

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2223 Session of
2018

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APRIL 6, 2018

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 6, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 firearms and other dangerous articles, further providing for
4 persons not to possess, use, manufacture, control, sell or
5 transfer firearms, providing for relinquishment of firearms
6 and firearm licenses by convicted persons and further
7 providing for firearms not to be carried without a license
8 and for loans on, or lending or giving firearms prohibited;
9 and, in protection from abuse, further providing for
10 definitions, for commencement of proceedings, for hearings,
11 for relief, for return of relinquished firearms, other
12 weapons and ammunition and additional relief and for
13 relinquishment for consignment sale, lawful transfer or
14 safekeeping and repealing provisions relating to
15 relinquishment to third party for safekeeping.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 6105(a)(2), (a.1)(2), (3) and (5) and (c)
19 (6) and (9) of Title 18 of the Pennsylvania Consolidated
20 Statutes are amended to read:

21 § 6105. Persons not to possess, use, manufacture, control, sell
22 or transfer firearms.

1 (a) Offense defined.--

2 * * *

3 (2) (i) [A] Except as otherwise provided in this
4 paragraph, a person who is prohibited from possessing,
5 using, controlling, selling, transferring or
6 manufacturing a firearm under paragraph (1) or subsection
7 (b) or (c) shall have a reasonable period of time, not to
8 exceed 60 days from the date of the imposition of the
9 disability under this subsection, in which to sell or
10 transfer that person's firearms to another eligible
11 person who is not a member of the prohibited person's
12 household.

13 (ii) This paragraph shall not apply to any person
14 whose disability is imposed pursuant to subsection (c)
15 (6).

16 (iii) A person whose disability is imposed pursuant
17 to subsection (c)(9) shall relinquish any firearms and
18 firearm licenses under that person's possession or
19 control, as described in section 6105.2 (relating to
20 relinquishment of firearms and firearm licenses by
21 convicted persons).

22 (iv) A person whose disability is imposed pursuant
23 to a protection from abuse order shall relinquish any
24 firearms, other weapons, ammunition and firearm licenses
25 under that person's possession or control, as described
26 in 23 Pa.C.S. § 6108(a)(7) (relating to relief).

27 (a.1) Penalty.--

28 * * *

29 (2) A person who is the subject of an active final
30 protection from abuse order [issued pursuant to 23 Pa.C.S. §

1 6108 (relating to relief)] described in 23 Pa.C.S. § 6108(b)
2 is the subject of any other active protection from abuse
3 order issued pursuant to 23 Pa.C.S. § 6108, which [order]
4 provided for the relinquishment of firearms[,] or other
5 weapons or ammunition during the period of time the order is
6 in effect, or is otherwise prohibited from possessing or
7 acquiring a firearm under 18 U.S.C. § 922(g)(8) (relating to
8 unlawful acts), commits a misdemeanor of the first degree if
9 he intentionally or knowingly fails to relinquish a
10 firearm[,]

11 or other weapon or ammunition to the sheriff as
12 required by the order unless, in lieu of relinquishment, he
13 provides an affidavit which lists the firearms[,]

14 or other weapons or ammunition to the sheriff in accordance with
15 [either] 23 Pa.C.S. § 6108(a)(7)(i)(B)[,]

16 or 6108.2 (relating
17 to relinquishment for consignment sale[,]

18 or lawful transfer
19 [or safekeeping) or 6108.3 (relating to relinquishment to
20 third party for safekeeping)].

21 (3) (i) A person commits a misdemeanor of the third
22 degree if he intentionally or knowingly accepts
23 possession of a firearm, other weapon or ammunition from
24 [a] another person he knows is the subject of an active
25 protection from abuse order issued pursuant to 23 Pa.C.S.
26 § 6108, which order provided for the relinquishment of
27 the firearm, other weapon or ammunition during the period
28 of time the order is in effect.

29 (ii) This paragraph shall not apply to[:

30 (A) a third party who accepts possession of a
firearm, other weapon or ammunition relinquished
pursuant to 23 Pa.C.S. § 6108.3; or

(B)] a dealer licensed pursuant to section 6113

1 (relating to licensing of dealers) or subsequent
2 purchaser from a dealer licensed pursuant to section
3 6113, who accepts possession of a firearm, other
4 weapon or ammunition relinquished pursuant to 23
5 Pa.C.S. § 6108.2.

6 * * *

7 [(5) A person who has accepted possession of a firearm,
8 other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3
9 commits a misdemeanor of the first degree if he intentionally
10 or knowingly returns a firearm, other weapon or ammunition to
11 a defendant or intentionally or knowingly allows a defendant
12 to have access to the firearm, other weapon or ammunition
13 prior to either of the following:

14 (i) The sheriff accepts return of the safekeeping
15 permit issued to the party pursuant to 23 Pa.C.S. §
16 6108.3(d)(1)(i).

17 (ii) The issuance of a court order pursuant to
18 subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to
19 return of relinquished firearms, other weapons and
20 ammunition and additional relief) which modifies a valid
21 protection from abuse order issued pursuant to 23 Pa.C.S.
22 § 6108, which order provided for the relinquishment of
23 the firearm, other weapon or ammunition by allowing the
24 defendant to take possession of the firearm, other weapon
25 or ammunition that had previously been ordered
26 relinquished.]

27 * * *

28 (c) Other persons.--In addition to any person who has been
29 convicted of any offense listed under subsection (b), the
30 following persons shall be subject to the prohibition of

1 subsection (a):

2 * * *

3 (6) A person who is the subject of an active final
4 protection from abuse order [issued pursuant to 23 Pa.C.S. §
5 6108] or a person who is subject to a court order and is
6 otherwise prohibited from possessing or acquiring firearms,
7 ammunition or explosives under 18 U.S.C. § 922(g)(8), which
8 [order] provided for the relinquishment of firearms during
9 the period of time the order is in effect or a person who is
10 the subject of any other active protection from abuse order
11 issued pursuant to 23 Pa.C.S. § 6108. This prohibition shall
12 terminate upon the expiration or vacation of [an active
13 protection from abuse] the order or portion thereof relating
14 to the relinquishment of firearms.

