
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1393 Session of
2015

INTRODUCED BY KITCHEN, COSTA, HUGHES, BREWSTER, TEPLITZ,
SCHWANK, FONTANA, TARTAGLIONE, RAFFERTY AND YUDICHAK,
OCTOBER 18, 2016

REFERRED TO JUDICIARY, OCTOBER 18, 2016

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in protection from abuse, further
3 providing for definitions, for commencement of proceedings,
4 for hearings, for relief, for emergency relief by minor
5 judiciary and for contempt for violation of order or
6 agreement.

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

9 Section 1. The definitions of "abuse," "domestic violence
10 counselor/advocate," "domestic violence program," "family or
11 household members" and "victim" in section 6102(a) of Title 23
12 of the Pennsylvania Consolidated Statutes are amended and the
13 subsection is amended by adding definitions to read:

14 § 6102. Definitions.

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

18 "Abuse" or "domestic abuse." The occurrence of one or more
19 of the following acts between family or household members,

1 dating partners, sexual or intimate partners or persons who
2 share biological parenthood:

3 (1) Attempting to cause or intentionally, knowingly or
4 recklessly causing bodily injury, serious bodily injury,
5 rape, involuntary deviate sexual intercourse, sexual assault,
6 statutory sexual assault, aggravated indecent assault,
7 indecent assault or incest with or without a deadly weapon.

8 (2) Placing another in reasonable fear of imminent
9 serious bodily injury.

10 (3) The infliction of false imprisonment pursuant to 18
11 Pa.C.S. § 2903 (relating to false imprisonment).

12 (4) Physically or sexually abusing minor children,
13 including such terms as defined in Chapter 63 (relating to
14 child protective services).

15 (5) Knowingly engaging in a course of conduct or
16 repeatedly committing acts toward another person, including
17 following the person, without proper authority, under
18 circumstances which place the person in reasonable fear of
19 bodily injury. The definition of this paragraph applies only
20 to proceedings commenced under this title and is inapplicable
21 to any criminal prosecutions commenced under Title 18
22 (relating to crimes and offenses).

23 (6) Engaging in dating violence.

24 * * *

25 "Dating partner." A person, regardless of gender, who is or
26 has been involved in an intimate relationship with another
27 person, primarily characterized by the expectation of
28 affectionate involvement, whether casual, serious or long term.

29 "Dating violence." Behavior where one person uses threats
30 of, or actually uses, physical, sexual, verbal or emotional

1 abuse to control the person's dating partner.

2 "Defendant." An adult or minor against whom a petition has
3 been filed under this chapter.

4 "Domestic violence counselor/advocate." An individual who is
5 engaged in a domestic violence program, the primary purpose of
6 which is the rendering of counseling or assistance to victims of
7 domestic [violence] abuse, who has undergone 40 hours of
8 training.

9 "Domestic violence program." A nonprofit organization or
10 program whose primary purpose is to provide services to domestic
11 [violence] abuse victims which include, but are not limited to,
12 crisis hotline; safe homes or shelters; community education;
13 counseling systems intervention and interface; transportation,
14 information and referral; and victim assistance.

15 "Family or household members." Spouses or persons who have
16 been spouses, persons living as spouses or who lived as spouses,
17 parents and children, other persons related by consanguinity or
18 affinity[, current or former sexual or intimate partners] or
19 persons who share biological parenthood.

20 * * *

21 "Next friend." A competent individual 18 years of age or
22 older who is chosen by a minor victim of abuse and who is
23 capable of pursuing the victim's stated interest in an action
24 filed under this chapter.

25 * * *

26 "Sexual or intimate partner." A person who has engaged in
27 one or more acts of a romantic or intimate nature with the
28 abuser. The term may include a dating partner.

29 * * *

30 "Social media Internet website." The term includes social

1 networking Internet websites and any other forms of media that
2 involve creating, sharing and viewing user-generated information
3 through an account, service or Internet website.

4 "Victim." A person who is physically or sexually abused by a
5 family or household member, a dating partner, a sexual or
6 intimate partner or a person who shares biological parenthood.

7 For purposes of section 6116 (relating to confidentiality), a
8 victim is a person against whom abuse is committed who consults
9 a domestic violence counselor or advocate for the purpose of
10 securing advice, counseling or assistance. The term shall also
11 include persons who have a significant relationship with the
12 victim and who seek advice, counseling or assistance from a
13 domestic violence counselor or advocate regarding abuse of the
14 victim.

