

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

PUBLICATION REPORT

**Proposed Amendment of Pa.R.Civ.P. 1901.1, 1901.3, 1901.4, 1901.6, 1905, and
1930.4; Proposed Adoption of Pa.R.Civ.P. 1901.9 and 1901.10**

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the amendment of Pennsylvania Rules of Civil Procedure 1901.1, 1901.3, 1901.4, 1901.6, 1905, and 1930.4, and the adoption of Pennsylvania Rules of Civil Procedure 1901.9 and 1901.10, governing actions pursuant to the Protection From Abuse (PFA) Act, 23 Pa.C.S. §§ 6101 *et seq.* The Committee previously published a proposal for comment. See 55 Pa.B. 8564 (December 20, 2025). This Publication Report is intended to describe the revisions made to the previous proposal.

Venue

The Committee received a comment indicating that the custodial remedies available in the PFA Act, together with the potential length of a final order, have led to disjointed or interrupted custody proceedings pending in other counties. Further, the expeditious nature of a PFA proceeding does not permit the full development of a record and consideration of the custody factors. The commenter sought to require that, if there is a pending custody proceeding in another county, any PFA petition seeking custodial relief had to be filed in that county. This approach would be similar to how venue is restricted when possession of the residence or household is sought. See Pa.R.Civ.P. 1901.1(b).

As stated in the prior Publication Report, the Committee is reluctant to propose an additional venue restriction for a PFA petition seeking custodial relief given that such relief is conditioned upon the risk posed by the defendant to the children. Delaying relief until a PFA petition could be filed in the same county as the pending custody action did not seem consistent with the purpose of the PFA Act.

To respond to the concerns of the commenter, the Committee proposes amending Pa.R.Civ.P. 1901.1 to include a subdivision recognizing that a party or court may seek a change of venue after the temporary order but prior to the evidentiary hearing for a PFA petition seeking custody. Venue may then only be transferred to the county in which a custody order has been entered involving the parties and the child. Accompanying commentary would emphasize that any transfer should be decided promptly. The commentary would also reference the temporary custody lapse provision in the final order and the need to consider the custody factors.

Temporary Custody

The Committee previously proposed amendment of Pa.R.Civ.P. 1905(e) that would, *inter alia*, order a designated party to initiate custody proceedings if the PFA final order provided custodial relief. Several commenters objected to this provision because it would force the parties to reinitiate contact, which may place the petitioner at risk of harm. Further, the provision may deter domestic violence victims from seeking a PFA order because a custody petition requires the payment of a filing fee.

Informed by the comments, the Committee removed the checkboxes in Section 5 of the final order that would direct a party to file a custody order. Instead, the existing language indicating that either party may initiate a custody proceeding would be retained.

The Committee also proposed adding a provision to the final order allowing the court to limit the term of any custody relief, separate from the term of the overall protection order. Several commenters opposed this provision because it creates a situation where the child may be left unprotected and vulnerable to harm, as well as allowing the defendant to attempt to reassert control.

The Committee reaffirms that judges should have the discretion to impose a lapse of the custody provisions prior to the end date of the order, especially because final orders may be effective for three years. See 23 Pa.C.S. § 6108(d). The custody awarded under the PFA Act was intended to be temporary until a formal custody action could be initiated or completed. See *also* Pa.R.Civ.P. 1901.7(d). The proposed amendment provides judges with an option to limit PFA orders from operating as long-term custody orders without full consideration of the custody factors and safety conditions in Title 23, Chapter 53. Additionally, the Committee observes that, even though the custodial provision may lapse, other aspects of the protective order would remain in effect. See, e.g., 23 Pa.C.S. § 6108(a)(1) (“directing the defendant to refrain from abusing the plaintiff or minor children”); (a)(6) (“prohibiting the defendant from having any contact with the plaintiff or minor children, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff or minor children and from harassing the plaintiff or plaintiff’s relatives or minor children”).

