall be charged any fees or costs associated with the
19 filing, issuance, registration or service of a petition,
20 motion, complaint, order or any other filing. Prohibited
21 fees or costs shall include, but are not limited to,
22 those associated with modifying, withdrawing, dismissing
23 or certifying copies of a petition, motion, complaint,
24 order or any other filing, as well as any judicial
25 surcharge or computer system fee.

26 (ii) No plaintiff seeking relief under this chapter
27 shall be charged any fees or costs associated with filing
28 a motion for reconsideration or an appeal from any order
29 or action taken under this chapter.

30 (2) When an order is granted under this chapter, fees

1 and costs shall be assessed against the defendant. The court
2 shall waive fees and costs upon a showing of good cause or
3 when the court makes a finding that the defendant is not able
4 to pay the fees and costs.

5 (3) Nothing in this subsection SECTION is intended to <--
6 expand or diminish the court's authority to enter an order
7 under Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of
8 Documents. Representations to the Court. Violation).

9 (d) Service.--

10 (1) The court shall adopt a means of prompt and
11 effective service. If the court so orders, the sheriff or
12 another court-designated agency or individual shall serve the
13 petition and protection order. UNDER NO CIRCUMSTANCES SHALL <--
14 THE PLAINTIFF BE OBLIGATED TO SERVE THE PETITION OR
15 PROTECTION ORDER. The petition and protection order shall be
16 served upon the defendant, and the order shall be served upon
17 the police departments and sheriff with appropriate <--
18 jurisdiction to enforce the order. An order also shall be
19 promptly served on the district attorney's office., SHERIFF <--
20 AND DISTRICT ATTORNEY IN THE JURISDICTION WHERE THE ORDER WAS
21 ENTERED WITHIN TWO BUSINESS DAYS.

22 (2) Failure to serve the police department, sheriff or
23 district attorney's office shall not stay the effect of a
24 valid order.

25 (e) Assistance and advice to plaintiff.--The courts and
26 hearing officers shall:

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

1 (2) Provide the plaintiff with written and oral
2 referrals, in English and Spanish, to local sexual assault
3 services, to the local legal services office and to the
4 county bar association's lawyer referral service.

5 (3) PROVIDE THE PLAINTIFF WITH A CERTIFIED COPY OF ANY <--
6 PROTECTION ORDER ENTERED BY THE COURT.

7 (F) EFFECT OF DEPARTURE AND NONRESIDENCE.--THE RIGHT OF THE
8 PLAINTIFF TO RELIEF UNDER THIS CHAPTER SHALL NOT BE AFFECTED BY
9 THE DEFENDANT'S ABSENCE FROM THIS COMMONWEALTH OR THE
10 DEFENDANT'S NONRESIDENCE IN THIS COMMONWEALTH, PROVIDED THAT THE
11 COURT HAS PERSONAL JURISDICTION OVER THE DEFENDANT IN ACCORDANCE
12 WITH SECTION 5322 (RELATING TO BASES OF PERSONAL JURISDICTION
13 OVER PERSONS OUTSIDE THIS COMMONWEALTH).

14 § 6206. Hearings.

15 (a) General rule.--Within ten BUSINESS days of the filing of <--
16 a petition under this chapter, an expedited hearing shall be
17 held before the court, at which the plaintiff MUST ASSERT THAT <--
18 THE PLAINTIFF OR THE PERSON ON WHOSE BEHALF THE PETITION IS
19 BROUGHT IS A VICTIM OF SEXUAL VIOLENCE COMMITTED BY THE
20 DEFENDANT AND must prove the need for protection from the
21 defendant by a preponderance of the evidence. The court shall,
22 at the time the defendant is given notice of the hearing, advise
23 the defendant of the right to be represented by counsel.

24 (b) Temporary orders.--If a ~~plaintiff petitions for~~ <--
25 PETITIONER SEEKS a temporary protection order for protection <--
26 from an immediate and present danger, the court shall conduct an
27 ex parte proceeding. The court may enter such a temporary order
28 as it deems necessary to protect the plaintiff when it finds the
29 plaintiff is in immediate and present danger. The temporary
30 order shall remain in effect until modified or terminated by the

1 court after notice and hearing.