15 * * *

16 Section 2. Sections 6106(a) and 6107(a) and (b)(1) of Title
17 23 are amended and the sections are amended by adding
18 subsections to read:

19 § 6106. Commencement of proceedings.

20 (a) General rule.--[An adult or an emancipated minor may
21 seek relief under this chapter for that person or any parent,
22 adult household member or guardian ad litem may seek relief
23 under this chapter on behalf of minor children, or a guardian of
24 the person of an adult who has been declared incompetent under
25 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian)
26 may seek relief on behalf of the incompetent adult, by filing a
27 petition with the court alleging abuse by the defendant.] The
28 following persons may seek relief under this chapter by filing a
29 petition with the court alleging abuse by the defendant:

30 (1) An adult or emancipated minor on the minor's own

1 behalf.

2 (2) A minor, 13 years of age or older, on the minor's
3 own behalf.

4 (3) A parent, adult household member, guardian, guardian
5 ad litem or next friend on behalf of a minor.

6 (4) A guardian of the person of an adult who has been
7 declared incapacitated under 20 Pa.C.S. Ch. 55 Subch. C
8 (relating to appointment of guardian; bonds; removal and
9 discharge) on behalf of the incapacitated adult.

10 * * *

11 (a.3) Minors.--

12 (1) If a minor elects to seek relief under this chapter
13 on the minor's own behalf under subsection (a)(2), the court
14 shall determine:

15 (i) The reason the minor is electing to seek relief
16 under this chapter without the assistance of a parent,
17 adult household member, guardian, guardian ad litem or
18 next friend.

19 (ii) Whether the minor is mature and capable of
20 understanding and participating in the proceedings
21 without the assistance of a parent, adult household
22 member, guardian, guardian ad litem or next friend.

23 (iii) Whether it is in the best interests of the
24 minor to proceed without parental or guardian
25 notification or assistance.

26 (iv) Whether it is in the best interests of the
27 minor to appoint a guardian ad litem to assist the minor.

28 (2) If a court determines that proceeding without the
29 assistance of a parent, guardian or next friend, or with the
30 assistance of a guardian ad litem, is not in the best

1 interest of the minor, the court shall notify the parents,
2 guardian or next friend, designated by the minor, that the
3 minor has filed a petition for relief under this chapter.
4 Nothing in this subsection shall be construed to prohibit a
5 court from entering a temporary order under section 6107(b)
6 (relating to hearings) concomitant with providing notice to
7 the parents, guardian or next friend under this paragraph.

8 (3) Upon issuance of an order under section 6107(b) or
9 6108 (relating to relief), if the minor initially appeared in
10 court seeking an order without a parent or guardian and if
11 the minor is residing with a parent or guardian, the court
12 shall send a copy of the order to the parents or guardian
13 designated by the minor, unless, in the discretion of the
14 court, notification of the parents or guardian would be
15 contrary to the best interest of the minor. The court is not
16 required to send the order to more than one parent or
17 guardian.

18 * * *

19 § 6107. Hearings.

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

1 explanation of 18 U.S.C. § 922(g)(8) (relating to unlawful
2 acts), and that any protection order granted by a court may be
3 considered in any subsequent proceedings under this title. This
4 notice shall be printed and delivered in a manner which easily
5 attracts attention to its content and shall specify that child
6 custody is one of the proceedings where prior protection orders
7 may be considered.

8 (b) Temporary orders.--

9 (1) If a plaintiff petitions for temporary order for
10 protection from abuse and alleges immediate and present
11 danger of abuse to the plaintiff or minor children, the court
12 shall, as soon as possible, but no later than 24 hours after
13 the filing of the petition, conduct an ex parte proceeding.

14 * * *

15 (d) Evidence of plaintiff's sexual conduct.--Evidence of
16 specific instances of the plaintiff's past sexual conduct,
17 opinion evidence of the plaintiff's past sexual conduct and
18 reputation evidence of the plaintiff's past sexual conduct shall
19 not be admissible in proceedings under this chapter except
20 evidence of the plaintiff's past sexual conduct with the
21 defendant shall be admissible for the sole purpose of
22 establishing the existence of a dating partner or sexual or
23 intimate partner relationship.

24 Section 3. Sections 6108(a)(6), 6110(a) and 6114(b) of Title
25 23 are amended to read:

26 § 6108. Relief.

