

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule

- 1901. [Definitions.](#)
- 1901.1. [Venue.](#)
- 1901.2. [Scheduling.](#)
- 1901.3. [Commencement of action.](#)
- 1901.4. [Service and Registration of order.](#)
- 1901.5. [Enforcement.](#)
- 1901.6. [No responsive pleading required.](#)
- 1901.7. [Decision. Post-trial relief.](#)
- 1905. [Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.](#)

Rule 1901. Definitions.

As used in this chapter:

Act—The Protection from Abuse Act No. 206 approved December 19, 1990, 23 Pa.C.S.A. § 6101 et seq.

Action—A proceeding for protection from abuses defined in § 6102 of the Act.

Court—The court of common pleas.

Emergency Order—An order entered by a hearing officer, who is a person meeting the definition set forth at 23 Pa.C.S.A. § 6102.

Fees—means any costs associated with the filing, issuance, registration, service or appeal of a Protection From Abuse matter, including any foreign protection order.

Master for Emergency Relief—means an attorney, admitted to the practice of law by the Supreme Court of Pennsylvania and appointed pursuant to 23 Pa.C.S.A. § 6110(e), to hear petitions for emergency protection from abuse.

Temporary Order—An ex parte order entered by the court pursuant to 23 Pa.C.S.A. § 6107.

Explanatory Comment—2006

The 2005 amendments to the Protection From Abuse Act, Act 66 of 2005, authorize two methods to secure emergency protection from abuse orders. The first is through a magisterial district judge and the other is through a master for emergency relief. In order for a county to exercise the master for emergency relief option, the county must assume the costs of the master and the Administrative Office of Pennsylvania Courts must approve the master's selection and appointment. 23 Pa.C.S.A. § 6110 (e).

The 2005 amendments to the Protection From Abuse Act also prohibit the assessment of fees or costs against the plaintiff or petitioner. This prohibition includes fees related to filing, serving, registering or appealing a protection from abuse petition or order. 23 Pa.C.S.A. §§ 6104 (d)(1), 6106(b) and (g.1) and 6113.1(b).

Source

The provisions of this Rule 1901 adopted March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial page (242777).

Rule 1901.1. Venue.

(a) Except as provided in subdivision (b), an action for protection from abuse may be brought in a county in which

- (1) the plaintiff resides, either temporarily or permanently, or is employed, or
- (2) the defendant may be served, or
- (3) the abuse occurred.

(b) If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall be brought only in the county in which the residence or household is located.

(c) An action for indirect criminal contempt may be filed in, and heard by, the court in the county in which the order was issued or where the violation occurred.

Explanatory Comment—1991

The statute and rules governing actions for protection from abuse formerly contained no provision for venue. Recommendation No. 84 of the Civil Procedural Rules Committee proposed a new rule to fill that void and the rule has been adopted as Rule 1901.1.

Subdivision (a) provides for venue in the following counties: (1) the county in which the abuse occurred, (2) the county in which the defendant may be served, (3) the county in which the plaintiff resides, either permanently or temporarily, and (4) the county in which the plaintiff is employed. These are the counties with which the plaintiff has the most significant contacts and the greatest interest in remaining free from abuse. The county of temporary residence is included because an abused person may have to flee the county of permanent residence to

escape further abuse.

The rule imposes limited venue when the relief sought includes the sole possession of the residence or household. In that instance, the action must be brought in the county in which the residence or household is located.

Explanatory Comment—2006

The 2005 amendments to the Protection From Abuse Act grant jurisdiction over indirect criminal contempt complaints in either the county in which the order was issued or the county where the violation occurred. This rule allows for flexible and immediate enforcement of protection from abuse orders. With this amendment, indirect criminal contempt jurisdiction is parallel to prosecution for stalking and harassment. 23 Pa.C.S.A. § 6114 (a.1).

Source

The provisions of this Rule 1901.1 adopted January 25, 1991, effective July 1, 1991, 21 Pa.B. 614; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial page (242777).

Rule 1901.2. Scheduling.

Each judicial district shall establish times when the court will hear temporary Protection From Abuse matters.

Source

The provisions of this Rule 1901.2 adopted March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391.

Rule 1901.3. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by presenting to the court or filing with the prothonotary a petition setting forth the alleged abuse by the defendant. The petition shall be substantially in the form set forth in Rule 1905(b) and shall have as its first page the Notice of Hearing and Order set forth in Rule 1905(a).

(b) An action may be commenced by filing with the prothonotary a certified copy of an emergency order entered pursuant to 23 Pa.C.S.A. § 6110, including orders issued by masters for emergency relief.

(c) Any fees associated with this action shall not be charged to the plaintiff.

(d) The master for emergency relief shall follow the procedures set forth in the Pennsylvania Rules of Civil Procedure Governing Actions and proceedings before magisterial district judges for emergency relief under the Protection From Abuse Act.