2 (c) Continued hearings.--THE COURT MAY GRANT A CONTINUANCE <--
3 OF THE HEARING FOR GOOD CAUSE SHOWN BY EITHER PARTY. If a
4 hearing under subsection (a) is continued and no temporary
5 protection order is issued, the court may make ex parte
6 temporary orders under subsection (b), as it deems necessary.
7 § 6207. Relief.

8 (a) Order or consent agreement.--The court may issue a
9 protection order or approve a consent agreement to protect the
10 plaintiff from the defendant.

11 (b) General rule.--A protection order or consent agreement
12 may include:

13 (1) Prohibiting the defendant from having any contact
14 with the plaintiff, including, but not limited to,
15 restraining the defendant from entering the plaintiff's
16 residence, place of employment, business or school. This may
17 include prohibiting indirect contact through third parties
18 AND ALSO PROHIBITING DIRECT OR INDIRECT CONTACT WITH OTHER <--
19 DESIGNATED PERSONS.

20 ~~(2) Directing the defendant to refrain from harassing or~~ <--
21 ~~stalking the plaintiff and other designated persons as~~
22 ~~defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and~~
23 ~~2709.1 (relating to stalking).~~

24 ~~(3) (2) Granting any other appropriate relief sought by~~ <--
25 ~~the plaintiff.~~

26 (c) Duration and amendment of order or agreement.--A
27 protection order or an approved consent agreement shall be for a
28 fixed period of time not to exceed 36 months. THE COURT MAY <--
29 AMEND ITS ORDER OR AGREEMENT AT ANY TIME UPON SUBSEQUENT
30 PETITION FILED BY EITHER PARTY.

1 (d) Extension of protection orders.--

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

3 (i) Where the court finds, after a duly filed
4 petition, notice to the defendant and a hearing, in
5 accordance with the procedures set forth in sections 6205
6 (relating to commencement of proceedings) and 6206
7 (relating to hearings), that the protection is necessary
8 because the defendant engaged in one or more acts that <--
9 indicate OR SOME OTHER CIRCUMSTANCES THAT, IN THE <--
10 DISCRETION OF THE COURT, DEMONSTRATE A continued risk of
11 harm to the plaintiff.

12 (ii) When a contempt petition or charge has been
13 filed with the court or, in a county of the first class,
14 a hearing officer, but the hearing has not occurred
15 before the expiration of the protection order, the order
16 shall be extended, at a minimum, until the disposition of
17 the contempt petition.

18 (2) Service of an extended protection order shall be
19 made in accordance with sections 6205(d) and 6208 (relating
20 to service of orders).

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

23 (e) Notice.--Notice shall be given to the defendant stating
24 that violations of the protection order will subject the
25 defendant to arrest under section 6212 (relating to arrest for
26 violation of order) or contempt of court under section 6214
27 (relating to contempt for violation of order).

28 (f) Incarceration.--When the defendant is OR WAS <--
29 incarcerated and about to be released or has recently been <--
30 released from incarceration WILL BE RELEASED FROM CUSTODY IN THE <--

1 NEXT 90 DAYS OR HAS BEEN RELEASED FROM CUSTODY WITHIN THE PAST
2 90 DAYS, a plaintiff does not need to show that the defendant
3 engaged in one or more acts that indicate continued risk of harm
4 to the plaintiff in order to obtain an extension or a subsequent
5 protection order under this act.

6 § 6208. Service of orders.

7 A copy of a protection order shall be issued to the
8 plaintiff, the defendant, THE SHERIFF and the police department <--
9 with appropriate jurisdiction to enforce the order in accordance
10 with the provisions of this chapter or as ordered by the court
11 or hearing officer.

12 § 6209. Emergency relief by minor judiciary.