15 * * *

16 (9) A person who is prohibited from possessing or
17 acquiring a firearm under 18 U.S.C. § 922(g)(9) [(relating to
18 unlawful acts)]. If the offense which resulted in the
19 prohibition under 18 U.S.C. § 922(g)(9) was committed, as
20 provided in 18 U.S.C. § 921(a)(33)(A)(ii) (relating to
21 definitions), by a person in any of the following
22 relationships:

23 (i) the current or former spouse, parent or guardian
24 of the victim;

25 (ii) a person with whom the victim shares a child in
26 common;

27 (iii) a person who cohabits with or has cohabited
28 with the victim as a spouse, parent or guardian; or

29 (iv) a person similarly situated to a spouse, parent
30 or guardian of the victim;

1 then the relationship need not be an element of the offense
2 to meet the requirements of this paragraph.

3 * * *

4 Section 2. Title 18 is amended by adding a section to read:

5 § 6105.2. Relinquishment of firearms and firearm licenses by
6 convicted persons.

7 (a) Procedure.--

8 (1) A person subject to a firearms disability pursuant
9 to section 6105(c)(9) (relating to persons not to possess,
10 use, manufacture, control, sell or transfer firearms) shall
11 relinquish any firearms under the person's possession or
12 control to the appropriate law enforcement agency of the
13 municipality as described in subsection (b) or to a dealer as
14 described in subsection (c).

15 (2) The court of conviction shall order the
16 relinquishment and the order shall be transmitted to the
17 appropriate law enforcement agency of the municipality and to
18 the sheriff of the county of which the person is a resident.
19 The order shall contain a list of any firearm ordered
20 relinquished.

21 (3) The person shall inform the court in what manner the
22 person will relinquish the firearms.

23 (4) If the person is present in court at the time of the
24 order, the person shall inform the court whether
25 relinquishment will be made under subsection (b) or (c).

26 (b) Relinquishment to law enforcement agency.--

27 (1) Relinquishment to an appropriate law enforcement
28 agency shall be made within 24 hours following conviction,
29 except for cause shown, in which case the court shall specify
30 the time for relinquishment of any or all of the person's

1 firearms.

2 (2) In securing custody of the person's relinquished
3 firearms, the law enforcement agency shall provide the person
4 subject to the relinquishment order with a signed and dated
5 written receipt, which shall include a detailed description
6 of each firearm and its condition.

7 (3) Any relinquished firearm shall be considered to be
8 abandoned if not transferred within six months pursuant to
9 subsection (e) and the law enforcement agency may dispose of
10 it after that period, provided the person is notified of the
11 disposal and receives any proceeds from the disposal, less
12 the costs to the law enforcement agency associated with
13 taking possession of, storing and disposing of the firearm.

14 (4) As used in this subsection, the term "cause" shall
15 be limited to facts relating to the inability of the person
16 to retrieve a specific firearm within 24 hours due to the
17 then current location of the firearm.

18 (c) Relinquishment to dealer.--

19 (1) In lieu of relinquishment to the local law
20 enforcement agency, the person subject to a court order may,
21 within 24 hours or within the time ordered by the court upon
22 cause being shown as in subsection (b), relinquish firearms
23 to a dealer licensed pursuant to section 6113 (relating to
24 licensing of dealers).

25 (2) The dealer may charge the person a reasonable fee
26 for accepting relinquishment.

27 (3) The person shall obtain an affidavit from the dealer
28 on a form prescribed by the Pennsylvania State Police, which
29 shall include, at a minimum, the following:

30 (i) The caption of the case in which the person was

1 convicted.

2 (ii) The name, address, date of birth and Social
3 Security number of the person.

4 (iii) A list of the firearms, including the
5 manufacturer, model and serial number.

6 (iv) The name and license number of the dealer
7 licensed pursuant to section 6113 and the address of the
8 licensed premises.

9 (v) An acknowledgment that the firearms will not be
10 returned to the person, unless the person is no longer
11 prohibited from possessing a firearm under Federal or
12 State law.

13 (vi) An acknowledgment that the firearms, if
14 transferred, will be transferred in compliance with this
15 chapter.

16 (4) A person relinquishing a firearm pursuant to this
17 subsection shall, within the specified time frame, provide to
18 the appropriate law enforcement agency the affidavit required
19 by this subsection and relinquish to the law enforcement
20 agency any firearm ordered to be relinquished that is not
21 specified in the affidavit.

22 (d) Notice of noncompliance.--

23 (1) If the person fails to relinquish a firearm within
24 24 hours or within the time ordered by the court upon cause
25 being shown, the law enforcement agency shall, at a minimum,
26 provide immediate notice to the court, the victim, the
27 prosecutor and the sheriff.

28 (2) For purposes of this subsection, "victim" shall have
29 the same meaning as "direct victim" in section 103 of the act
30 of November 24, 1998 (P.L.882, No.111), known as the Crime

1 Victims Act.

2 (e) Alternate relinquishment to dealer.--

3 (1) If the person relinquishes firearms to the
4 appropriate law enforcement agency pursuant to subsection
5 (b), the person may request that the appropriate law
6 enforcement agency make one transfer of any such firearm to a
7 dealer licensed pursuant to section 6113 within six months of
8 relinquishment.

9 (2) If requesting a subsequent transfer, the person
10 shall provide the appropriate law enforcement agency with the
11 dealer affidavit described in subsection (c).

12 (3) The appropriate law enforcement agency shall make
13 the transfer, if the person complies with this subsection,
14 and may charge the person for any costs associated with
15 making the transfer.