27 (a) General rule.--The court may grant any protection order
28 or approve any consent agreement to bring about a cessation of
29 abuse of the plaintiff or minor children. The order or agreement
30 may include:

1 * * *

2 (6) Prohibiting the defendant from having any contact
3 with the plaintiff or minor children, including, but not
4 limited to, contacting the plaintiff or minor children
5 through electronic means, including through telephone, e-
6 mail, text messaging or social media Internet websites,
7 restraining the defendant from entering the place of
8 employment or business or school of the plaintiff or minor
9 children and from harassing the plaintiff or plaintiff's
10 relatives or minor children.

11 * * *

12 § 6110. Emergency relief by minor judiciary.

13 (a) General rule.--When:

14 (1) in counties with less than four judges, the court is
15 unavailable:

16 (i) from the close of business at the end of each
17 day to the resumption of business the next morning;

18 (ii) from the end of the business week to the
19 beginning of the business week; and

20 (iii) during the business day by reason of duties
21 outside the county, illness or vacation;

22 (2) in counties with at least four judges, the court is
23 unavailable:

24 (i) from the close of business at the end of each
25 day to the resumption of business the next morning; and

26 (ii) from the end of the business week to the
27 beginning of the business week;

28 a petition may be filed before a hearing officer who may grant

29 relief in accordance with section 6108(a)(1), (2) [and (6)], (6)

30 and (7) or (1) [and (6)], (6) and (7) (relating to relief) if

1 the hearing officer deems it necessary to protect the plaintiff
2 or minor children from abuse upon good cause shown in an ex
3 parte proceeding. Immediate and present danger of abuse to the
4 plaintiff or minor children shall constitute good cause for the
5 purposes of this subsection.

6 * * *

7 § 6114. Contempt for violation of order or agreement.

8 * * *

9 (b) Trial and punishment.--

10 (1) A sentence for contempt under this chapter may
11 include:

12 (i) (A) a fine of not less than [~~\$300~~] \$500 nor
13 more than \$1,000 and imprisonment up to six months;
14 or

15 (B) a fine of not less than [~~\$300~~] \$500 nor more
16 than \$1,000 and supervised probation not to exceed
17 six months; and

18 (ii) an order for other relief set forth in this
19 chapter.

20 (2) All money received under this section shall be
21 distributed in the following order of priority:

22 (i) [~~\$100~~] \$150 shall be forwarded to the
23 Commonwealth and shall be appropriated to the
24 Pennsylvania State Police to establish and maintain the
25 Statewide registry of protection orders provided for in
26 section 6105 (relating to responsibilities of law
27 enforcement agencies).

28 (ii) [~~\$100~~] \$150 shall be retained by the county and
29 shall be used to carry out the provisions of this chapter
30 as follows:

1 (A) [\$50] \$75 shall be used by the sheriff.

2 (B) [\$50] \$75 shall be used by the court.

3 (iii) [\$100] \$200 shall be forwarded to the
4 Department of [Public Welfare] Human Services for use for
5 victims of domestic violence in accordance with the
6 provisions of section 2333 of the act of April 9, 1929
7 (P.L.177, No.175), known as The Administrative Code of
8 1929, and for use for victims of abuse as defined in
9 section 6102(a) (relating to definitions).

10 (iv) Any additional money shall be [forwarded to the
11 Commonwealth and shall be used by the Pennsylvania State
12 Police to establish and maintain the Statewide registry
13 of protection orders provided for in section 6105.]
14 distributed as follows:

15 (A) Fifty percent to the Commonwealth for use in
16 accordance with subparagraph (i).

17 (B) Fifty percent to the Department of Human
18 Services for use in accordance with subparagraph
19 (iii).

20 (3) The defendant shall not have a right to a jury trial
21 on a charge of indirect criminal contempt. However, the
22 defendant shall be entitled to counsel.

23 (4) Upon conviction for indirect criminal contempt and
24 at the request of the plaintiff, the court shall also grant
25 an extension of the protection order for an additional term.

26 (5) Upon conviction for indirect criminal contempt, the
27 court shall notify the sheriff of the jurisdiction which
28 issued the protection order of the conviction.

29 (6) The minimum fine required by subsection (b)(1)
30 allocated pursuant to [subsection (b)(2)(i) and (iii)]

1 paragraph (2)(i) and (iii), and any additional funds
2 allocated pursuant to paragraph (2)(iv), shall be used to
3 supplement and not to supplant any other source of funds
4 received for the purpose of carrying out the provisions of
5 this chapter.

6 * * *

7 Section 4. This act shall take effect in 60 days.