

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1343 Session of
2024

INTRODUCED BY BARTOLOTTA, ROTHMAN, VOGEL, MILLER AND FARRY,
OCTOBER 18, 2024

REFERRED TO JUDICIARY, OCTOBER 18, 2024

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in protection from abuse, further
3 providing for definitions, for responsibilities of law
4 enforcement agencies, for hearings, for relief, for order to
5 seal record from public view, for service of orders, for
6 arrest for violation of order and for contempt for violation
7 of order or agreement.

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

10 Section 1. Section 6102(a) of Title 23 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:

12 § 6102. Definitions.

13 (a) General rule.--The following words and phrases when used
14 in this chapter shall have the meanings given to them in this
15 section unless the context clearly indicates otherwise:

16 * * *

17 "Noncustodial parent." The biological parent of a minor
18 child with whom the child does not reside or with whom there is
19 a court-ordered shared custody of the minor child.

20 * * *

1 Section 2. Sections 6105(e)(1)(i), 6107(a), 6108(a)(4) and
2 (g), 6108.7(b), 6109(a), 6113(f) and 6114(c) of Title 23 are
3 amended to read:

4 § 6105. Responsibilities of law enforcement agencies.

5 * * *

6 (e) Statewide registry.--

7 (1) The Pennsylvania State Police shall establish a
8 Statewide registry of protection orders and shall maintain a
9 complete and systematic record and index of all valid
10 temporary and final court orders of protection, court-
11 approved consent agreements and a foreign protection order
12 filed pursuant to section 6104(d) (relating to full faith and
13 credit and foreign protection orders). The Statewide registry
14 shall include, but need not be limited to, the following:

15 (i) The names of the plaintiff and any protected
16 parties or noncustodial parent.

17 * * *

18 § 6107. Hearings.

19 (a) General rule.--Within ten business days of the filing of
20 a petition under this chapter, a hearing shall be held before
21 the court, at which the plaintiff must prove the allegation of
22 abuse by a preponderance of the evidence. The court shall, at
23 the time the defendant is given notice of the hearing, advise
24 the defendant of the right to be represented by counsel, of the
25 right to present evidence, of the right to compel attendance of
26 witnesses, of the method by which witnesses may be compelled, of
27 the possibility that any firearm, other weapon or ammunition
28 owned and any firearm license possessed may be ordered
29 temporarily relinquished, of the options for relinquishment of a
30 firearm pursuant to this chapter, of the possibility that

1 Federal or State law may prohibit the possession of firearms,
2 including an explanation of 18 U.S.C. § 922(g)(8) (relating to
3 unlawful acts) and 18 Pa.C.S. § 6105 (relating to persons not to
4 possess, use, manufacture, control, sell or transfer firearms),
5 and that any protection order granted by a court may be
6 considered in any subsequent proceedings under this title. This
7 notice shall be printed and delivered in a manner which easily
8 attracts attention to its content and shall specify that child
9 custody is one of the proceedings where prior protection orders
10 may be considered. If applicable, a noncustodial parent shall be
11 given notice of the hearing.

12 * * *

13 § 6108. Relief.

14 (a) General rule.--Subject to subsection (a.1), the court
15 may grant any protection order or approve any consent agreement
16 to bring about a cessation of abuse of the plaintiff or minor
17 children. The order or agreement may include:

18 * * *

19 (4) Awarding temporary custody of or establishing
20 temporary visitation rights with regard to minor children. In
21 determining whether to award temporary custody or establish
22 temporary visitation rights pursuant to this paragraph, the
23 court shall consider any risk posed by the defendant to the
24 children as well as risk to the plaintiff. If appropriate,
25 the court shall consult with a noncustodial parent. The
26 following shall apply:

27 (i) A defendant shall not be granted custody,
28 partial custody or unsupervised visitation where it is
29 alleged in the petition, and the court finds after a
30 hearing under this chapter, that the defendant:

1 (A) abused the minor children of the parties or
2 poses a risk of abuse toward the minor children of
3 the parties; or

4 (B) has been convicted of violating 18 Pa.C.S. §
5 2904 (relating to interference with custody of
6 children) within two calendar years prior to the
7 filing of the petition for protection order or that
8 the defendant poses a risk of violating 18 Pa.C.S. §
9 2904.

10 (ii) Where the court finds after a hearing under
11 this chapter that the defendant has inflicted abuse upon
12 the plaintiff or a child, the court may require
13 supervised custodial access by a third party. The third
14 party must agree to be accountable to the court for
15 supervision and execute an affidavit of accountability.