13 (a) General rule.--When:

14 (1) in counties with fewer than four judges, the court
15 is unavailable:

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

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

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

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

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

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

28 a petition may be filed before a hearing officer who may grant
29 relief in accordance with section 6207 (relating to relief) if
30 the hearing officer deems it necessary to protect the plaintiff

1 upon good cause shown in an ex parte proceeding. Immediate and
2 present danger to the plaintiff shall constitute good cause for
3 the purposes of this subsection.

4 (b) Expiration of order.--A protection order issued under
5 subsection (a) shall expire at the end of the next business day
6 the court deems itself available. The court shall schedule
7 hearings on orders entered by hearing officers under subsection
8 (a) and shall review and continue in effect protection orders
9 that are necessary to protect the plaintiff until the hearing,
10 at which time the plaintiff may seek a temporary protection
11 order from the court.

12 (c) Certification of order to court.--An emergency
13 protection order issued under this section and any documentation
14 in support thereof shall be immediately certified to the court.
15 The certification to the court shall have the effect of
16 commencing proceedings under section 6205 (relating to
17 commencement of proceedings) and invoking the other provisions
18 of this chapter. If it is not already alleged in a petition for
19 an emergency order, the plaintiff shall file a verified
20 statement setting forth the reasons for the need for protection
21 at least five days prior to the hearing. Service of the verified
22 statement shall be made subject to section 6205(d).

23 (d) Instructions regarding the commencement of
24 proceedings.--Upon issuance of an emergency protection order,
25 the hearing officer shall provide the plaintiff instructions
26 regarding the commencement of proceedings in the court at the
27 beginning of the next business day and regarding the procedures
28 for initiating a contempt charge should the defendant violate
29 the emergency protection order. The hearing officer shall also
30 advise the plaintiff of the existence of rape crisis centers in

1 the county or in nearby counties and inform the plaintiff of the
2 availability of legal assistance without cost if the plaintiff
3 is unable to pay for them.

4 (e) Master of emergency relief.--The president judge of a
5 court of common pleas of a judicial district may, with the
6 approval of the Administrative Office of Pennsylvania Courts,
7 provide for the selection and appointment of a master for
8 emergency relief on a full-time or part-time basis. The number
9 of masters for emergency relief shall be fixed by the president
10 judge with the approval of the Administrative Office of
11 Pennsylvania Courts. The compensation of a master for emergency
12 relief shall be fixed and paid by the county.

13 § 6210. Sexual assault counselor.

14 A sexual assault counselor may accompany and provide
15 assistance to a plaintiff in any legal proceeding or hearing
16 under this chapter.

17 § 6211. Disclosure of addresses.

18 (a) General rule.--During the course of a proceeding under
19 this chapter, the court or hearing officer may consider whether
20 the plaintiff is endangered by disclosure of the permanent or
21 temporary address of the plaintiff. The court shall consider the
22 wishes of the plaintiff regarding the disclosure of the address.
23 Neither in the pleadings nor during proceedings or hearings
24 under this chapter shall the court or hearing officer require
25 disclosure of the address of a rape crisis center OR THE <--
26 PLAINTIFF.

27 (b) Order.--Where the court concludes that the defendant
28 poses a threat of continued danger to the plaintiff and where
29 the plaintiff requests that the address, telephone number and
30 information about the plaintiff's whereabouts not be disclosed,

1 the court shall enter an order directing that law enforcement
2 agencies, human service agencies and school districts shall not
3 disclose the presence of the plaintiff in the jurisdiction or
4 district or furnish any address, telephone number or any other
5 demographic information about the plaintiff except by further
6 order of the court.

7 § 6212. Arrest for violation of order.

8 (a) General rule.--An arrest for a violation of a protection
9 order or court-approved consent agreement issued under this
10 chapter may be without warrant upon probable cause, whether or
11 not the violation is committed in the presence of the police
12 officer or sheriff, in circumstances where the defendant has
13 violated a provision of a protection order consistent with
14 section 6207 (relating to relief). The police officer or sheriff
15 may verify the existence of a protection order by telephone,
16 radio or other electronic communication with the appropriate
17 police department or issuing authority. A police officer or
18 sheriff shall arrest a defendant for violating a protection
19 order by a court within the judicial district or issued by a
20 court in another judicial district within this Commonwealth.

