
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1779 Session of
2013

INTRODUCED BY CONKLIN, SANKEY, V. BROWN, BROWNLEE, CLAY, COHEN,
D. COSTA, DAVIDSON, DAVIS, DeLUCA, HAGGERTY, KIRKLAND, KORTZ,
KULA, MAHONEY, MOLCHANY, MURT, NEILSON, PASHINSKI,
SCHLOSSBERG, SWANGER, TRUITT AND WATSON, OCTOBER 22, 2013

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 22, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in protection from abuse, further
3 providing for relief; and making editorial changes.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 6108(a) of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended and the section is amended by
8 adding a subsection to read:

9 § 6108. Relief.

10 (a) General rule.--The court may grant any protection order
11 or approve any consent agreement to bring about a cessation of
12 abuse of the plaintiff or minor children. The order or agreement
13 may include:

14 (1) Directing the defendant to refrain from abusing the
15 plaintiff or minor children.

16 (2) Granting possession to the plaintiff of the
17 residence or household to the exclusion of the defendant by

1 evicting the defendant or restoring possession to the
2 plaintiff if the residence or household is jointly owned or
3 leased by the parties, is owned or leased by the entireties
4 or is owned or leased solely by the plaintiff.

5 (3) If the defendant has a duty to support the plaintiff
6 or minor children living in the residence or household and
7 the defendant is the sole owner or lessee, granting
8 possession to the plaintiff of the residence or household to
9 the exclusion of the defendant by evicting the defendant or
10 restoring possession to the plaintiff or, with the consent of
11 the plaintiff, ordering the defendant to provide suitable
12 alternate housing.

13 (4) Awarding temporary custody of or establishing
14 temporary visitation rights with regard to minor children. In
15 determining whether to award temporary custody or establish
16 temporary visitation rights pursuant to this paragraph, the
17 court shall consider any risk posed by the defendant to the
18 children as well as risk to the plaintiff. The following
19 shall apply:

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

24 (A) abused the minor children of the parties or
25 poses a risk of abuse toward the minor children of
26 the parties; or

27 (B) has been convicted of violating 18 Pa.C.S. §
28 2904 (relating to interference with custody of
29 children) within two calendar years prior to the
30 filing of the petition for protection order or that

1 the defendant poses a risk of violating 18 Pa.C.S. §
2 2904.

3 (ii) Where the court finds after a hearing under
4 this chapter that the defendant has inflicted abuse upon
5 the plaintiff or a child, the court may require
6 supervised custodial access by a third party. The third
7 party must agree to be accountable to the court for
8 supervision and execute an affidavit of accountability.

9 (iii) Where the court finds after a hearing under
10 this chapter that the defendant has inflicted serious
11 abuse upon the plaintiff or a child or poses a risk of
12 abuse toward the plaintiff or a child, the court may:

13 (A) award supervised visitation in a secure
14 visitation facility; or

15 (B) deny the defendant custodial access to a
16 child.

17 (iv) If a plaintiff petitions for a temporary order
18 under section 6107(b) (relating to hearings) and the
19 defendant has partial, shared or full custody of the
20 minor children of the parties by order of court or
21 written agreement of the parties, the custody shall not
22 be disturbed or changed unless the court finds that the
23 defendant is likely to inflict abuse upon the children or
24 to remove the children from the jurisdiction of the court
25 prior to the hearing under section 6107(a). Where the
26 defendant has forcibly or fraudulently removed any minor
27 child from the care and custody of a plaintiff, the court
28 shall order the return of the child to the plaintiff
29 unless the child would be endangered by restoration to
30 the plaintiff.

1 (v) Nothing in this paragraph shall bar either party
2 from filing a petition for custody under Chapter 53
3 (relating to child custody) or under the Pennsylvania
4 Rules of Civil Procedure.

5 (vi) In order to prevent further abuse during
6 periods of access to the plaintiff and child during the
7 exercise of custodial rights, the court shall consider,
8 and may impose on a custody award, conditions necessary
9 to assure the safety of the plaintiff and minor children
10 from abuse.