The need for separate custody proceedings is precisely why the Committee proposes to amend the final order form to accommodate a different term for custody provisions. The Act of April 15, 2024, P.L. 24, No. 8 (“Kayden’s Law”) expanded the factors to be considered in the custody court’s best interest analysis and requires the court to give “substantial weighted consideration” to, *inter alia*, the “safety of the child,” which is defined in Kayden’s Law as including “the physical, emotional and psychological well-being of the child,” and any “violent or assaultive behavior committed by a party.” See 23 Pa.C.S. §§ 5322(a), 5328(a). Kayden’s Law also amended § 5323(e), which requires the court, if it grants custody to a parent with a history of abuse, to implement

safety precautions and explain why the award is in the child's best interest. See 23 Pa.C.S. § 5323(e). Further, a child is also able to receive counsel in a custody proceeding. See 23 Pa.C.S. §§ 5334(c), 5335(b) (permitting the appointment of a guardian *ad litem* and counsel for a child if there are "substantial allegations of abuse"). As the Superior Court has pronounced, a PFA order "is designed only to implement *emergency* reprieve until a court can grant permanent relief through a custody action." *Goldner v. Manigault*, 345 A.3d 1212, 1218 (Pa. Super. 2025) (emphasis added). "[T]he provisions of Kayden's Law are not triggered unless and until a court is asked to consider a custody matter pursuant to the Child Custody Act." *Id.* (footnote omitted).

With utmost respect to the opposing commenters, the Committee does not believe that the term of a custody provision within a final PFA order was intended to potentially remain in effect for three years without consideration of the Kayden's Law provisions in a custody proceeding. If the term of the custody provision cannot differ from the other terms of the protection order, then potentially the duration of the final order may shorten so that Kayden's Law can be applied.

Criminal Record/Abuse History Verification

The Comment to Pa.R.Civ.P. 1915.3-2 indicates that a Criminal Record/Abuse History Verification form is required in a PFA action if custody is sought. The Committee sought to codify the verification requirement in the rules applicable to PFA proceedings by proposing Pa.R.Civ.P. 1901.3(e) to require the plaintiff to file a Criminal Record/Abuse History Verification if custody is sought. Pa.R.Civ.P. 1901.4(a) would require the plaintiff's Criminal Record/Abuse History Verification to be served on the defendant with the hearing notice, petition and temporary order, and final order. Pa.R.Civ.P. 1901.6 would relieve the defendant of filing a completed Criminal Record/Abuse History Verification prior to the initial appearance.

Several commenters opposed the use of the Criminal Record/Abuse History Verification form because doing so improperly interjects the custody requirements of Title 23, Chapter 53 into PFA proceedings. The Committee believes the information contained on the form can serve multiple purposes. It can be used both for a factor analysis in a custody proceeding and to provide the court with information relevant to determining whether a current or proposed custodial arrangement may place a child at risk of harm in a PFA proceeding.

A commenter suggested that the rules should prohibit imposing a fee on the defendant for filing a Criminal Record/Abuse History Verification. The commenter believed it was important to receive this information, and a filing fee may impede the filing of the form by the defendant. The Committee agreed the defendant should not be required to pay a filing fee and revised Pa.R.Civ.P. 1901.6(b) to indicate that the form should be filed without fee.

The commenter also suggested that a blank form be served on the defendant along with the hearing notice, petition, and temporary order. The Committee weighed whether service of the form may increase compliance by the defendant for completing the form. The Committee was in favor of including the form with service of the petition and temporary order when custody is being sought by the plaintiff. Responsive revisions were made to Pa.R.Civ.P. 1901.3(e), 1901.4(a), and 1905(c).

Copies to Non-Custodial Parents

The Committee previously proposed Pa.R.Civ.P. 1901.4(e) to require the court to serve via first class mail or electronically the hearing notice, petition, temporary order, and the final order on anyone having or claiming custodial rights of a minor child listed in the petition. That approach seemed consistent with Kayden's Law concerning abuse in the household and child custody.

A commenter suggested that "court" in subdivision (e) be changed to "clerk/prothonotary." The Committee agreed to change the term to "prothonotary" to be consistent with subdivision (c).

Concerning Pa.R.Civ.P. 1905(b), which sets forth the form petition, the commenter recommended that Section 10(b) of the petition solicit the cellular telephone number of the persons who have rights to the child so the prothonotary can direct message those persons pursuant to Pa.R.Civ.P. 1901.4(e). The Committee did not believe that information should be disclosed for reasons of privacy and security. Further, the Committee removed "direct messaging" from the Comment to Pa.R.Civ.P. 1901.4(e) and stated that the use of "electronically," as a method of service, is intended to include service by email.

