

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

RECOMMENDATION 79

ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901. Definitions

As used in this chapter

"Act" means "Protection From Abuse Act" No. 206 approved December 19, 1990, 23 Pa.C.S.A. §6101 *et seq.*[:];

"Action" means a proceeding for protection from abuse defined in §6102 of the Act[:];

"Court" means the court of common pleas.

"Emergency Order" means 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" means 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).

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).

Rule 1901.2. Scheduling. Each judicial district shall establish times when the court will hear temporary Protection From Abuse **[M]**matters.

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).

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 ~~[f]~~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).

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).

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.

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 ~~[f]~~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.

Rule 1905. Forms for Use in PFA Actions.

(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 **[O]**order may be entered against you granting the relief requested in the **[P]**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___, ___m., in Courtroom

at _____ Courthouse, _____, Pennsylvania.

You MUST obey the **[O]**order that is attached until it is modified or terminated by the court after notice and hearing. If you disobey this **[O]**order, the police or sheriff may arrest you. Violation of this **[O]**order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000.00 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 **[O]**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 **[O]**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. You must relinquish any firearm, other weapon, ammunition or any firearm license listed herein 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 **[P]**petition in an action filed pursuant to the Act shall be substantially in the following form:

(Caption)
PETITION FOR PROTECTION FROM ABUSE

1. Plaintiff's name is:
2. I am filing this Petition on behalf of:
 Myself and/or Another Person

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff," and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- | | |
|---|--|
| <input type="checkbox"/> parent of minor Plaintiff(s) | <input type="checkbox"/> applicant for appointment as guardian <i>ad litem</i> of minor Plaintiff(s) |
| <input type="checkbox"/> adult household member with | <input type="checkbox"/> court appointed guardian of |

minor Plaintiff(s)

incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse:

4. Plaintiff's address is **confidential**

or

Plaintiff's address is:

5. Defendant is believed to live at the following address:

Defendant's Social Security Number (if known) is:

Defendant's date of birth is:

Defendant's place of employment is:

Check here if you have reason to believe that Defendant is a licensed firearms dealer or is employed in a profession that requires Defendant to handle firearms or to carry a firearm as a condition of employment.

Check here if Defendant is 17 years old or younger.

6. Indicate the relationship between Plaintiff and Defendant.

- Spouse Current or former sexual/intimate partner Other relationship by blood or marriage:
- Ex-spouse Parent/Child
- Persons who live or have lived like spouses Parents of the same children Brother/Sister

7. 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:

8. Has **[the]** Defendant been involved in any criminal court action?

If you answered Yes, is **[the]** Defendant currently on probation?

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

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

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

If you answered Yes, describe the terms of the **[O]**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 **[O]**order of child custody as part of this petition, list the following information:

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

Childs 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

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

Name(s) Age(s) Plaintiffs relationship to child/ren

12. 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*):

13. If **[the]** 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*):

14. (a)[List the weapon(s) that] Has Defendant [has] used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe:

(b) To the best of your knowledge or belief, does Defendant own or possess any firearm, other weapon, ammunition or any firearm license?

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

15. 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:

16. There is an immediate and present danger further abuse from **[the]** 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 **[the]** 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 minor child/ren in any place where Plaintiff may be found.

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

C. Require Defendant to provide Plaintiff and/or 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 child/ren:

E. Prohibit Defendant from having any contact with Plaintiff and/or 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 **[P]**petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

G. Order Defendant to temporarily **[turn over]** relinquish any firearm, other weapon[s], ammunition and any firearm license to the **[S]**sheriff of this **[C]**county and prohibit Defendant from transferring, acquiring or possessing any **[such]** firearm, other weapon[s], ammunition or any firearm license for the duration of the **[O]**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 **[P]**petition, any **[O]**order issued, and the **[O]**order for **[H]**hearing. **[The petitioner]** 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 **[P]**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. § 4904, relating to unsworn falsification to authorities.

Signature

Date

(Caption)

PETITIONER'S ATTACHMENT A
FIREARMS, OTHER WEAPONS AND AMMUNITION INVENTORY

I, _____, Plaintiff in this Protection From Abuse Action, hereby request the court order Defendant to relinquish the following firearms, other weapons, ammunition, and firearm licenses to the sheriff:

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

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

I believe the above items are located at:

_____.
_____ (List all relevant addresses where they may be found)

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 entered pursuant to the Act shall be substantially in the following form:

(Caption)

TEMPORARY PROTECTION FROM ABUSE ORDER

Defendant's Name:

Defendant's Date of Birth:

Defendant's Social Security Number:

Names of All Protected Persons, including Plaintiff and minor child/ren:

AND NOW, this _____ day of _____, _____, upon consideration of the attached Petition for Protection From Abuse, the court hereby enters the following Temporary Order:

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

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

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

The local law enforcement agency and the sheriff 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 **[O]**order.

6. **[Defendant shall immediately relinquish the following weapons to the Sheriff's Office or a designated local law enforcement agency for delivery to the Sheriff's office:]**

Defendant is prohibited from possessing, transferring or acquiring any **[other weapons]** firearms for the duration of this order.