11 (5) After a hearing in accordance with section 6107(a),
12 directing the defendant to pay financial support to those
13 persons the defendant has a duty to support, requiring the
14 defendant, under sections 4324 (relating to inclusion of
15 spousal medical support) and 4326 (relating to mandatory
16 inclusion of child medical support), to provide health
17 coverage for the minor child and spouse, directing the
18 defendant to pay all of the unreimbursed medical expenses of
19 a spouse or minor child of the defendant to the provider or
20 to the plaintiff when he or she has paid for the medical
21 treatment, and directing the defendant to make or continue to
22 make rent or mortgage payments on the residence of the
23 plaintiff to the extent that the defendant has a duty to
24 support the plaintiff or other dependent household members.
25 The support order shall be temporary, and any beneficiary of
26 the order must file a complaint for support under the
27 provisions of [Chapters] Chapter 43 (relating to support
28 matters generally) and [45 (relating to reciprocal
29 enforcement of support orders)] Parts VIII (relating to
30 uniform interstate family support) and VIII-A (relating to

1 intrastate family support) within two weeks of the date of
2 the issuance of the protection order. If a complaint for
3 support is not filed, that portion of the protection order
4 requiring the defendant to pay support is void. When there is
5 a subsequent ruling on a complaint for support, the portion
6 of the protection order requiring the defendant to pay
7 support expires.

8 (6) Prohibiting the defendant from having any contact
9 with the plaintiff or minor children, including, but not
10 limited to, restraining the defendant from entering the place
11 of employment or business or school of the plaintiff or minor
12 children and from harassing the plaintiff or plaintiff's
13 relatives or minor children.

14 (6.1) Requiring a GPS electronic monitoring device be
15 placed on the defendant if the defendant is found to present
16 a substantial risk of violating the final protection from
17 abuse order or committing a crime punishable by imprisonment.
18 The following shall apply:

19 (i) A GPS shall monitor the defendant's location
20 relative to all persons for whom protection is sought.
21 The court shall determine the distance at which the
22 defendant is to remain from all persons seeking
23 protection from abuse and specific locations from which
24 the defendant shall refrain.

25 (ii) Except as provided under subparagraph (iii),
26 the court shall order the defendant to wear the GPS
27 monitoring device for the entire period of time that the
28 final protection from abuse order is in effect.

29 (iii) The court may only order the GPS electronic
30 monitoring device be removed from the defendant prior to

1 the expiration of the final protection from abuse order
2 if the court notifies the plaintiff covered by the final
3 protection from abuse order that the GPS electronic
4 monitoring device has been ordered by the court to be
5 removed.

6 (7) Ordering the defendant to temporarily relinquish to
7 the sheriff the defendant's other weapons and ammunition
8 which have been used or been threatened to be used in an
9 incident of abuse against the plaintiff or the minor children
10 and the defendant's firearms and prohibiting the defendant
11 from acquiring or possessing any firearm for the duration of
12 the order and requiring the defendant to relinquish to the
13 sheriff any firearm license issued under section 6108.3
14 (relating to relinquishment to third party for safekeeping)
15 or 18 Pa.C.S. § 6106 (relating to firearms not to be carried
16 without a license) or 6109 (relating to licenses) the
17 defendant may possess. A copy of the court's order shall be
18 transmitted to the chief or head of the police force or
19 police department of the municipality and to the sheriff of
20 the county of which the defendant is a resident. When
21 relinquishment is ordered, the following shall apply:

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

1 the defendant's firearms.

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

23 (C) As used in this subparagraph, the term
24 "cause" shall be limited to facts relating to the
25 inability of the defendant to retrieve a specific
26 firearm within 24 hours due to the current location
27 of the firearm.