16 (f) Recordkeeping.--Any portion of an order or petition or
17 other paper that includes a list of firearms ordered to be
18 relinquished shall be kept in the files of the court as a
19 permanent record and withheld from public inspection, except
20 upon an order of the court granted upon cause shown, after
21 redaction of information relating to the firearms, or as
22 necessary, by law enforcement and court personnel.

23 (g) Relinquishment of licenses.--

24 (1) A person described in this section shall also
25 relinquish to the appropriate law enforcement agency any
26 firearm license issued under section 6106 (relating to
27 firearms not to be carried without a license) or 6109
28 (relating to licenses) that the person possesses.

29 (2) The provisions of subsections (a)(2) and (3), (b),
30 (d) and (f) shall also apply to firearm licenses of the

1 person.

2 Section 3. Sections 6106(b)(8) and 6115(b)(4) of Title 18
3 are amended to read:

4 § 6106. Firearms not to be carried without a license.

5 * * *

6 (b) Exceptions.--The provisions of subsection (a) shall not
7 apply to:

8 * * *

9 (8) Any person while carrying a firearm which is not
10 loaded and is in a secure wrapper from the place of purchase
11 to his home or place of business, or to a place of repair,
12 sale or appraisal or back to his home or place of business,
13 or in moving from one place of abode or business to another
14 or from his home to a vacation or recreational home or
15 dwelling or back, or to recover stolen property under section
16 6111.1(b)(4) (relating to Pennsylvania State Police), or to a
17 place of instruction intended to teach the safe handling, use
18 or maintenance of firearms or back or to a location to which
19 the person has been directed to relinquish firearms under 23
20 Pa.C.S. § 6108 (relating to relief) or back upon return of
21 the relinquished firearm or to a licensed dealer's place of
22 business for relinquishment pursuant to 23 Pa.C.S. § 6108.2
23 (relating to relinquishment for consignment sale[,] or lawful
24 transfer [or safekeeping]) or back upon return of the
25 relinquished firearm [or to a location for safekeeping
26 pursuant to 23 Pa.C.S. § 6108.3 (relating to relinquishment
27 to third party for safekeeping) or back upon return of the
28 relinquished firearm].

29 * * *

30 § 6115. Loans on, or lending or giving firearms prohibited.

1 * * *

2 (b) Exception.--

3 * * *

4 [(4) Nothing in this section shall prohibit the
5 relinquishment of firearms to a third party in accordance
6 with 23 Pa.C.S. § 6108.3 (relating to relinquishment to third
7 party for safekeeping).]

8 Section 4. The definitions of "domestic violence
9 counselor/advocate" and "safekeeping permit" in section 6102(a)
10 of Title 23 are amended and the subsection is amended by adding
11 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 "Appropriate law enforcement agency." The duly constituted
18 municipal law enforcement agency that regularly provides primary
19 police services to a political subdivision or, in the absence of
20 any such municipal law enforcement agency, the Pennsylvania
21 State Police installation that regularly provides primary police
22 services to the political subdivision.

23 * * *

24 "Domestic violence counselor/advocate." An individual who:

25 (1) is engaged in a domestic violence program, the
26 primary purpose of which is the rendering of counseling or
27 assistance to victims of domestic violence[, who];

28 (2) has undergone 40 hours of training[.]; and

29 (3) is under the supervision of a supervisor of a
30 domestic violence program.

1 * * *

2 ["Safekeeping permit." A permit issued by a sheriff allowing
3 a person to take possession of any firearm, other weapon or
4 ammunition that a judge ordered a defendant to relinquish in a
5 protection from abuse proceeding.]

6 * * *

7 Section 5. Section 6106(e) and (f) of Title 23 are amended,
8 subsection (h) is amended by adding a paragraph and the section
9 is amended by adding a subsection to read:

10 § 6106. Commencement of proceedings.

11 * * *

12 [(e) Court to adopt means of service.--The court shall adopt
13 a means of prompt and effective service in those instances where
14 the plaintiff avers that service cannot be safely effected by an
15 adult individual other than a law enforcement officer or where
16 the court so orders.]

17 (f) Service by sheriff.--[If the court so orders, the
18 sheriff or other designated agency or individual shall serve the
19 petition and order.] For all petitions and temporary orders for
20 protection from abuse, original process shall be served by a
21 sheriff or by the sheriff's duly authorized deputy, which deputy
22 may not be a party to or a family member of a party to the
23 protection from abuse petition, unless the petitioner chooses an
24 alternative means of personal service.

25 (f.1) Court to adopt means of service.--The court shall, by
26 local rule, adopt a procedure to immediately transmit the
27 petition and order for service to the sheriff or, if the
28 petitioner requests, to the petitioner.

29 * * *

30 (h) Assistance and advice to plaintiff.--The courts and

1 hearing officers shall:

2 * * *

3 (3) Provide a law enforcement officer, the sheriff or
4 another designated individual to accompany the plaintiff to
5 the plaintiff's residence before or while the petition or
6 order is being served if the plaintiff avers that this
7 assistance is necessary to protect the plaintiff's safety.

8 Section 6. Section 6107(a), (b)(4) and (c) of Title 23 are
9 amended to read:

10 § 6107. Hearings.

11 (a) General rule.--Within ten business days of the filing of
12 a petition under this chapter, a hearing shall be held before
13 the court, at which the plaintiff must prove the allegation of
14 abuse by a preponderance of the evidence. The court shall, at
15 the time the defendant is given notice of the hearing, advise
16 the defendant of the right to be represented by counsel, of the
17 right to present evidence, of the right to compel attendance of
18 witnesses, of the method by which witnesses may be compelled, of
19 the possibility that any firearm, other weapon or ammunition
20 owned and any firearm license possessed may be ordered
21 temporarily relinquished, of the options for relinquishment of a
22 firearm pursuant to this chapter, of the possibility that
23 Federal or State law may prohibit the possession of firearms,
24 including an explanation of 18 U.S.C. § 922(g)(8) (relating to
25 unlawful acts) and 18 Pa.C.S. § 6105 (relating to persons not to
26 possess, use, manufacture, control, sell or transfer firearms),
27 and that any protection order granted by a court may be
28 considered in any subsequent proceedings under this title. This
29 notice shall be printed and delivered in a manner which easily
30 attracts attention to its content and shall specify that child

1 custody is one of the proceedings where prior protection orders
2 may be considered.