Explanatory Comment—2006

New subdivision (c) reflects the 2005 amendments to the Protection From Abuse Act which prohibits charging fees or costs against the plaintiff. 23 Pa.C.S.A. § 6106(b). The 2005

amendments to 23 Pa.C.S.A. § 6110(e) of the Protection From Abuse Act authorize the use of masters for emergency relief which is reflected in new subdivision (d).

Source

The provisions of this Rule 1901.3 adopted March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial page (242778).

Rule 1901.4. Service and Registration of Order.

- (a) Service of the petition and temporary order shall be in accordance with Rule 1930.4.
- (b) An Affidavit of Service substantially in the form set forth in Rule 1905(d) shall be filed with the prothonotary.
- (c) Upon the filing of a protection order with the prothonotary, the prothonotary shall transmit a copy of the order to the State Police PFA Registry in the manner prescribed by the Pennsylvania State Police.

Official Note

This provision also applies to an order denying a plaintiff's request for a final protection order.

- (d) No fee shall be charged to the plaintiff or petitioner for service of any protection from abuse order or pleading or for the registration, filing or service of any foreign protection order.

Explanatory Comment—1997

Subdivision (c) reflects the prothonotary's role in ensuring that all protection orders reach the new statewide PFA Registry. Pursuant to the 1994 amendments to the Protection From Abuse Act, the Pennsylvania State Police Department is mandated to establish this registry for all protection orders issued or registered in the Commonwealth. Once it becomes fully operational, it will be available at all times to inform law enforcement officers, dispatchers and courts of the existence and terms of protection orders. The Registry represents a major improvement in the manner in which protection orders are registered and verified by not only eliminating the need to register the order in every county where the victim believes enforcement is necessary, but also enabling the police to immediately verify the order for purposes of enforcement. In order to ensure that the information in the Registry remains current, subdivision (c) requires the prothonotary to transmit all protection orders issued or registered in the Commonwealth, including temporary, final, modified and consent orders as well as any orders withdrawing, extending or denying the plaintiff's request for a protection order.

Explanatory Comment—2006

New subdivision (d) reflects the prohibition against charging fees to the plaintiff, even those related to foreign protection orders, as set forth in the 2005 amendments to the Protection From Abuse Act. 23 Pa.C.S.A. § 6106(b) and (g.1).

Source

The provisions of this Rule 1901.4 adopted March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended October 2, 1995, effective January 1, 1996, 25 Pa.B. 4518; amended March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial pages (242778) and (311799).

Rule 1901.5. Enforcement.

(a) When an arrest is made for violation of an order, a complaint for indirect criminal contempt shall be completed and signed by either a police officer, the sheriff or the plaintiff. When the complaint is filed by a police officer or sheriff, neither the plaintiff's presence nor signature is required.

(b) If an arrest is not effected, a complaint for indirect criminal contempt may be completed and signed by the plaintiff pursuant to 23 Pa.C.S.A. § 6113.1.

Explanatory Comment—2006

The 2005 amendments to the Protection From Abuse Act authorize the sheriff to arrest the defendant for violations of a protection from abuse order. In addition, the sheriff is authorized to exercise a search and seizure of any firearm, other weapon and ammunition subsequent to arrest. 23 Pa.C.S.A. § 6113(a) and (b).

Source

The provisions of this Rule 1901.5 adopted March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial page (311799).

Rule 1901.6. No responsive pleading required.

No pleading need be filed in response to the petition or the certified order and all averments not admitted shall be deemed denied.

Official Note

For procedures as to the time and manner of hearings and issuance of orders, see 23 Pa.C.S.A. § 6107. For provisions as to the scope of relief available, see 23 Pa.C.S.A. § 6108. For provisions as to contempt for violation of an order, see 23 Pa.C.S.A. § 6114.

Source

The provisions of this Rule 1901.6 adopted March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial page (311799).

Rule 1901.7. Decision. Post-trial relief.

- (a) The decision of the court may consist of only general findings of abuse but shall dispose of all claims for relief. The court's final order shall be rendered substantially in the form set forth in Rule 1905(e).
- (b) No motion for post-trial relief may be filed to the final order.

Official Note

The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

Explanatory Comment—1977

New Rules 1901, et seq. promulgated March 9, 1977 and effective 15 days after publication in the *Pennsylvania Bulletin* implement the Protection From Abuse Act No. 218 of 1976 which became effective December 6, 1976.

The Act introduces a new civil remedy authorizing protective orders to bring about cessation of abuse of the plaintiff or minor children, which relief includes, inter alia, exclusion of the errant spouse from the household, the award of temporary custody and visitation rights with regard to minor children and support.

The Act also authorizes temporary ex parte orders when the exigency of the situation requires immediate relief before process can be served on a defendant.