28 (ii) The court's order shall contain a list of any
29 firearm, other weapon or ammunition ordered relinquished.
30 Upon the entry of a final order, the defendant shall

1 inform the court in what manner the defendant is going to
2 relinquish any firearm, other weapon or ammunition
3 ordered relinquished. Relinquishment may occur pursuant
4 to section 6108.2 (relating to relinquishment for
5 consignment sale, lawful transfer or safekeeping) or
6 6108.3 or to the sheriff pursuant to this paragraph.
7 Where the sheriff is designated, the sheriff shall secure
8 custody of the defendant's firearms, other weapons or
9 ammunition and any firearm license listed in the court's
10 order for the duration of the order or until otherwise
11 directed by court order. In securing custody of the
12 defendant's relinquished firearms, the sheriff shall
13 comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons
14 not to possess, use, manufacture, control, sell or
15 transfer firearms). In securing custody of the
16 defendant's other weapons and ammunition, the sheriff
17 shall provide the defendant with a signed and dated
18 written receipt which shall include a detailed
19 description of the other weapon or ammunition and its
20 condition.

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

24 (iv) Unless the defendant has complied with
25 subparagraph (i)(B) or section 6108.2 or 6108.3, if the
26 defendant fails to relinquish any firearm, other weapon,
27 ammunition or firearm license within 24 hours or upon the
28 close of the next business day due to closure of
29 sheriffs' offices or within the time ordered by the court
30 upon cause being shown at the hearing, the sheriff shall,

1 at a minimum, provide immediate notice to the court, the
2 plaintiff and appropriate law enforcement agencies.

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

8 (A) upon an order of the court granted upon
9 cause shown;

10 (B) as necessary, by law enforcement and court
11 personnel; or

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

14 (vi) As used in this paragraph, the term
15 "defendant's firearms" shall, if the defendant is a
16 licensed firearms dealer, only include firearms in the
17 defendant's personal firearms collection pursuant to 27
18 CFR § 478.125a (relating to personal firearms
19 collection).

20 (7.1) If the defendant is a licensed firearms dealer,
21 ordering the defendant to follow such restrictions as the
22 court may require concerning the conduct of his business,
23 which may include ordering the defendant to relinquish any
24 Federal or State license for the sale, manufacture or
25 importation of firearms as well as firearms in the
26 defendant's business inventory. In restricting the defendant
27 pursuant to this paragraph, the court shall make a reasonable
28 effort to preserve the financial assets of the defendant's
29 business while fulfilling the goals of this chapter.

30 (8) Directing the defendant to pay the plaintiff for

1 reasonable losses suffered as a result of the abuse,
2 including medical, dental, relocation and moving expenses;
3 counseling; loss of earnings or support; costs of repair or
4 replacement of real or personal property damaged, destroyed
5 or taken by the defendant or at the direction of the
6 defendant; and other out-of-pocket losses for injuries
7 sustained. In addition to out-of-pocket losses, the court may
8 direct the defendant to pay reasonable attorney fees. An
9 award under this chapter shall not constitute a bar to
10 litigation for civil damages for injuries sustained from the
11 acts of abuse giving rise to the award or a finding of
12 contempt under this chapter.

13 (9) Directing the defendant to refrain from stalking or
14 harassing the plaintiff and other designated persons as
15 defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and
16 2709.1 (relating to stalking).

17 (10) Granting any other appropriate relief sought by the
18 plaintiff.

19 * * *

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

23 "GPS." A global positioning system operated by the
24 Department of Defense that provides specially coded satellite
25 signals that may be processed by a receiver to compute a
26 location.

27 "GPS electronic monitoring device." A device that enables
28 the location of a person wearing the device to be monitored
29 through use of a GPS and related technology and is designed so
30 that the device:

1 (1) actively and continuously monitors, identifies and
2 reports location data within a 100-mile radius;

3 (2) permits the Pennsylvania State Police and any local
4 police department to receive location data, record it
5 securely and confidentially retain it indefinitely;

6 (3) may be worn around a person's wrist or ankle; and

7 (4) once fitted around a person's wrist or ankle, cannot
8 be removed without using specialized equipment specifically
9 designed for that purpose and alerting the Pennsylvania State
10 Police and each local police department that it has been
11 removed.

12 Section 2. This act shall take effect in 60 days.