21 (b) Procedure following arrest.--

22 (1) Subsequent to an arrest, the defendant shall be
23 taken by the police officer or sheriff without unnecessary
24 delay before the court in the judicial district where the
25 contempt is alleged to have occurred.

26 (2) When that court is unavailable, the police officer
27 or sheriff shall convey the defendant to a magisterial
28 district judge designated as appropriate by local rules of
29 court or, in counties of the first class, to the appropriate
30 hearing officer.

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

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

6 (e) Hearing.--An expedited hearing shall be scheduled within
7 ten BUSINESS days of the filing of the charge or complaint of <--
8 indirect criminal contempt. The hearing and any adjudication
9 shall not preclude a hearing on other criminal charges
10 underlying the contempt, nor shall a hearing or adjudication on
11 other criminal charges preclude a hearing on a charge of
12 indirect criminal contempt.

13 § 6213. Private criminal complaints for violation of order.

14 (a) General rule.--A plaintiff may file a private criminal
15 complaint against a defendant, alleging indirect criminal
16 contempt for a violation of any provision of a protection order
17 or court-approved consent agreement issued under this chapter,
18 with the court, the office of the district attorney or the
19 magisterial district judge in the jurisdiction or county where
20 the violation occurred.

21 ~~(b) Procedure service. Procedure for filing and service of~~ <--

22 ~~(B) PROCEDURE SERVICE.--~~ <--

23 (1) PROCEDURE FOR FILING AND SERVICE OF a private
24 criminal complaint shall be provided as set forth by local
25 rule.

26 (2) NOTHING IN THIS SUBSECTION IS INTENDED TO EXPAND OR <--
27 DIMINISH THE COURT'S AUTHORITY TO ENTER AN ORDER PURSUANT TO
28 PA.R.C.P. NO. 1023.1 (RELATING TO SCOPE. SIGNING OF
29 DOCUMENTS. REPRESENTATIONS TO THE COURT. VIOLATION).

30 (c) Fees and costs.--

1 (1) No fees or costs associated with the prosecution of
2 the private criminal complaint shall be assigned to the
3 plaintiff, including, but not limited to, filing, service,
4 failure to prosecute, withdrawal or dismissal.

5 (2) (i) After a finding of indirect criminal contempt,
6 fees and costs may be assigned against the defendant.

7 (ii) The court shall waive fees and costs imposed
8 under this chapter upon a showing of good cause or if the
9 court makes a finding that the defendant is not able to
10 pay the costs associated with the indirect criminal
11 contempt action.

12 (3) Nothing in this subsection shall be construed to
13 expand or diminish the court's authority to enter an order
14 under Pa.R.C.P. No.1023.1 (relating to Scope. Signing of
15 Documents. Representation to Court. Violation).

16 § 6214. Contempt for violation of order.

17 (a) General rule.--Where the police department, sheriff or
18 the plaintiff has filed charges of indirect criminal contempt
19 against a defendant for violation of a protection order or
20 court-approved agreement entered into under this chapter, the
21 court may hold the defendant in indirect criminal contempt and
22 punish the defendant in accordance with law.

23 (b) Jurisdiction.--A court shall have jurisdiction over
24 indirect criminal contempt charges for violation of a protection
25 order in the county where the violation occurred.

26 (c) Minor defendant.--Any defendant who is a minor and who
27 is charged with indirect criminal contempt for allegedly
28 violating a protection order shall be considered to have
29 committed an alleged delinquent act as that term is defined in
30 section 6302 (relating to definitions) and shall be treated as

1 provided in Chapter 63 (relating to juvenile matters).

2 (d) Trial and punishment.--

3 (1) Notwithstanding section 4136(a) (relating to rights
4 of persons charged with certain indirect criminal contempts),
5 the defendant shall not have the right to a jury trial ON THE <--
6 CHARGE OF INDIRECT CRIMINAL CONTEMPT; however, the defendant
7 shall be entitled to counsel.