3 (b) Temporary orders.--

4 * * *

5 (4) If the court orders the defendant to temporarily
6 relinquish any firearm, other weapon or ammunition pursuant
7 to paragraph (3), the defendant shall decide in what manner
8 the defendant is going to relinquish any firearm, other
9 weapon or ammunition listed in the order. Relinquishment may
10 be to the sheriff pursuant to section 6108(a)(7) [or to a
11 third party for safekeeping pursuant to section 6108.3
12 (relating to relinquishment to third party for safekeeping)]
13 or to a dealer pursuant to section 6108.2 (relating to
14 relinquishment for consignment sale or lawful transfer).

15 (c) Continued hearings.--

16 (1) If a hearing under subsection (a) is continued and
17 no temporary order is issued, the court may make ex parte
18 temporary orders under subsection (b) as it deems necessary.

19 (2) If a hearing is scheduled to take place within 96
20 hours after a defendant receives notice under section 6106
21 (relating to commencement of proceedings), the court shall
22 grant a continuance until the 96-hour period has elapsed, if
23 requested by the defendant.

24 (3) The court shall notify the defendant of his right to
25 such continuance.

26 Section 7. Section 6108(a) introductory paragraph, (3) and
27 (7) of Title 23 are amended and the section is amended by adding
28 a subsection to read:

29 § 6108. Relief.

30 (a) General rule.--The court may grant any protection order

1 or approve any consent agreement to bring about a cessation of
2 abuse of the plaintiff or minor children. The order or agreement
3 may include the following, except that any final order or
4 agreement must direct the defendant to refrain from abusing,
5 harassing, stalking, threatening or attempting or threatening to
6 use physical force against the plaintiff or minor children and
7 must order that the defendant is subject to the firearms, other
8 weapons or ammunition and firearm license prohibition and
9 relinquishment provisions under paragraph (7):

10 * * *

11 (3) If the defendant has a duty to support the plaintiff
12 or minor children living in the residence or household and
13 the defendant is the sole owner or lessee, granting
14 possession to the plaintiff of the residence or household to
15 the exclusion of the defendant by evicting the defendant or
16 restoring possession to the plaintiff or, with the consent of
17 the plaintiff, ordering the defendant to provide suitable
18 alternate housing. An order may not grant possession to the
19 plaintiff of the residence or household to the exclusion of
20 the defendant other than as provided under paragraph (2) or
21 this paragraph.

22 * * *

23 (7) [Ordering] Prohibiting the defendant from acquiring
24 or possessing any firearm for the duration of the order,
25 ordering the defendant to temporarily relinquish to the
26 sheriff [the defendant's other weapons and ammunition which
27 have been used or been threatened to be used in an incident
28 of abuse against the plaintiff or the minor children and the
29 defendant's firearms and prohibiting the defendant from
30 acquiring or possessing any firearm for the duration of the

1 order] any firearms under the defendant's possession or
2 control, and requiring the defendant to relinquish to the
3 sheriff any firearm license issued under [section 6108.3
4 (relating to relinquishment to third party for safekeeping)
5 or] 18 Pa.C.S. § 6106 (relating to firearms not to be carried
6 without a license) or 6109 (relating to licenses) the
7 defendant may possess. The court may also order the defendant
8 to relinquish the defendant's other weapons or ammunition
9 that have been used or threatened to be used in an incident
10 of abuse against the plaintiff or the minor children. A copy
11 of the court's order shall be transmitted to the chief or
12 head of the [police force or police department] appropriate
13 law enforcement agency of the municipality and to the sheriff
14 of the county of which the defendant is a resident. When
15 relinquishment is ordered, the following shall apply:

16 (i) (A) The court's order shall require the
17 defendant to relinquish such firearms, other weapons,
18 ammunition and any firearm license pursuant to the
19 provisions of this chapter within 24 hours of service
20 of a temporary order or the entry of a final order or
21 the close of the next business day as necessary by
22 closure of the sheriffs' offices, except for cause
23 shown at the hearing, in which case the court shall
24 specify the time for relinquishment of any or all of
25 the defendant's firearms.

26 (B) A defendant subject to a temporary order
27 requiring the relinquishment of firearms, other
28 weapons or ammunition shall, in lieu of relinquishing
29 specific firearms, other weapons or ammunition which
30 cannot reasonably be retrieved within the time for

1 relinquishment in clause (A) due to their current
2 location, provide the sheriff with an affidavit
3 listing the firearms, other weapons or ammunition and
4 their current location. If the defendant, within the
5 time for relinquishment in clause (A), fails to
6 provide the affidavit or fails to relinquish,
7 pursuant to this chapter, any firearms, other weapons
8 or ammunition ordered to be relinquished which are
9 not specified in the affidavit, the sheriff shall, at
10 a minimum, provide immediate notice to the court, the
11 plaintiff and appropriate law enforcement
12 authorities. The defendant shall not possess any
13 firearms, other weapons or ammunition specifically
14 listed in the affidavit provided to the sheriff
15 pursuant to this clause for the duration of the
16 temporary order.

17 (C) As used in this subparagraph, the term
18 "cause" shall be limited to facts relating to the
19 inability of the defendant to retrieve a specific
20 firearm within 24 hours due to the current location
21 of the firearm.