Jurisdiction is also conferred on the magisterial district judges over the weekend if and when a judge of the court of common pleas is not available, but any temporary order of a magisterial district judge expires at the resumption of business of the common pleas court at the beginning of the week or within seventy-two (72) hours, whichever occurs first. The magisterial district judge is required immediately to certify his or her order to the common pleas court and the certification under the Act has the effect of commencing a proceeding in the common pleas court and invoking the other provisions of the Act.

Section 9 of the Act provides that all proceedings shall be in accordance with Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the *Pennsylvania Consolidated Statutes* changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1901.7’s Explanatory Comment—1977 reflect the change in title, make the comment gender-neutral and delete outdated material.

Source

The provisions of this Rule 1901.7 adopted March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1941; amended March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended May 9, 2005, effective immediately, 35 Pa.B. 2994; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369. Immediately preceding text appears at serial pages (311799) to (311800).

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)
NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition. In particular, you may be evicted from your residence, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

A hearing on the matter is scheduled for the

—
day of
—
20
—
, at
—
.m., in Courtroom
—
at
—
Courthouse,
—
, Pennsylvania.

If an order of protection has been entered, you MUST obey the order until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff may arrest you. Violation of this order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000 and/or up to six months in jail under 23 Pa.C.S.A. § 6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18 U.S.C. § 2265, this order is enforceable anywhere in the United States, tribal lands, U. S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § § 2261—2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you

and the third party first comply with all requirements to obtain a safekeeping permit. 23 Pa.C.S.A § 6108.3. You must relinquish any firearm, other weapon, ammunition or any firearm license listed in the order no later than 24 hours after service of the order. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, you must provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of the order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. § 922(g)(8).

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

County Lawyer Referral Service

[insert Street Address]

[insert City, State, and ZIP]

[insert Phone Number]

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, must be exactly as set forth in this rule:

5. Indicate the relationship between Plaintiff and Defendant.

CHECK ALL THAT APPLY:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- Check here if Defendant is 17 years old or younger.

6. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce
- Custody
- Support
- Protection From Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the court number, if known:

7. Has Defendant been involved in any criminal court action?

If you answered Yes, is Defendant currently on probation?

8. Plaintiff and Defendant are the parents of the following minor child/ren:

Name(s) Age(s) who reside at (list address unless confidential)

_____	—	_____
_____	—	_____

9. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court order regarding their custody?

If you answered “Yes,” describe the terms of the order (e.g., primary, shared, legal and/or physical custody):

If you answered “Yes,” in what county and state was the order issued?

If you are now seeking an order of child custody as part of this petition, list the following information:

(a) Where has each child resided during the past five years?

Child’s name Person(s) child lived with Address, unless confidential When

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(b) List any other persons who are known to have or claim a right to custody of each child listed above.

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. The following other minor child/ren presently live with Plaintiff:

Name(s)	Age(s)	Plaintiff's relationship to child/ren
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. The facts of the most recent incident of abuse are as follows:

Approximate Date:

Approximate Time:

Place:

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

12. If Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

13. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe the use or threatened use below and list on Attachment A to Petition, which is incorporated by reference into this petition, any firearms, other weapons or ammunition Defendant used or threatened to use against Plaintiff and/or the minor children:

(b) Other than the firearms, other weapons or ammunition Defendant used or threatened to use against Plaintiff or the minor child/ren, does Defendant, to the best of your knowledge or belief, own or possess any additional firearm, other weapon, ammunition or any firearm license?

(c) If the answer to (b) above is “yes,” list any additional firearm, other weapon or ammunition owned by or in the possession of Defendant on Attachment A to Petition, which is incorporated by reference into this petition.

(d) Plaintiff (*check one*) DOES DOES NOT request that the court order Defendant to relinquish firearms, other weapons or ammunition listed on Attachment A to Petition. If Plaintiff does seek relinquishment, identify on Attachment A to Petition the firearms, other weapons and ammunition Plaintiff requests the court to order Defendant to relinquish.

14. Identify the sheriff, police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

15. There is an immediate and present danger of further abuse from Defendant.

CHECK THE FOLLOWING BOXES ONLY IF THEY APPLY TO YOUR CASE AND PROVIDE THE REQUESTED INFORMATION

Plaintiff is asking the court to evict and exclude Defendant from the following residence:

owned by (list owners, if known):

rented by (list all names, if known):

Defendant owes a duty of support to Plaintiff and/or the minor child/ren.

Plaintiff has suffered out-of-pocket financial losses as a result of the abuse described above. Those losses are:

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING (CHECK ALL FORMS OF RELIEF REQUESTED):

A. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or the minor child/ren in any place where Plaintiff and/or the child/ren may be found.

B. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of Plaintiff.

C. Require Defendant to provide Plaintiff and/or the minor child/ren with other suitable housing.

D. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and the child/ren:

E. Prohibit Defendant from having any contact with Plaintiff and/or the minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

F. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren. The following persons are Plaintiff's relatives or family and household members that Plaintiff believes require protection from stalking and harassment by Defendant.