Another commenter believed that serving copies on other persons having custodial rights was beneficial provided there was an existing custody agreement. Further, service should be limited to when custody is being sought, or minor children are listed as protected parties.

The Committee notes that the existence of abuse by a party or a household member is sufficient to trigger the safety conditions in an award of custody. See 23 Pa.C.S. § 5323(e)(1). Accordingly, the PFA petition and orders may be relevant even if the child is not a protected party or petitioner is not seeking custody. Further, conditioning service on the existence of a custody "agreement" seemed overly restrictive in circumstances when parents may not have a written agreement, but rather an oral understanding or an *ad hoc* custody arrangement.

One commenter opined that Pa.R.Civ.P. 1901.4(e) would be misinterpreted by the third parties as providing standing in the PFA proceeding. The Committee observes that the proposed commentary states: “Concerning subdivision (e), service on a person known to have or claiming to have a right to custody of a child is not intended to provide standing in a PFA proceeding unless a motion to intervene has been granted.” Thus, any misinterpretation would result from an incomplete reading of the rule and not the rule itself.

Service of Petition and Orders

The Act of June 30, 2025, P.L. 76, No. 23, in part, amended 23 Pa.C.S. § 6106(d) as to who is to serve PFA petitions and orders. It eliminated “individuals” and required service by a sheriff or appropriate law enforcement agency. The service provisions amended by Act 23 ostensibly did not extend to the protection of victims of sexual violence or intimidation. See 42 Pa.C.S. §§ 62A01 *et seq.*

The Committee proposed amendment of Pa.R.Civ.P. 1901.4 governing the service of hearing notices, petitions, temporary orders, and final orders. Service would be restricted to a sheriff or law enforcement officer. Pa.R.Civ.P. 1930.4(a)(3)(ii). Pa.R.Civ.P. 1905(d), governing the Affidavit of Service form, would also be amended to make it a dual-use form for hearing notices, petitions, temporary orders, and final orders.

A commenter expressed concern that sheriff office staffing limitations may impede personal service of a final order by the sheriff. Further, the commenter questioned whether the sheriff was required to personally serve the final order on the defendant if the defendant was in court. Finally, the commenter suggested that service be permitted by electronic means as an example of court-approved alternative service. Another commenter stated that most counties serve final orders via mail pursuant to Pa.R.Civ.P. 440.

The Committee believes that the final order should be provided to the defendant in a timely manner and that personal service is the best method to ensure that the defendant has been provided with the order. The Committee is aware that service of the final order is not required for a defendant to be considered having notice of the order for purposes of indirect criminal contempt. See *Commonwealth v. Stevenson*, 283 A.3d 196 (Pa. 2022).

As depicted by textual indicators, Act 23 amended 23 Pa.C.S. § 6106 to remove subdivision (e) and amend (f) concerning service:

[(e) Court to adopt means of service. -- The court shall adopt a means of prompt and effective service in those instances where the plaintiff

avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.]

(f) Service [by sheriff]. -- [If the court so orders, the sheriff or other designated agency or individual shall serve the petition and order.] The court shall adopt a means of prompt and effective service and order that the sheriff or appropriate law enforcement agency serve the petition and order.

23 Pa.C.S. § 6106(e), (f), as amended by the Act of June 30, 2025, P.L. 76, No. 23.

The Committee submits that the amendment of these subdivisions should be read *in pari materia* with subdivision (g):

(g) Service of petition and orders. -- The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments and sheriff with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police and sheriff. Failure to serve shall not stay the effect of a valid order.

23 Pa.C.S. § 6106(g) (emphasis added). The result of Act 23 appeared to have removed the discretionary use of sheriffs and police departments for service and instead mandated their use to serve the defendant with both the temporary order and the final order. An attempt to parse between the singular and plural terms of “order” in § 6106(f) and (g) as a method of distinguishing between service of the temporary order and the final order yielded to 1 Pa.C.S. § 1902 (“The singular shall include the plural, and the plural, the singular.”). Nor does personal service of the final order appear unreasonable. See *Stevenson*, 283 A.3d at 215 (Wecht, J., dissenting) (suggesting amendment of PFA Act or rules to require law enforcement to effectuate service).

