

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1955 Session of
2020

INTRODUCED BY MENTZER, KIM, FREEMAN, GREINER, DONATUCCI,
McNEILL, CONKLIN, READSHAW, PICKETT, PYLE, MILLARD, T. DAVIS,
BROWN, WILLIAMS, STRUZZI, ROZZI, ZIMMERMAN, GLEIM AND DeLUCA,
MARCH 4, 2020

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 4, 2020

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania
Consolidated Statutes, in protection from abuse, further
providing for commencement of proceedings.

The General Assembly finds and declares as follows:

(1) On October 12, 2018, the Governor signed into law
Act 79 of 2018, which authorizes the "court" to order law
enforcement officers to serve a protection from abuse order
on a defendant if the plaintiff alleges that his or her
safety is in jeopardy absent the help of the law enforcement
officer.

(2) Act 79 of 2018 did not define the term "court" or
otherwise amend the definitions relating to protection from
abuse matters under Chapter 61 of Title 20 of the
Pennsylvania Consolidated Statutes.

(3) Because there were no changes to the definitions
under Chapter 61, a magisterial district judge who enters an
emergency protection from abuse order on nights, weekends,

1 holidays or other times when the court of common pleas is
2 otherwise not available is not treated as a "hearing
3 officer."

4 (4) The provisions of 23 Pa.C.S. § 6110 which defines
5 the emergency relief which can be granted by the minor
6 judiciary differentiates the court and hearing officers to
7 such a degree that it is unclear whether a magisterial
8 district judge, as a hearing officer, has the authority to
9 order law enforcement to serve an emergency protection from
10 abuse order issued by them if the plaintiff's safety is at
11 risk.

12 (5) In fact, the relief that can be granted by the minor
13 judiciary in an emergency setting where there is "immediate
14 and present danger of abuse" does not include a notice to
15 protect the plaintiff as is contained in 23 Pa.C.S. §
16 6106(a.3) and available to the court of common pleas.

17 (6) Therefore, it is the intent of the General Assembly,
18 through this legislation, to make clear that magisterial
19 district judges have the power to order a law enforcement
20 officer to serve an emergency protection from abuse order if
21 the plaintiff alleges that his or her safety will be in
22 jeopardy if the plaintiff completes service personally.

23 (7) This act should be narrowly construed with respect
24 to the service to emergency protection from abuse orders and
25 not to any other area of law.

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

28 Section 1. Section 6106(a.3) of Title 23 of the Pennsylvania
29 Consolidated Statutes is amended to read:

30 § 6106. Commencement of proceedings.

1 * * *

2 (a.3) Notification of need to protect plaintiff.--[The]

3 (1) If the plaintiff has reason to believe the
4 plaintiff's safety is at risk, the plaintiff shall notify:

5 (i) the court anytime during the period commencing
6 upon filing the petition and granting of an order or
7 approving a consent agreement at a hearing held under
8 section 6107(a) (relating to hearings) [if the plaintiff
9 has reason to believe the plaintiff's safety is at
10 risk.]; or

11 (ii) the hearing officer upon filing the petition
12 under section 6110(a) (relating to emergency relief by
13 minor judiciary).

14 (2) In such a case, the court shall direct the
15 Pennsylvania State Police, the municipal police or the
16 sheriff to accompany the plaintiff to the plaintiff's
17 residence to retrieve personal belongings or to accompany the
18 plaintiff while the petition or order is served upon the
19 defendant by the sheriff or competent adult, as set forth in
20 the Pennsylvania Rules of Civil Procedure.

21 (3) In a case under paragraph (1)(ii), the hearing
22 officer shall direct the Pennsylvania State Police, the
23 municipal police, sheriff or a constable to accompany the
24 plaintiff to the plaintiff's residence to retrieve personal
25 belongings or to accompany the plaintiff while the petition
26 or order is served upon the defendant, as set forth in the
27 Pennsylvania Rules of Civil Procedure.

28 * * *

29 Section 2. This act shall take effect in 60 days.