Name Address (optional) Relationship to Plaintiff

G. Order Defendant to temporarily relinquish some or all of the firearms, other weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and/or prohibit Defendant from transferring, acquiring or possessing some or all firearms for the duration of the order.

H. Order Defendant to pay temporary support for Plaintiff and/or the minor child/ren, including medical support and payment of the rent or mortgage on the residence.

I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.

J. Order Defendant to pay the costs of this action, including filing and service fees.

K. Order Defendant to pay Plaintiff's reasonable attorney's fees.

L. Order the following additional relief, not listed above:

M. Grant such other relief as Plaintiff requests and/or the court deems appropriate.

N. Order the police, sheriff or other law enforcement agency to serve the Defendant with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the penalties of 18 Pa.C.S.A. § 4904,

relating to unsworn falsification to authorities.

Signature

Date

(Caption)

ATTACHMENT A TO PETITION
FIREARMS, OTHER WEAPONS AND AMMUNITION INVENTORY

I,

, Plaintiff in this Protection From Abuse Action, hereby

(a) state that Defendant used or threatened to use the following firearms, other weapons and ammunition against Plaintiff and/or the minor child/ren (include addresses or locations, if known, such as “front seat of blue truck,” “gun cabinet,” “bedroom closet,” etc.):

Firearm/Other Weapon/Ammunition Location

- 1.
- 2.
- 3.
- 4.
- 5.

(b) state that Defendant, to the best of my knowledge or belief, owns or possesses the following firearms, other weapons or ammunition not set forth in (a) above (include addresses or locations, if known):

Firearm/Other Weapon/Ammunition Location

- 1.
- 2.
- 3.
- 4.
- 5.

(c) request that the court order Defendant to relinquish the following firearms, other weapons and ammunition (include addresses or locations, if known):

Firearm/Other Weapon/Ammunition Location

- 1.
- 2.
- 3.

4.

5.

All firearms, other weapons and ammunition owned or possessed by Defendant.

If more space is needed, more sheets may be attached to this document.

Name

Date

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page must be exactly as set forth in this rule:



AND NOW, this

—
day of

—
, 20

—
, upon consideration of the attached Petition for Protection From Abuse, the court hereby enters the following Temporary Order:

Plaintiff's request for a Temporary Protection Order is **denied**.

Plaintiff's request for a Temporary Protection Order is **granted**.

1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

2. Defendant is evicted and excluded from the residence at [NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other permanent or temporary residence where Plaintiff or any other person protected under this order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

3. Except for such contact with the minor child/ren as may be permitted under Paragraph 5

of this order, Defendant is prohibited from having ANY CONTACT with Plaintiff, or any other person protected under this order, either directly or indirectly, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this order:

4. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.

5. CUSTODY.

There is a current custody order as to the child/ren of the parties:

(county court)

(docket number)

THIS ORDER SHALL NOT SUPERSEDE THE CURRENT CUSTODY ORDER.

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following:

Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren:

The local law enforcement agency in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of the Plaintiff in accordance with the terms of this order.

6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS.

Check all that apply:

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

Defendant shall relinquish to the sheriff the following firearms licenses owned or possessed by Defendant:

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Attachment A to Temporary Order, which is incorporated herein by references.

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may relinquish firearms, other weapons and ammunition to a third party provided Defendant and the third party first comply with all the requirements to obtain a safekeeping permit. Defendant must relinquish any firearm, other weapon, ammunition or firearm license ordered to be relinquished no later than 24 hours after service of this order. If, due to their current location, firearms, other weapons, or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide to the sheriff an affidavit listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

7. The following additional relief is granted:

Defendant is prohibited from stalking, as defined in 18 Pa.C.S.A. § 2709.1, or harassing, as defined in 18 Pa.C.S.A. § 2709, the following family and household members of Plaintiff:

Name Address (optional) Relationship to Plaintiff

Other relief:

8. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified hereafter: [insert name of agency]

9. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION FROM ABUSE ORDER

OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

10. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL [insert expiration date] OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. § 6114. Consent of Plaintiff to Defendant's return to the residence shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. § 6108(g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. § § 2261 — 2262.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located. If Defendant violates Paragraphs 1 through 6 of this order, Defendant shall be arrested on the charge of indirect criminal contempt. An arrest for violation of this order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant's possession which were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession. Any firearm, other weapon, ammunition or any firearm license must be delivered to the sheriff's office of the county which issued this order, which office shall maintain possession of the firearms, other weapons and ammunition until further order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

BY THE COURT:

Judge

Date

(Caption)

**ATTACHMENT A TO TEMPORARY
ORDER
FIREARMS, OTHER WEAPONS AND
AMMUNITION INVENTORY**

It is hereby ordered that Defendant relinquish the following firearms, other weapons and ammunition to the sheriff:

Firearm/Other Weapon/Ammunition Location

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

All firearms, other weapons and ammunition owned or possessed by the Defendant.