22 (ii) The court's order shall contain a list of any
23 firearm, other weapon or ammunition ordered relinquished.
24 Upon the entry of a final order, the defendant shall
25 inform the court in what manner the defendant is going to
26 relinquish any firearm, other weapon or ammunition
27 ordered relinquished. Relinquishment may occur pursuant
28 to section 6108.2 (relating to relinquishment for
29 consignment sale[,] or lawful [transfer or safekeeping)
30 or 6108.3] transfer) or to the sheriff pursuant to this

1 paragraph. Where the sheriff is designated, the sheriff
2 shall secure custody of the defendant's firearms, other
3 weapons or ammunition and any firearm license listed in
4 the court's order for the duration of the order or until
5 otherwise directed by court order. In securing custody of
6 the defendant's relinquished firearms, the sheriff shall
7 comply with 18 Pa.C.S. § [6105(f)(4)] 6105(f)(3)
8 (relating to persons not to possess, use, manufacture,
9 control, sell or transfer firearms). In securing custody
10 of the defendant's other weapons and ammunition, the
11 sheriff shall provide the defendant with a signed and
12 dated written receipt which shall include a detailed
13 description of the other weapon or ammunition and its
14 condition. The court shall inform the defendant that
15 firearms, other weapons or ammunition will be considered
16 abandoned if the defendant does not request return within
17 six months after expiration of the order or dismissal of
18 a petition for a protection from abuse order, as provided
19 under section 6108.1 (relating to return of relinquished
20 firearms, other weapons and ammunition and additional
21 relief). The sheriff may dispose of the firearms, other
22 weapons or ammunition after that period, provided that
23 the defendant is notified of the disposal and receives
24 any proceeds from the disposal, less the costs to the
25 sheriff associated with taking possession of, storing and
26 disposing of the firearms, other weapons or ammunition.

27 (iii) The sheriff shall provide the plaintiff with
28 the name of the person to which any firearm, other weapon
29 or ammunition was relinquished.

30 (iv) Unless the defendant has complied with

1 subparagraph (i) (B) or section 6108.2 [or 6108.3], if the
2 defendant fails to relinquish any firearm, other weapon,
3 ammunition or firearm license within 24 hours or upon the
4 close of the next business day due to closure of
5 sheriffs' offices or within the time ordered by the court
6 upon cause being shown at the hearing, the sheriff shall,
7 at a minimum, provide immediate notice to the court, the
8 plaintiff and appropriate law enforcement agencies. The
9 court may issue an order directing a law enforcement
10 agency to search for and seize the defendant's firearms
11 upon a showing by the petitioner that the respondent has
12 possession of a firearm and:

13 (A) the defendant denies the existence of
14 firearms, weapons or ammunition;

15 (B) the petitioner can describe with sufficient
16 particularity the type and location of the firearms;
17 and

18 (C) the respondent has used or threatened to use
19 a firearm against the petitioner or the petitioner
20 expresses a fear that the respondent may use a
21 firearm against the petitioner.

22 (v) Any portion of any order or any petition or
23 other paper which includes a list of any firearm, other
24 weapon or ammunition ordered relinquished shall be kept
25 in the files of the court as a permanent record thereof
26 and withheld from public inspection except:

27 (A) upon an order of the court granted upon
28 cause shown;

29 (B) as necessary, by law enforcement and court
30 personnel; or

1 (C) after redaction of information listing any
2 firearm, other weapon or ammunition.

3 (vi) As used in this paragraph, the term
4 "defendant's firearms" shall, if the defendant is a
5 licensed firearms dealer, only include firearms in the
6 defendant's personal firearms collection pursuant to 27
7 CFR § 478.125a (relating to personal firearms
8 collection).

9 * * *

10 (e.1) Effect of incarceration.--

11 (1) The court may extend the terms of an existing order
12 of protection from abuse or, if the order is no longer in
13 effect, grant a new order upon a showing that:

14 (i) the defendant is about to be released from
15 incarceration or has recently been released from
16 incarceration;

17 (ii) the defendant previously violated a prior or
18 existing order of protection from abuse; and

19 (iii) the petitioner is reasonably in fear of
20 physical harm from the defendant.

21 (2) A petitioner does not need to show that physical
22 harm from the defendant is imminent to obtain an extension of
23 an existing order or a new order under this subsection.

24 * * *

25 Section 8. Sections 6108.1 and 6108.2 heading, (a), (c) and
26 (e) of Title 23 are amended to read:

27 § 6108.1. Return of relinquished firearms, other weapons and
28 ammunition and additional relief.

29 (a) General rule.--Any court order requiring the
30 relinquishment of firearms, other weapons or ammunition shall

1 provide for the return of the relinquished firearms, other
2 weapons or ammunition to the defendant upon expiration of the
3 order or dismissal of a petition for a protection from abuse
4 order. The defendant may take custody of the firearms, other
5 weapons and ammunition provided that the defendant is otherwise
6 eligible to lawfully possess the relinquished items. The
7 defendant shall not be required to pay any fees, costs or
8 charges associated with the returns, whether those fees, costs
9 or charges are imposed by the Pennsylvania State Police, any
10 local law enforcement agency or any other entity, including a
11 licensed importer, licensed manufacturer or licensed dealer in
12 order to secure return of the relinquished firearms, other
13 weapons or ammunition. The sheriff's office shall maintain a
14 weapons return form that the defendant may fill out and return
15 to the office once a temporary or final protection from abuse
16 order has been dismissed or expires.

17 (a.1) Conditions for return.--The following conditions must
18 be satisfied prior to the firearms, other weapons or ammunition
19 being returned to the defendant:

20 (1) The defendant or owner must provide reasonable proof
21 of ownership or of rightful possession of the firearms, other
22 weapon or ammunition seized.

23 (2) The firearms, other weapons or ammunition seized
24 must not be evidence of a crime.

25 (3) The defendant or owner must not be otherwise
26 prohibited by applicable Federal or State law, or another
27 condition, including, but not limited to, bail, from taking
28 possession of the firearms, other weapons or ammunition
29 seized.

30 (4) The defendant or owner must have been given a

1 clearance by the Pennsylvania State Police Instant Check
2 System Unit, requested by the sheriff's office.