Check all that apply:

Defendant shall relinquish to the sheriff all firearms and firearms licenses owned or possessed by Defendant.

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Petitioner's Attachment A, and any firearms license Defendant may possess.

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 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 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:

8. A certified copy of this **[O]**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 **[PFA]** PROTECTION FROM ABUSE ORDER **[AND ANY PRIOR ORDER RELATING TO CHILD CUSTODY.]**

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 [O]rder may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail. 23 Pa.C.S.A. §6114. Consent of [the] Plaintiff to Defendant's return to the residence shall not invalidate this [O]rder, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. §6113. If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearms 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. Defendant is further notified that violation of this [O]rder 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 [O]rder shall be enforced by the police department or sheriff who ha[ve]s jurisdiction over [the p]laintiff's residence OR any location where a violation of this order occurs OR where [the d]efendant may be located. If [d]efendant violates Paragraphs 1 through 6 of this [O]rder, [d]efendant shall be arrested on the charge of [I]ndirect [C]riminal [C]ontempt. An arrest for violation of this [O]rder may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of [law enforcement] a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons [used or threatened to be used during the violation of this Order OR during prior incidents of abuse] and ammunition in Defendant's possession. [Weapons] Any firearm, other weapon, ammunition or any firearm license must [forthwith] be delivered to the [S]heriff's office of the county which issued this [O]rder, which office shall maintain possession of the firearms, other weapons and ammunition until further [O]rder 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

(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 Petition and Temporary Order in the above-captioned action upon **[the]** Defendant by handing the papers to

_____ at the following address: _____

on the _____ day of _____, **[19] 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)

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

FINAL ORDER OF COURT

Defendant's Name:

Defendant's Date of Birth:

Defendant's Social Security Number:

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

Names

Dates of Birth

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- spouse or former spouse of Defendant
- parent of a common 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 biological parenthood) of Defendant
- current or former cohabitant (person who lives with) 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:

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

4. Except as provided in **[P]**paragraph 5 of this **[O]**order, Defendant shall not contact **[the]** Plaintiff, or any other person protected under this **[O]**order, by telephone or by any other means, including through third persons.

5. Custody of the minor children, [NAMES OF THE CHILDREN SUBJECT TO THE PROVISION OF THIS PARAGRAPH] shall be as follows: (STATE TO WHOM PRIMARY PHYSICAL CUSTODY IS AWARDED; STAT TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.)

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CUSTODY.

6. **[Defendant shall immediately turn over to the Sheriff's Office, or to a local law enforcement agency for delivery to the Sheriff's office, the following weapons used or threatened to be used by Defendant in an act of abuse against Plaintiff and/or the minor child/ren: _____]**

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

Check all that apply:

Defendant shall relinquish to the sheriff all firearms and firearm licenses owned or possessed by Defendant.

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in Petitioner's Attachment A, and any firearms license Defendant may possess.

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 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 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. **[Defendant is prohibited from possessing, transferring or acquiring any other weapons for the duration of this Order.]** Any firearm [weapons] 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 [under Paragraph 6 of] pursuant to this [O]order or [under Paragraph 6 of] the [T]temporary [O]order shall not be returned to Defendant until further order of court.

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

[] 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 order is entered by this [C]court. However, this order shall lapse automatically if [the] 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 [the] 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 **[waived as to the Plaintiff and]** imposed on Defendant.

[] (b) Because this order followed a contested proceeding, 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).

[] 11. Defendant shall pay \$_____ to Plaintiff by _____ (insert date) as compensation for [p]Plaintiff's out-of-pocket losses, which are 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 [P]rothonotary's [O]ffice for the filing of this petition.

12. THIS ORDER SUPERSEDES [[]]ANY PRIOR [PFA] PROTECTION FROM ABUSE ORDER [AND [] ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

13. All provisions of this order shall expire in [eighteen months] 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.

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 [the] [p]laintiff's residence OR any location where a violation of this order occurs OR where [the] [d]efendant 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 [P]aragraphs 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. The [INSERT THE APPROPRIATE NAME OR TITLE] shall maintain possession of the firearms, other weapons or ammunition until further order of this [C]court.

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

If sufficient grounds for violation of this order are alleged, [the] [d]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)

Explanatory Comment--1977

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 [f]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 [f]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. 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. 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. Thus, a separate Attachment A is included at the end of the petition for purposes of listing the firearms 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. § 6108 (a)(7)(v).

The form petition also was amended to address the court's authority to order the defendant to relinquish any and all firearms, other weapons and ammunition, 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).

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 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). 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 two options if firearms, weapons or ammunition are prohibited. The court may order only certain firearms, weapons and ammunition to be relinquished as listed by Plaintiff on Attachment A, or the court may order that all firearms, weapons and ammunition be relinquished. 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). No matter which option Defendant chooses, if firearms and weapons are ordered to be relinquished, any firearm license possessed 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. 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). The process for return of firearms is within the discretion of the court in each judicial district.

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.