BY THE COURT:

Judge

Date

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I,

, the undersigned, hereby state that I served a copy of the Notice of Hearing and Order, Petition and Temporary Order in the above-captioned action upon Defendant by handing the papers to

at the following address:

on the

day of

, 20

, at approximately

o'clock

.m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

(Signature)

(Title)

(Address)

(Date)

THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

(e) The Final Order of Court, or any amended, modified or extended Final Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page must be exactly as set forth in this rule:



CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

spouse or former spouse of Defendant

- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this

 day of

 , 20

, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED AND DECREED as follows:

This order is entered (check one) by agreement by agreement without an admission after a hearing and decision by the court after a hearing at which Defendant was not present, despite proper service being made by default. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection From Abuse Act.

Note: Space is provided to allow for 1) the court’s general findings of abuse; 2) inclusion of the terms under which the order was entered (e.g., that the order was entered with the consent of the parties, or that the defendant, though properly served, failed to appear for the hearing, or the reasons why the plaintiff’s request for a final PFA order was denied); and/or 3) information that may be helpful to law enforcement (e.g., whether a firearm or other weapon was involved in the incident of abuse and/or whether the defendant is believed to be armed and dangerous).

Plaintiff’s request for a final protection order is denied.

OR

Plaintiff’s request for a final protection order is granted.

1. Defendant shall not abuse, stalk, harass, threaten or attempt to use physical force that would reasonably be expected to cause bodily injury to Plaintiff or any other protected person in any place where they might be found.

2. Defendant is completely evicted and excluded from the residence at

(NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED) or any other residence where Plaintiff or any other person protected under this order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

On [insert date and time], Defendant may enter the residence to retrieve his/her clothing and other personal effects, provided that Defendant is in the company of a law enforcement officer or sheriff when such retrieval is made and [insert any other conditions]

3. Except as provided in paragraph 5 of this order, Defendant is prohibited from having ANY CONTACT with Plaintiff, either directly or indirectly, or any other person protected under this order, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this order:

4. Except as provided in paragraph 5 of this order, Defendant shall not contact Plaintiff, either directly or indirectly, or any other person protected under this order, by telephone or by any other means, including through third persons.

5. Temporary custody of the minor children, [NAMES OF THE CHILDREN SUBJECT TO THE PROVISION OF THIS PARAGRAPH] shall be as follows:

Check all that apply:

STATE TO WHOM PRIMARY PHYSICAL CUSTODY IS AWARDED, STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.

There is a current custody order as to the children of the parties:

—
(county court)

—
(docket number)

A custody petition is pending.

A hearing is scheduled for

—
(date, time and location)

THIS ORDER SHALL NOT SUPERSEDE THE CURRENT CUSTODY ORDER.

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CUSTODY.

6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS.

Check all that apply:

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

Defendant shall relinquish to the sheriff the following firearm licenses owned or possessed by Defendant:

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Attachment A to Final Order, which is incorporated herein by reference.

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may either relinquish firearms, other weapons and ammunition to a third party provided Defendant and the third party first comply with all the requirements to obtain a safekeeping permit, or relinquish firearms, other weapons and ammunition to a licensed firearms dealer for consignment sale, lawful transfer or safekeeping pursuant to 23 Pa.C.S.A. § 6108.2(e). Defendant must relinquish any firearm, other weapon, ammunition or firearms license ordered to be relinquished no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license ordered to be relinquished shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

7. Any firearm delivered to the sheriff or transferred to a licensed firearm dealer, or a qualified third party who satisfies the procedural and substantive requirements to obtain a safekeeping permit issued under 23 Pa.C.S.A. § 6108.3 pursuant to this order or the temporary

order shall not be returned to Defendant until further order of court or as otherwise provided by law.

8. The following additional relief is granted as authorized by § 6108 of the Act:

Defendant is prohibited from stalking, as defined in 18 Pa.C.S.A. § 2709.1, or harassing, as defined in 18 Pa.C.S.A. § 2709, the following family and household members of Plaintiff:

Name Address (optional) Relationship to Plaintiff

Other relief:

9. Defendant is directed to pay temporary support for: [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT ORDER]. This order for support shall remain in effect until a final support order is entered by this court. However, this order shall lapse automatically if Plaintiff does not file a complaint for support with the Domestic Relations Section of the court within two weeks of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

10. (a) The costs of this action are imposed on Defendant.

(b) Because this order followed a contested proceeding, or a hearing at which Defendant was not present, despite being served with a copy of the petition, temporary order and notice of the date, time and place of the hearing, Defendant is ordered to pay an additional \$100 surcharge to the court, which shall be distributed in the manner set forth in 23 Pa.C.S.A. § 6106(d).

(c) Upon a showing of good cause or a finding that Defendant is unable to pay, the costs of this action are waived.