8 (2) A sentence for indirect criminal contempt under this
9 act may include:

10 (i) A fine of not less than \$300 nor more than
11 \$1,000 or imprisonment for a period not exceeding six
12 months, or both.

13 (ii) A fine of not less than \$300 nor more than
14 \$1,000 or supervised probation for a period not exceeding
15 six months, or both.

16 (iii) An order for any other relief provided for
17 under this act.

18 (3) Upon conviction for indirect criminal contempt and
19 at the request of the plaintiff, the court shall also grant
20 an extension of the protection order for an additional term.

21 (4) Upon conviction for indirect criminal contempt, the
22 court shall notify the sheriff of the jurisdiction which
23 issued the protection order of the conviction.

24 (e) Notification upon release.--

25 (1) The appropriate releasing authority or other
26 official as designated by local rule shall use all reasonable
27 means to notify the victim sufficiently in advance of the
28 release of the offender from any incarceration imposed under
29 subsection (d). Notification shall be required for work
30 release, furlough, medical leave, community service,

1 discharge, escape and recapture. Notification shall include
2 the terms and conditions imposed on any temporary release
3 from custody.

4 (2) The plaintiff must keep the appropriate releasing
5 authority or other official as designated by local rule
6 advised of contact information; failure to do so will
7 constitute waiver of any right to notification under this
8 section.

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 § 6215. Civil contempt or modification for violation of order.

16 (a) General rule.--A plaintiff may file a petition for civil
17 contempt with the issuing court alleging that the defendant has
18 violated any provision of a protection order or court-approved
19 agreement entered into under this chapter.

20 (b) Civil contempt order.--Upon finding of a violation of a
21 protection order, the court, either pursuant to petition for
22 civil contempt or on its own accord, may hold the defendant in
23 civil contempt and constrain the defendant in accordance with
24 law.

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

30 (d) Jury trial and counsel.--Notwithstanding section 4136(a)

1 (relating to rights of persons charged with certain indirect
2 criminal contempts), the defendant shall not have a right to a
3 jury trial; however, the defendant shall be entitled to counsel.
4 § 6216. Confidentiality.

5 (a) Nature of privilege.--

6 (1) Unless a victim WHO CONSULTS A SEXUAL ASSAULT <--
7 COUNSELOR FOR THE PURPOSE OF SECURING ADVICE, COUNSELING OR
8 ASSISTANCE waives the privilege in a signed writing prior to
9 testimony or disclosure, a sexual assault counselor or a
10 coparticipant who is present during sexual assault counseling
11 or advocacy shall not be competent nor permitted to testify,
12 release the records of or to otherwise disclose confidential
13 communications made to or by the counselor by or to a THE <--
14 victim.

15 (2) Neither the sexual assault counselor nor the victim
16 shall waive the privilege of confidential communications by
17 reporting facts of physical or sexual violence under 23
18 Pa.C.S. Ch. 63 (relating to child protective services), a
19 Federal or State mandatory reporting statute or a local
20 mandatory reporting ordinance.

21 (b) Definition. As used in this section, the term "victim" <--
22 is a person against whom sexual violence is committed who
23 consults a sexual assault counselor for the purpose of securing
24 advice, counseling or assistance. The term also includes
25 SCOPE.--THE PROVISIONS OF THIS SECTION APPLICABLE TO THE VICTIM <--
26 SHALL ALSO APPLY TO a person who has a significant relationship <--
27 with the victim and who seeks advice, counseling or assistance
28 from a sexual assault counselor regarding the victim.

29 § 6217. Procedure and other remedies.

30 Unless otherwise indicated under this chapter, a proceeding

1 under this chapter shall be in accordance with applicable
2 general rules and shall be in addition to any other available
3 civil or criminal remedies. The plaintiff AND THE DEFENDANT may <--
4 seek modification of a protection order issued under section
5 6207 (relating to relief) at any time during the pendency of the
6 order, but a court may not sua sponte modify the order. <--
7 Modification may be ordered after the filing of a petition for
8 modification, service of the petition, and a hearing on the
9 petition.