3 (a.2) Notice to plaintiff.--The plaintiff of the protection
4 from abuse order shall be notified of the defendant's request to
5 return the firearms, other weapons or ammunition.

6 (a.3) Petition for return.--If there is a finding that the
7 defendant is ineligible to regain possession of the firearms,
8 other weapons or ammunition, the defendant or owner may file a
9 petition seeking their return. A copy of the petition must be
10 served upon the sheriff's office, the district attorney's office
11 and counsel for the plaintiff in the protection from abuse order
12 petition.

13 (a.4) Abandonment.--

14 (1) Any firearms, other weapons or ammunition shall be
15 presumed abandoned if the defendant does not request return
16 within six months after expiration of the order or dismissal
17 of a petition for a protection from abuse order.

18 (2) The sheriff may dispose of the firearms, other
19 weapons or ammunition after the six-month period, provided
20 that the defendant is notified of the disposal and receives
21 any proceeds from the disposal, less the costs to the sheriff
22 associated with taking possession of, storing and disposing
23 of the firearms, other weapons or ammunition.

24 (b) Modification of court's order providing for return of
25 relinquished firearm, other weapon or ammunition.--

26 [(1) The defendant may petition the court to allow for
27 the return of firearms, other weapons and ammunition to the
28 defendant prior to the expiration of the court's order. The
29 petition shall be served upon the plaintiff and the plaintiff
30 shall be a party to the proceedings regarding that petition.]

1 (2)] Any other person may petition the court to allow
2 for the return of that other person's firearms, other weapons
3 and ammunition prior to the expiration of the court's order.
4 The petition shall be served upon the plaintiff, and the
5 plaintiff shall be given notice and an opportunity to be
6 heard regarding that petition.

7 [(c) Modification of court's order to provide for
8 alternative means of relinquishing firearms, other weapons or
9 ammunition.--The defendant may petition the court for
10 modification of the order to provide for an alternative means of
11 relinquishment in accordance with this chapter. The petition
12 shall be served upon the plaintiff, and the plaintiff shall have
13 an opportunity to be heard at the hearing as provided in
14 subsection (d). Where the court orders a modification pursuant
15 to this subsection providing for alternative means of
16 relinquishment, the sheriff shall proceed as directed by the
17 court.]

18 (d) Hearing.--Within ten business days of the filing of any
19 petition under this section, a hearing shall be held before the
20 court.

21 (e) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Other person." Any person, except the defendant, who is the
25 lawful owner of a firearm, other weapon or ammunition
26 relinquished pursuant to this chapter.

27 ["Safekeeping." The secure custody of a firearm, other
28 weapon or ammunition ordered relinquished by an active
29 protection from abuse order.]

30 § 6108.2. Relinquishment for consignment sale[,] or lawful

1 transfer [or safekeeping].

2 (a) General rule.--Notwithstanding any other provision of
3 law, a defendant who is the subject of a final protection from
4 abuse order[, which order] or a temporary order which provides
5 for the relinquishment of firearms, other weapons or ammunition
6 during the period of time the order is in effect, may, within
7 the time frame specified in the order and in lieu of
8 relinquishment to the sheriff, relinquish to a dealer licensed
9 pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers)
10 any firearms, other weapons or ammunition for consignment
11 sale[,] or lawful transfer [or safekeeping]. The dealer may
12 charge the defendant a reasonable fee for accepting
13 relinquishment and for storage of any firearms, other weapons or
14 ammunition.

15 * * *

16 (c) Failure to provide affidavit.--A defendant relinquishing
17 firearms, other weapons or ammunition to a dealer pursuant to
18 subsection (a) shall, within the time frame specified in the
19 order for relinquishing firearms, other weapons or ammunition,
20 provide to the sheriff the affidavit obtained pursuant to
21 subsection (b) and relinquish to the sheriff any firearms, other
22 weapons or ammunition ordered to be relinquished which are not
23 specified in the affidavit[,] or in an affidavit provided in
24 accordance with section 6108(a)(7)(i)(B) (relating to relief)
25 [or in an acknowledgment of receipt from a third party provided
26 to the sheriff pursuant to section 6108.3 (relating to
27 relinquishment to third party for safekeeping)]. If the
28 defendant fails to comply with this subsection, the sheriff
29 shall, at a minimum, provide immediate notice to the court, the
30 plaintiff and appropriate law enforcement agencies.

1 * * *

2 [(e) Transfer upon entry of final order.--Upon entry of a
3 final protection from abuse order issued pursuant to section
4 6108, which order provides for the relinquishment of firearms,
5 other weapons or ammunition during the period of time the order
6 is in effect, a defendant who had relinquished firearms, other
7 weapons or ammunition to the sheriff pursuant to a temporary
8 order may request that the firearms, other weapons or ammunition
9 be relinquished to a dealer for consignment sale, lawful
10 transfer or safekeeping pursuant to this section. If the
11 defendant can identify a licensed dealer willing to accept the
12 firearms, other weapons or ammunition in compliance with this
13 section, the court shall order the sheriff to transport the
14 firearms, other weapons or ammunition to the licensed dealer at
15 no cost to the defendant or the licensed dealer.]

16 * * *

17 Section 9. Section 6108.3 of Title 23 is repealed:

18 [§ 6108.3. Relinquishment to third party for safekeeping.

19 (a) General rule.--A defendant who is the subject of a
20 protection from abuse order, which order provides for the
21 relinquishment of firearms, other weapons or ammunition during
22 the period of time the order is in effect, may, within the time
23 frame specified in the order and in lieu of relinquishment to
24 the sheriff, relinquish any firearms, other weapons or
25 ammunition to a third party for safekeeping.

26 (b) Transfer to third party.--

27 (1) A defendant wishing to relinquish firearms, other
28 weapons or ammunition to a third party pursuant to subsection
29 (a) shall, within the time frame specified in the order for
30 relinquishing firearms, other weapons and ammunition, report

1 to the sheriff's office in the county where the order was
2 entered along with the third party.