11. Defendant shall pay \$

to Plaintiff by

(insert date) as compensation for Plaintiff's out-of-pocket losses, which are as follows:

An installment scheduled is ordered as follows:

OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the prothonotary's office for the filing of this petition.

12. THIS ORDER SUPERCEDES ANY PRIOR PROTECTION FROM ABUSE ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

13. All provisions of this order shall expire:

Check one

in

—
[INSERT DAYS, MONTHS OR YEARS] on [INSERT EXPIRATION DATE]

in three years, on [INSERT EXPIRATION DATE]

NOTICE TO THE DEFENDANT

VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 PA.C.S.A. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. A VIOLATION OF THIS ORDER MAY RESULT IN THE REVOCATION OF THE SAFEKEEPING PERMIT, WHICH WILL REQUIRE THE IMMEDIATE RELINQUISHMENT OF YOUR FIREARMS, OTHER WEAPONS AND AMMUNITION TO THE SHERIFF. PLAINTIFF'S CONSENT TO CONTACT BY DEFENDANT SHALL NOT INVALIDATE THIS ORDER WHICH CAN ONLY BE MODIFIED BY FURTHER ORDER OF COURT. 23 PA.C.S.A § 6108(g).

THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT. 18 U.S.C. § § 2261—2262. IF YOU POSSESS A FIREARM OR ANY

AMMUNITION WHILE THIS ORDER IS IN EFFECT, YOU MAY BE CHARGED WITH A FEDERAL OFFENSE EVEN IF THIS PENNSYLVANIA ORDER DOES NOT EXPRESSLY PROHIBIT YOU FROM POSSESSING FIREARMS OR AMMUNITION. 18 U.S.C.

§ 922(g)(8).

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police and sheriff who have jurisdiction over Plaintiff’s residence OR any location where a violation of this order occurs OR where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 1 through 7 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 23 Pa.C.S.A. § 6113.

Subsequent to an arrest, and without the necessity of a warrant, the police officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant’s possession that were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant’s possession. The [insert the appropriate name or title] shall maintain possession of the firearms, other weapons or ammunition until further order of this court.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A “Complaint for Indirect Criminal Contempt” shall then be completed and signed by the police officer, sheriff OR Plaintiff. Plaintiff’s presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, Defendant shall be arraigned, bond set, if appropriate and both parties given notice of the date of hearing.

BY THE COURT:

Judge

Date

If entered pursuant to the consent of plaintiff and defendant:

(Plaintiff’s signature) (Defendant’s signature)

(Caption)

ATTACHMENT A TO FINAL ORDER
FIREARMS, OTHER WEAPONS AND AMMUNITION INVENTORY

It is hereby ordered that Defendant relinquish the following firearms, other weapons and ammunition to the sheriff:

Firearm/other Weapon/Ammunition	Location
---------------------------------	----------

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

All firearms, other weapons and ammunition owned or possessed by Defendant.

BY THE COURT:

Judge

Date

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

Explanatory Comment—1997

The use of standardized forms provides uniformity and is also critical to the enforcement of protection orders both inside and outside of the commonwealth. These forms are substantially based on those proposed by members of the Pennsylvania Coalition Against Domestic Violence and have been further refined to accommodate the litigants' need for simplicity, the court's need for flexibility and law enforcements' need for certain identifying information necessary to enforce the protection order.

The forms must be used so that all protection orders can be properly registered with the statewide PFA Registry and the federal Protection Order File (POF) established by the National Crime Information Center (NCIC) for the collection of information that is necessary for nationwide enforcement of protection orders. Entering a protection order into the Registry and NCIC file enables law enforcement to immediately verify the existence and terms of the order.

It is important, therefore, that all protection orders be registered with these two files. To this end, the forms capture all of the information that is required for data entry and the form orders are further structured to present that information in the order and sequence that is most helpful to the various law enforcement agencies responsible for entering the information into the files. Once the information reaches the Registry and is accepted by the NCIC file, it becomes immediately accessible to law enforcement agencies, dispatchers and courts throughout the country.

The provisions in the form petition and orders reflect the most common forms of relief available under the Protection From Abuse Act. Plenty of space, however, is provided for the plaintiff to request additional relief, and for courts to fashion appropriate relief, based on the individual circumstances of the litigants. Since all of the provisions will not necessarily apply in every case, the forms adopt a checkbox method that requires the user to affirmatively check only those provisions which are applicable to his or her situation.

In cases where a provision is generally applicable but its terms do not correspond precisely to the relief being requested or granted, the user should not check the standard provision but instead should use the blank spaces provided in the forms to specify the relief. For example, while the final order contains a standard provision permitting the defendant to retrieve personal belongings only in the company of a police officer, there may be more suitable methods of retrieval available in some cases. If so, then the plaintiff or court should use the blank spaces provided in the form petition or order (rather than the standard provision) to specify the alternative manner of retrieval.