16 (iii) Where the court finds after a hearing under
17 this chapter that the defendant has inflicted serious
18 abuse upon the plaintiff or a child or poses a risk of
19 abuse toward the plaintiff or a child, the court may:

20 (A) award supervised visitation in a secure
21 visitation facility; [or]

22 (B) deny the defendant custodial access to a
23 child[.]; or

24 (C) award custody to a noncustodial parent.

25 (iv) If a plaintiff petitions for a temporary order
26 under section 6107(b) (relating to hearings) and the
27 defendant has partial, shared or full custody of the
28 minor children of the parties by order of court or
29 written agreement of the parties, the custody shall not
30 be disturbed or changed unless the court finds that the

1 defendant is likely to inflict abuse upon the children or
2 to remove the children from the jurisdiction of the court
3 prior to the hearing under section 6107(a). Where the
4 defendant has forcibly or fraudulently removed any minor
5 child from the care and custody of a plaintiff, the court
6 shall order the return of the child to the plaintiff
7 unless the child would be endangered by restoration to
8 the plaintiff.

9 (v) Nothing in this paragraph shall bar either party
10 from filing a petition for custody under Chapter 53
11 (relating to custody) or under the Pennsylvania Rules of
12 Civil Procedure.

13 (vi) In order to prevent further abuse during
14 periods of access to the plaintiff and child during the
15 exercise of custodial rights, the court shall consider,
16 and may impose on a custody award, conditions necessary
17 to assure the safety of the plaintiff and minor children
18 from abuse.

19 * * *

20 (g) Notice.--Notice shall be given to the defendant and
21 noncustodial parent, in orders issued under this section,
22 stating that violations of an order will subject the defendant
23 to arrest under section 6113 (relating to arrest for violation
24 of order) or contempt of court under section 6114 (relating to
25 contempt for violation of order or agreement). Resumption of co-
26 residency on the part of the plaintiff and defendant shall not
27 nullify the provisions of the court order.

28 * * *

29 § 6108.7. Order to seal record from public view.

30 * * *

1 (b) Notice to district attorney [and], plaintiff and
2 noncustodial parent.--

3 (1) The petitioner shall serve a copy of the petition
4 under subsection (a) to the district attorney [and to], the
5 plaintiff and a noncustodial parent within ten days of the
6 filing of the petition.

7 (2) The district attorney [and], the plaintiff and the
8 noncustodial parent shall have an opportunity to be heard at
9 the hearing.

10 (3) Within 30 days of receipt of notice, the district
11 attorney [or], plaintiff or noncustodial parent may file
12 objections to the petition.

13 (4) If no objection under paragraph (3) is timely filed,
14 the court may grant the petition without further hearing if
15 the requirements of this section have been met.

16 (5) As used in this subsection, the term "plaintiff"
17 means the person who entered into the consent agreement with
18 the defendant.

19 * * *

20 § 6109. Service of orders.

21 (a) Issuance.--A copy of an order under this chapter shall
22 be issued to the plaintiff, the defendant [and], the police
23 department with appropriate jurisdiction to enforce the order or
24 agreement and a noncustodial parent in accordance with the
25 provisions of this chapter or as ordered by the court or hearing
26 officer.

27 * * *

28 § 6113. Arrest for violation of order.

29 * * *

30 (f) Hearing.--A hearing shall be scheduled within ten days

1 of the filing of the charge or complaint of indirect criminal
2 contempt. The hearing and any adjudication shall not preclude a
3 hearing on other criminal charges underlying the contempt, nor
4 shall a hearing or adjudication on other criminal charges
5 preclude a hearing on a charge of indirect criminal contempt. A
6 noncustodial parent may participate in the hearing on behalf of
7 the minor child.

8 § 6114. Contempt for violation of order or agreement.

9 * * *

10 (c) Notification upon release.--The appropriate releasing
11 authority or other official as designated by local rule shall
12 use all reasonable means to notify the victim and a noncustodial
13 parent sufficiently in advance of the release of the offender
14 from any incarceration imposed under subsection (b).
15 Notification shall be required for work release, furlough,
16 medical leave, community service, discharge, escape and
17 recapture. Notification shall include the terms and conditions
18 imposed on any temporary release from custody. The plaintiff and
19 the noncustodial parent must keep the appropriate releasing
20 authority or other official as designated by local rule advised
21 of contact information; failure to do so will constitute waiver
22 of any right to notification under this section.

23 * * *

24 Section 3. This act shall take effect in 60 days.