However, if the defendant attends the evidentiary hearing, personal service by the sheriff or law enforcement does not seem necessary for the defendant to know whether a final order was granted and the relief ordered. Accordingly, the Committee has revised the proposed amendment of Pa.R.Civ.P. 1901.4(a) to provide an exception for personal service by the sheriff or law enforcement of the final order when the defendant appears at the evidentiary hearing. The Committee specifically invites comments on this pragmatic attempt to address concerns about sheriff resources and to implement § 6106, as amended.

Regarding the suggested mention of alternative service via email, that manner of service is not foreclosed. The examples included in the Comment to Pa.R.Civ.P. 1901.4, as well as Pa.R.Civ.P. 1930.4(a)(3)(ii), were intended to be illustrative, not limiting.

A commenter requested revised language in Pa.R.Civ.P. 1901.4 to clarify that the Pennsylvania State Police only serves if there is no municipal police department. Another commenter asked suggested a revision of the phrasing of “sheriff or law enforcement officer” in the proposal. The Committee has revised that phrase to “sheriff or appropriate law enforcement agency,” which is the phrasing used in the Act, as well as defined in the Act. A reference to the statutory definitions of “sheriff” and “appropriate law enforcement agency” has been added to the Comment to Pa.R.Civ.P. 1901.4.

PFA Return of Firearms, Other Weapons, or Ammunition

The Committee previously proposed Pa.R.Civ.P. 1901.9 governing the return of firearms, other weapons, or after a PFA order has expired or been vacated. No comments were received regarding this aspect of the proposal. Readers may consult the prior Publication Report for a discussion of this rule. See 55 Pa.B. 8564 (December 20, 2025).

Companion Animals

The PFA Act permits a court to grant temporary ownership of “companion animals” and to protect “companion animals” from abuse. See 23 Pa.C.S. §§ 6108(a)(9.1), (a.1)(2), (e)(1)(i), (j); 6113(a). The Committee proposed amendment of Pa.R.Civ.P. 1905(b)-(c), and (e) to implement this aspect of the Act.

While several comments were supportive of this aspect of the proposal, one commenter suggested that the court be able to limit the term of temporary ownership and to order the parties to commence a civil action to determine ownership of a companion animal. This suggestion was analogous to the proposed amendment of Pa.R.Civ.P. 1905(e) governing child custody.

Obviously, the temporary ownership of companion animals and the temporary custody of children are distinguishable and warrant differing approaches. Unlike companion animals, child custody is subject to myriad other follow-on statutory and procedural requirements, conditions, and safeguards through Title 23, Chapter 53 and Chapter 1915 of the Pennsylvania Rules of Civil Procedure. For reasons discussed elsewhere in this Publication Report, the Committee believes that judicial discretion in setting a separate term for a custody provision contained in a PFA order is merited. The procedural avenue to modify a protection order with a companion animal provision is through Pa.R.Civ.P. 1901.8(c).

Expungement

The Committee received a rulemaking request to codify the Court’s holding in *Carlacci v. Mazaleski*, 798 A.2d 186 (Pa. 2002) and provide a rule to permit expungement-

by-*praecipe* when a defendant is entitled to automatic expungement of court records. The Committee also took note of the 2025 amendment of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges concerning denied PFA petitions for emergency relief. See 55 Pa.B. 708 (January 25, 2025). As evident within the Committee’s deliberations on this rulemaking request, the Committee appreciates there may be varied opinions about the merits of expunging any record related to a PFA proceeding.

Notwithstanding, Pa.R.Civ.P. 1901.10 has been added to the proposal. The rule text is intended to reflect the language adopted by the Court in its opinion. See *Carlacci*, 798 A.2d at 191. The rule does not establish a procedure for seeking a discretionary expungement. See *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981).

A question arose whether the proposed rule would apply to discontinuances governed by Pa.R.Civ.P. 1901.8(a)-(b). Given that a discontinuance pursuant to the aforementioned rule and subdivisions would terminate proceedings that have not progressed beyond the temporary order stage, it is submitted that Pa.R.Civ.P. 1901.10 would apply to discontinuances pursuant to Pa.R.Civ.P. 1901.8(a)-(b).

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All comments, concerns, and suggestions concerning this rule proposal are welcome.