Explanatory Comment—2000

Paragraph 2 of the final order has been amended to enable courts to include additional conditions for the retrieval of personalty by the defendant in a section of the final order which permits arrest without a warrant if the conditions are violated. Paragraph 9 of the final order has been amended to require the filing of a support complaint within two weeks, rather than fifteen days, of the entry of a final order under the Protection From Abuse Act to prevent the automatic lapse of any temporary support provisions included in the order. This change is consistent with the statutory provisions at 23 Pa.C.S.A. § 6108(a)(5).

Explanatory Comment—2006

The Notice to Defend in subdivision (a) was amended to include three notice requirements of the 2005 Protection From Abuse Act amendments, Act 66 of 2005. 23 Pa.C.S.A. § 6107 (a). The amendments provide that sheriffs may arrest defendants for violations of protective orders. The notice also advises the defendant that if firearms, other weapons or ammunition cannot reasonably be retrieved within the required time, the defendant must provide the sheriff with an affidavit listing the firearms, other weapons and ammunition and their current location within 24 hours. Pa.C.S.A. § 6108(a)(7)(i)(B). In addition, defendants have the option to turn firearms, other weapons and ammunition over to a qualified third party instead of the sheriff, and federal firearms prohibitions and penalties are more clearly stated.

The 2005 amendments to the Protection From Abuse Act require several changes to the form petition at subdivision (b). The plaintiff is required to inform the court if the defendant works in a job that requires the handling of firearms. This provision was included to allow courts to exercise appropriate discretion when a defendant is exempt from federal firearm prohibitions and penalties. It also directs the court to “make a reasonable effort to preserve the financial

assets of the defendant's business while fulfilling the goals'' of the Protection From Abuse Act. 23 Pa.C.S.A. § 6108(a)(7.1). Federal law prohibits possession of firearms and penalizes defendants who possess them if they are subject to an order prohibiting abuse, stalking or harassment. However, certain law enforcement officials are exempt from this prohibition and penalty. Under 18 U.S.C. § 925(a)(1), a person performing an official duty on behalf of the federal, state or local law enforcement agency may possess a firearm as long as the officer is required to possess the firearm in his or her official capacity. The Bureau of Alcohol, Tobacco and Firearms requires the official possession of the firearm to be authorized by statute, regulation or official department policy. The new notice requirement is found in 23 Pa.C.S.A. § 6106 (a.2).

Paragraph 14 of the form petition was amended to address the manner in which the firearms and other weapons were used against the plaintiff or minor children and to remove the listing of firearms in the petition itself. The amended statute prohibits public access to any list or inventory of the defendant's firearms, other weapons or ammunition. Thus, a separate Attachment A is included at the end of the petition for purposes of listing the firearms, other weapons and ammunition at issue. This will allow the prothonotary to more easily redact the list from public access, while at the same time permitting the court, the parties and law enforcement agencies to enforce the order. 23 Pa.C.S.A. § 6108 (a)(7)(v). Section 6108(a)(7) of the Protection From Abuse Act provides for relinquishment of other weapons and ammunition only if they have been used or threatened to be used in an act of abuse. Paragraph 14 and Attachment A to Petition balance the court's need to be advised of firearms, other weapons and ammunition used or threatened to be used in an act of abuse or available to the defendant with the plaintiff's right to decline to seek relinquishment of some or all of those firearms, other weapons and ammunition.

The form petition also was amended to address the court's authority to order the defendant to relinquish any and all firearms, whether they were used or threatened to be used in an act of abuse or not. Any one of several circumstances authorizes the court to grant this relief, including, but not limited to, abuse involving a firearm or weapon or an immediate and present danger of abuse. The amended statute provides the court with multiple examples of what may constitute proof of immediate and present danger for the purposes of ordering the relinquishment of any or all of the defendant's firearms. 23 Pa.C.S.A. § 6107(b)(3). Finally, the form addresses the court's authority to order the defendant to relinquish other weapons and ammunition which were used or threatened to be used in an act of abuse.

The form temporary order retains a space for the defendant's Social Security number. Pursuant to 23 Pa.C.S.A. § 6108(b), "[a]ny order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant."

In subdivisions (c) and (e), paragraph three in the form temporary and final orders is amended to clarify that even indirect contact with a protected person may be prohibited. This clarification reflects the Pennsylvania Supreme Court's holding in *Commonwealth v. Baker*, 564 Pa. 192, 766 A.2d 328 (2001), that the order must be "definite, clear, specific and leave no doubt or uncertainty in the mind of the person to whom it was addressed of the prohibited conduct."

The amendments to paragraph five of the form temporary and final orders are consistent with the statutory provisions of the Protection From Abuse Act relating to custody. See 23 Pa.C.S.A § 6108(a)(4).