3 (2) Upon determination by the sheriff that the third
4 party is not prohibited from possessing firearms, other
5 weapons or ammunition pursuant to any Federal or State law
6 and after the defendant and third party have executed the
7 affidavits required under paragraph (3), the sheriff shall
8 issue a safekeeping permit to the third party, which shall
9 include, at a minimum, a list of the firearms, other weapons
10 and ammunition which will be relinquished to the third party.
11 The permit shall be issued at no cost to the third party or
12 defendant. The permit shall require the third party to
13 possess the defendant's firearms, other weapons and
14 ammunition until the time that:

15 (i) the sheriff revokes the safekeeping permit
16 pursuant to subsection (c) (1); or

17 (ii) the sheriff accepts return of the safekeeping
18 permit pursuant to subsection (d).

19 (3) (i) A defendant wishing to relinquish firearms,
20 other weapons or ammunition to a third party pursuant to
21 subsection (a) shall, in the presence of the sheriff or
22 the sheriff's designee, execute an affidavit on a form
23 prescribed by the Pennsylvania State Police which shall
24 include, at a minimum, the following:

25 (A) The caption of the case in which the
26 protection from abuse order was issued.

27 (B) The name, address, date of birth and the
28 Social Security number of the defendant.

29 (C) The name, address and date of birth of the
30 third party.

1 (D) A list of the firearms, other weapons and
2 ammunition which will be relinquished to the third
3 party, including, if applicable, the manufacturer,
4 model and serial number.

5 (E) An acknowledgment that the defendant will
6 not take possession of any firearm, other weapon or
7 ammunition relinquished to the third party until the
8 sheriff accepts return of the safekeeping permit
9 pursuant to subsection (d).

10 (F) A plain-language summary of 18 Pa.C.S. §
11 6105(a.1)(2) and (c)(6) (relating to persons not to
12 possess, use, manufacture, control, sell or transfer
13 firearms).

14 (G) A plain-language summary of 18 U.S.C. §
15 922(g)(8) (relating to unlawful acts).

16 (ii) A third party who will be accepting possession
17 of firearms, other weapons and ammunition pursuant to
18 subsection (a) shall, in the presence of the sheriff or
19 the sheriff's designee, execute an affidavit on a form
20 prescribed by the Pennsylvania State Police which shall
21 include, at a minimum, the following:

22 (A) The caption of the case in which the
23 protection from abuse order was issued.

24 (B) The name, address and date of birth of the
25 defendant.

26 (C) The name, address, date of birth and the
27 Social Security number of the third party.

28 (D) A list of the firearms, other weapons and
29 ammunition which will be relinquished to the third
30 party, including, if applicable, the manufacturer,

1 model and serial number.

2 (E) An acknowledgment that no firearm, other
3 weapon or ammunition relinquished to the third party
4 will be returned to the defendant until the sheriff
5 accepts return of the safekeeping permit pursuant to
6 subsection (d).

7 (F) A plain-language summary of 18 Pa.C.S. §§
8 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or
9 transfer of firearms) and 6115 (relating to loans on,
10 or lending or giving firearms prohibited).

11 (G) A plain-language summary of this section.

12 (H) An acknowledgment that the third party is
13 not prohibited from possessing firearms, other
14 weapons or ammunition pursuant to any Federal or
15 State law.

16 (I) An acknowledgment that the third party is
17 not subject to an active protection from abuse order.

18 (J) An acknowledgment that the defendant has
19 never been the subject of a protection from abuse
20 order issued on behalf of the third party.

21 (K) An acknowledgment that any firearms, other
22 weapons and ammunition relinquished to the third
23 party will be stored using a locking device as
24 defined in paragraph (1) of the definition of
25 "locking device" in 18 Pa.C.S. § 6142(f) (relating to
26 locking device for firearms) or in a secure location
27 to which the defendant does not have access.

28 (L) A detailed description of the third party
29 liability pursuant to this section relating to civil
30 liability.

1 (M) An acknowledgment that the third party shall
2 inform the sheriff of any change of address for the
3 third party within seven days of the change of
4 address.

5 (4) The defendant shall, within the time frame specified
6 in the order and in lieu of relinquishment to the sheriff,
7 relinquish the firearms, other weapons and ammunition
8 specified in the affidavits provided to the sheriff pursuant
9 to paragraph (3) to the third party who has been issued a
10 safekeeping permit pursuant to paragraph (2). Upon
11 relinquishment of the firearms to the third party, the third
12 party shall sign an acknowledgment of receipt on a form
13 prescribed by the Pennsylvania State Police, which shall
14 include, at a minimum, an acknowledgment that the firearms
15 were relinquished to the third party within the time frame
16 specified in the order.

17 (5) Within 24 hours of the issuance of the safekeeping
18 permit issued to the third party pursuant to paragraph (2) or
19 by close of the next business day as necessary due to the
20 closure of the sheriff's office, the defendant shall return
21 the signed acknowledgment of receipt required under paragraph
22 (4) to the sheriff in the county where the order was entered.

23 (6) If the defendant fails to provide the acknowledgment
24 of receipt to the sheriff as required under paragraph (5), an
25 affidavit prepared in accordance with section 6108(a)(7)(i)
26 (B) (relating to relief), an affidavit under section 6108.2
27 (relating to relinquishment for consignment sale, lawful
28 transfer or safekeeping) or fails to relinquish any firearms,
29 other weapons or ammunition, the sheriff shall, at a minimum,
30 provide immediate notice to the court, the plaintiff and

1 appropriate law enforcement agencies.

2 (c) Revocation of safekeeping permit.--

3 (1) The sheriff shall revoke a third party's safekeeping
4 permit and require the third party to relinquish to the
5 sheriff any firearms, other weapons or ammunition which were
6 relinquished to the third party by a defendant pursuant to
7 subsection (a) upon determining or being notified that any of
8 the following apply:

9 (i) A protection from abuse order has been entered
10 against the third party.