10 § 6218. Applicability.

11 The provisions of the following acts relating to victims who
12 are protected by an order issued under 23 Pa.C.S. Ch. 61 shall
13 apply also to victims who are protected by an order issued under
14 this chapter:

15 (1) The act of November 24, 1998 (P.L.882, No.111),
16 known as the Crime Victims Act.

17 (2) 23 Pa.C.S. Ch. 67 (relating to domestic and sexual
18 violence victim address confidentiality).

19 Section 2. The definition of "delinquent act" in section
20 6302 of Title 42 is amended to read:

21 § 6302. Definitions.

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

25 * * *

26 "Delinquent act."

27 (1) The term means an act designated a crime under the
28 law of this Commonwealth, or of another state if the act
29 occurred in that state, or under Federal law, or under local
30 ordinances or an act which constitutes indirect criminal

1 contempt under Ch. 62 (relating to sexual violence victim
2 protection) or 23 Pa.C.S. Ch. 61 (relating to protection from
3 abuse).

4 (2) The term shall not include:

5 (i) The crime of murder.

6 (ii) Any of the following prohibited conduct where
7 the child was 15 years of age or older at the time of the
8 alleged conduct and a deadly weapon as defined in 18
9 Pa.C.S. § 2301 (relating to definitions) was used during
10 the commission of the offense which, if committed by an
11 adult, would be classified as:

12 (A) Rape as defined in 18 Pa.C.S. § 3121
13 (relating to rape).

14 (B) Involuntary deviate sexual intercourse as
15 defined in 18 Pa.C.S. § 3123 (relating to involuntary
16 deviate sexual intercourse).

17 (C) Aggravated assault as defined in 18 Pa.C.S.
18 § 2702(a)(1) or (2) (relating to aggravated assault).

19 (D) Robbery as defined in 18 Pa.C.S. § 3701(a)
20 (1)(i), (ii) or (iii) (relating to robbery).

21 (E) Robbery of motor vehicle as defined in 18
22 Pa.C.S. § 3702 (relating to robbery of motor
23 vehicle).

24 (F) Aggravated indecent assault as defined in 18
25 Pa.C.S. § 3125 (relating to aggravated indecent
26 assault).

27 (G) Kidnapping as defined in 18 Pa.C.S. § 2901
28 (relating to kidnapping).

29 (H) Voluntary manslaughter.

30 (I) An attempt, conspiracy or solicitation to

1 commit murder or any of these crimes as provided in
2 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902
3 (relating to criminal solicitation) and 903 (relating
4 to criminal conspiracy).

5 (iii) Any of the following prohibited conduct where
6 the child was 15 years of age or older at the time of the
7 alleged conduct and has been previously adjudicated
8 delinquent of any of the following prohibited conduct
9 which, if committed by an adult, would be classified as:

10 (A) Rape as defined in 18 Pa.C.S. § 3121.

11 (B) Involuntary deviate sexual intercourse as
12 defined in 18 Pa.C.S. § 3123.

13 (C) Robbery as defined in 18 Pa.C.S. § 3701(a)
14 (1)(i), (ii) or (iii).

15 (D) Robbery of motor vehicle as defined in 18
16 Pa.C.S. § 3702.

17 (E) Aggravated indecent assault as defined in 18
18 Pa.C.S. § 3125.

19 (F) Kidnapping as defined in 18 Pa.C.S. § 2901.

20 (G) Voluntary manslaughter.

21 (H) An attempt, conspiracy or solicitation to
22 commit murder or any of these crimes as provided in
23 18 Pa.C.S. §§ 901, 902 and 903.

24 (iv) Summary offenses, unless the child fails to
25 comply with a lawful sentence imposed thereunder, in
26 which event notice of such fact shall be certified to the
27 court.

28 (v) A crime committed by a child who has been found
29 guilty in a criminal proceeding for other than a summary
30 offense.

1 * * *

2 Section 3. This act shall take effect in 180 days.