The 2005 amendments to the Protection From Abuse Act provide that the court may order the defendant to relinquish ammunition and firearm licenses, in addition to firearms and other weapons. 23 Pa.C.S.A. § 6108(a)(7) and 7.1. These items were added to paragraph six of the temporary and final order forms, the notices to the defendant and the notices to the sheriff, police and law enforcement.

The amendments to paragraph six of the form orders also provide the court with discretion to place certain restrictions on firearms possession or to completely proscribe firearms possession. The amended paragraphs and the notices to the defendant inform the parties that if the defendant is ordered to relinquish firearms, weapons or ammunition, they must be relinquished to the sheriff or, in the alternative, they may be relinquished to a third party who complies with the substantive and procedural requirements for a third party safekeeping permit. 23 Pa.C.S.A. § § 6107(a), 6108.3. Upon entry of a final order, the defendant may also relinquish firearms, other weapons or ammunition to a licensed firearms dealer. No matter which option Defendant chooses, if firearms and weapons are ordered to be relinquished, any firearm license ordered to be relinquished must be relinquished to the sheriff. The aforementioned items may be relinquished at the time of service, but no later than 24 hours after service unless, with regard to firearms, other weapons or ammunition, they cannot reasonably be retrieved due to their location. 23 Pa.C.S.A. § 6108 (a)(7)(i). The notice to the defendant in the final order was expanded to advise the defendant that violation of the order may result in the revocation of the third-party safekeeping permit.

Paragraph seven of the final order form was amended to reflect 23 Pa.C.S.A. § 6108.1(a) and other statutory provisions concerning the return of firearms.

Paragraph ten of the final order form was amended to reflect the statute's prohibition against charging the plaintiff fees or costs related to filing, service, registration or appeal in any Protection From Abuse matter. A new subparagraph (b) in paragraph ten of the final order reflects the 2005 amendments to the Protection From Abuse Act which increased the surcharge a court may order a defendant to pay when an action is contested and directs the disbursement of the collected surcharges. 23 Pa.C.S.A. § 6106(d).

Paragraph fourteen of the final order form was amended to reflect the increased period of protection the court may grant. The maximum period of protection was increased from eighteen months to three years.

The amended notice to the sheriff, police and law enforcement in the final order clarifies that the defendant may be arrested anywhere a violation occurs, and that the court has jurisdiction to hear the issue of indirect criminal contempt either where the order was issued or where the violation occurred. With this amendment, jurisdiction for indirect criminal contempt is parallel to prosecution for stalking and harassment. 23 Pa.C.S.A. § 6114(a.1). The notice also makes it clear that a search and seizure of firearms may occur without a warrant when incident to arrest. 23 Pa.C.S.A. § 6113(b) and 6121.

Other amendments to the order forms reflect that the sheriff is authorized to arrest for violations of the order under the Protection From Abuse Act. 23 Pa.C.S.A. § 6113. The references to a protective order superseding provisions of a prior custody order were moved to paragraph five, which deals with custody, in both the temporary and final orders.

Explanatory Comment—2008

The Protection From Abuse petition form, temporary order form and final order form are being modified to conform to the model template used in Project Passport. Project Passport was designed to improve recognition and enforcement of protection orders within and between states and tribes by encouraging states and tribes to adopt a recognizable first page for protection orders. Use of the model template is supported by the National Center for State Courts and the National American Indian Court Judges Association.

The critical aspects of the model template for the first page are common data elements jointly identified by multi-disciplinary teams. Using a recognizable first page for protection orders with this essential data readily available and easily recognizable on a protection order, particularly on “foreign protection orders,” helps strengthen the safety net for domestic violence survivors and their children by offering greater consistency in the issuance and enforcement of protection orders.

Implementation of the model first page for Project Passport requires several changes to the Pennsylvania Protection From Abuse petition, temporary order and final order forms. The petition form caption, as well as the plaintiff’s or filer’s name, relationship to the plaintiff, names and dates of birth of the protected persons, plaintiff’s address, defendant’s address, social security number, place of employment, and age, were moved to the Project Passport first page. The petition paragraphs are also renumbered. On the temporary order and final order forms, the captions and the defendant’s name, date of birth and social security number, as well as the names of the plaintiff and protected persons and dates of birth, were moved to the Project Passport first page. The Project Passport first page for the petition and temporary and final orders all include physical identifiers for the defendant and an indication if weapons were involved, present on the property or relinquished. The first page of the final order also includes the effective and expiration dates of the protection order and the notice to the defendant.

Source

The provisions of this Rule 1905 adopted March 9, 1998, effective July 1, 1998, 28 Pa.B. 1391; amended June 2, 2000, effective immediately, 30 Pa.B. 3027; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754; amended May 2, 2006, effective May 9, 2006, 36 Pa.B. 2369; amended February 6, 2007, effective May 7, 2007, 37 Pa.B. 929; amended August 13, 2008, effective in 90 days, 38 Pa.B. 4729. Immediately preceding text appears at serial pages (326426) to (326447).

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