11 (ii) The third party is prohibited from possessing
12 firearms, other weapons or ammunition pursuant to any
13 Federal or State law.

14 (iii) The defendant has been convicted of a
15 violation of 18 Pa.C.S. Ch. 61 (relating to firearms and
16 other dangerous articles) or any other offense involving
17 the use of a firearm.

18 (iv) The defendant has been held in indirect
19 criminal contempt for violating a provision of the
20 protection from abuse order consistent with section
21 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

22 (2) Upon revocation of a safekeeping permit, the sheriff
23 shall seize the safekeeping permit and all of the defendant's
24 firearms, other weapons and ammunition which were
25 relinquished to the third party. If revocation of the
26 safekeeping permit was:

27 (i) Required pursuant to paragraph (1)(i) or (ii),
28 the sheriff shall notify the defendant that the firearms,
29 other weapons and ammunition which were relinquished to
30 the third party are in the sheriff's possession and that

1 the defendant may report to the sheriff's office in order
2 to relinquish the firearms, other weapons and ammunition
3 to a subsequent third party pursuant to this section or
4 to a licensed dealer pursuant to section 6108.2.

5 (ii) Required pursuant to paragraph (1)(iii) or
6 (iv), the sheriff shall maintain possession of the
7 firearms, other weapons and ammunition until the
8 defendant is no longer prohibited from possessing
9 firearms, other weapons and ammunition pursuant to any
10 Federal or State law unless:

11 (A) the defendant has the firearms, other
12 weapons and ammunition relinquished to a licensed
13 dealer pursuant to section 6108.2; or

14 (B) the sheriff is directed to relinquish the
15 firearms, other weapons and ammunition pursuant to a
16 court order.

17 (d) Return of safekeeping permit.--

18 (1) Following expiration of a protection from abuse
19 order, which order provided for the relinquishment of
20 firearms, other weapons or ammunition, the defendant and the
21 third party shall report to the sheriff's office to return
22 the safekeeping permit. Upon a determination by the sheriff
23 that the defendant is:

24 (i) Not prohibited from possessing firearms, other
25 weapons and ammunition, the sheriff shall accept the
26 return of the safekeeping permit, and the third party
27 shall relinquish to the defendant all of the defendant's
28 firearms, other weapons and ammunition which were
29 relinquished to the third party pursuant to this section.

30 (ii) Prohibited from possessing a firearm, other

1 weapon or ammunition pursuant to any Federal or State
2 law, the sheriff shall accept return of the permit and
3 seize from the third party all of the defendant's
4 firearms, other weapons and ammunition which were
5 relinquished to the third party pursuant to this section.
6 The sheriff shall return to the defendant any firearm,
7 other weapon or ammunition which the defendant is
8 lawfully entitled to possess.

9 (2) Upon issuance of a court order pursuant to 18
10 Pa.C.S. §§ 6105(f) (2) or 6108.1(b) (relating to return of
11 relinquished firearms, other weapons and ammunition and
12 additional relief) which modifies a valid protection from
13 abuse order by allowing the defendant to take possession of a
14 firearm, other weapon or ammunition that had previously been
15 ordered relinquished, the defendant and the third party shall
16 report to the sheriff's office to return the safekeeping
17 permit. The sheriff shall proceed as directed by the court
18 order.

19 (3) If a third party wishes to relinquish the
20 defendant's firearms, other weapons and ammunition prior to
21 return of the safekeeping permit pursuant to paragraph (1),
22 the sheriff shall accept return of the safekeeping permit and
23 shall seize all of the defendant's firearms, other weapons
24 and ammunition from the third party. The sheriff shall notify
25 the defendant that the firearms, other weapons and ammunition
26 which were relinquished to the third party are in the
27 sheriff's possession and that the defendant may relinquish
28 the firearms, other weapons and ammunition to a subsequent
29 third party pursuant to this section or to a licensed dealer
30 pursuant to section 6108.2.

1 (e) Civil liability.--A third party who intentionally or
2 knowingly violates any of the provisions of this section shall,
3 in addition to any other penalty prescribed in this chapter or
4 18 Pa.C.S. Ch. 61, be civilly liable to any person for any
5 damages caused thereby and, in addition, shall be liable to any
6 person for punitive damages in an amount not to exceed \$5,000,
7 and the court shall award a prevailing plaintiff a reasonable
8 attorney fee as part of the costs.

9 (f) Forms.--The Pennsylvania State Police shall develop and
10 make available:

11 (1) Forms to be used by sheriffs to issue safekeeping
12 permits pursuant to subsection (b) (2).

13 (2) Affidavit forms and receipt forms to be used by
14 defendants and third parties as required under subsection (b)
15 (3) and (4).

16 (g) Transfer upon final entry.--A defendant who has
17 previously relinquished firearms, other weapons or ammunition to
18 the sheriff pursuant to a temporary order shall be permitted to
19 have the firearms, other weapons and ammunition relinquished to
20 a third party pursuant to this section following entry of a
21 final protection from abuse order, which order provides for the
22 relinquishment of firearms, other weapons or ammunition during
23 the period of time the order is in effect.

24 (h) Nondisclosure.--All copies of the safekeeping permit
25 issued under subsection (b) (2) retained by the sheriff and the
26 affidavits and forms obtained under subsection (b) (3) and (4)
27 shall not be subject to access under the act of June 21, 1957
28 (P.L.390, No.212), referred to as the Right-to-Know Law.

29 (i) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Safekeeping." The secure custody of firearms, other weapons
3 or ammunition which were ordered relinquished by an active
4 protection from abuse order.

5 "Third party." A person, other than the defendant, who:

6 (1) Is not a member of the defendant's household.

7 (2) Is not prohibited from possessing firearms pursuant
8 to any Federal or State law.]

9 Section 10. This act shall take effect in 60 days.