THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2109 Session of 2018

INTRODUCED BY McCARTER, SIMS, KINSEY, SCHLOSSBERG, FRANKEL, SCHWEYER, PASHINSKI, DEAN, BRIGGS, DAVIS, FREEMAN, FITZGERALD, STURLA AND J. McNEILL, FEBRUARY 26, 2018

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 26, 2018

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania 1 Consolidated Statutes, in firearms and other dangerous 2 articles, further providing for persons not to possess, use, 3 manufacture, control, sell or transfer firearms and for licenses; and providing for firearm restraining order. 5 6 The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: Section 1. Section 6105 of Title 18 of the Pennsylvania 8 Consolidated Statutes is amended to read: 9 10 § 6105. Persons not to possess, use, manufacture, control, sell 11 or transfer firearms. 12 (a) Offense defined. --13 A person who has been convicted of an offense 14 enumerated in subsection (b), within or without this 15 Commonwealth, regardless of the length of sentence or whose 16 conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or 17 18 obtain a license to possess, use, control, sell, transfer or

manufacture a firearm in this Commonwealth.

(2) (i) A person who is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm under paragraph (1) or subsection (b) or (c) shall have a reasonable period of time, not to exceed 60 days from the date of the imposition of the disability under this subsection, in which to sell or transfer that person's firearms to another eligible person who is not a member of the prohibited person's household.

(ii) This paragraph shall not apply to any person whose disability is imposed pursuant to subsection (c) (6) or (6.1).

(a.1) Penalty.--

- (1) Except as provided under paragraph (1.1), a person convicted of a felony enumerated under subsection (b) or a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, who violates subsection (a) commits a felony of the second degree.
- (1.1) The following shall apply:
 - (i) A person convicted of a felony enumerated under subsection (b) or a felony under The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, who violates subsection (a) commits a felony of the first degree if:
 - (A) at the time of the commission of a violation of subsection (a), the person has previously been convicted of an offense under subsection (a); or

1 (B) at the time of the commission of a violation 2 of subsection (a), the person was in physical 3 possession or control of a firearm, whether visible, 4 concealed about the person or within the person's 5 reach.

- (ii) The Pennsylvania Commission on Sentencing, under 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for a sentence imposed pursuant to this paragraph.
- A person who is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 (relating to relief) or an active firearm restraining order under section 6190.5 (relating to relief), which order provided for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, commits a misdemeanor of the first degree if he intentionally or knowingly fails to relinquish a firearm, other weapon or ammunition to the sheriff as required by the order unless, in lieu of relinquishment, he provides an affidavit which lists the firearms, other weapons or ammunition to the sheriff in accordance with either 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 (relating to relinquishment to third party for safekeeping)[.] or in accordance with either section 6190.5(a)(2) or (a.1)(3)(i) or 6190.8 (relating to relinquishment for consignment sale, lawful transfers and safekeeping).
 - (3) (i) A person commits a misdemeanor of the third degree if he intentionally or knowingly accepts

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possession of a firearm, other weapon or ammunition from a person he knows is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 or an active firearm restraining order issued under section 6190.5, which order provided for the relinquishment of the firearm, other weapon or ammunition during the period of time the order is in effect.

- (ii) This paragraph shall not apply to:
- (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 (relating to licensing of dealers) or subsequent purchaser from a dealer licensed pursuant to section 6113, who accepts possession of a firearm, other weapon or ammunition relinquished pursuant to 23 Pa.C.S. § 6108.2 or under section 6190.8.
- (4) It shall be an affirmative defense to any prosecution under paragraph (3) that the person accepting possession of a firearm, other weapon or ammunition in violation of paragraph (3):
 - (i) notified the sheriff as soon as practicable that he has taken possession; and
 - (ii) relinquished possession of any firearm, other weapon or ammunition possessed in violation of paragraph(3) as directed by the sheriff.
- (5) A person who has accepted possession of a firearm, other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3 or section 6190.3 (relating to commencement of proceedings) commits a misdemeanor of the first degree if he intentionally

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- or knowingly returns a firearm, other weapon or ammunition to
- 2 a defendant or intentionally or knowingly allows a defendant
- 3 to have access to the firearm, other weapon or ammunition
- 4 prior to either of the following:
- (i) The sheriff accepts return of the safekeeping permit issued to the party pursuant to 23 Pa.C.S. §
- 7 6108.3(d)(1)(i).
- 8 (ii) The issuance of a court order pursuant to 9 subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to 10 return of relinquished firearms, other weapons and ammunition and additional relief) or section 6190.7(b) 11 12 (relating to return of relinguished firearms, other weapons and ammunition, and additional relief) which 13 14 modifies a valid protection from abuse order issued 15 pursuant to 23 Pa.C.S. § 6108 or a valid firearm restraining order under section 6190.5, which order 16 17 provided for the relinquishment of the firearm, other 18 weapon or ammunition by allowing the defendant to take 19 possession of the firearm, other weapon or ammunition 20 that had previously been ordered relinquished.
- 21 (b) Enumerated offenses.—The following offenses shall apply 22 to subsection (a):
- 23 Section 908 (relating to prohibited offensive weapons).
- 24 Section 911 (relating to corrupt organizations).
- 25 Section 912 (relating to possession of weapon on school
- property).
- 27 Section 2502 (relating to murder).
- 28 Section 2503 (relating to voluntary manslaughter).
- 29 Section 2504 (relating to involuntary manslaughter) if
- 30 the offense is based on the reckless use of a firearm.

- 1 Section 2702 (relating to aggravated assault).
- 2 Section 2703 (relating to assault by prisoner).
- 3 Section 2704 (relating to assault by life prisoner).
- 4 Section 2709.1 (relating to stalking).
- 5 Section 2716 (relating to weapons of mass destruction).
- 6 Section 2901 (relating to kidnapping).
- 7 Section 2902 (relating to unlawful restraint).
- 8 Section 2910 (relating to luring a child into a motor
- 9 vehicle or structure).
- 10 Section 3121 (relating to rape).
- 11 Section 3123 (relating to involuntary deviate sexual
- intercourse).
- 13 Section 3125 (relating to aggravated indecent assault).
- 14 Section 3301 (relating to arson and related offenses).
- 15 Section 3302 (relating to causing or risking
- 16 catastrophe).
- 17 Section 3502 (relating to burglary).
- 18 Section 3503 (relating to criminal trespass) if the
- offense is graded a felony of the second degree or higher.
- 20 Section 3701 (relating to robbery).
- 21 Section 3702 (relating to robbery of motor vehicle).
- 22 Section 3921 (relating to theft by unlawful taking or
- disposition) upon conviction of the second felony offense.
- Section 3923 (relating to theft by extortion) when the
- offense is accompanied by threats of violence.
- Section 3925 (relating to receiving stolen property) upon
- 27 conviction of the second felony offense.
- 28 Section 4906 (relating to false reports to law
- 29 enforcement authorities) if the fictitious report involved
- 30 the theft of a firearm as provided in section 4906(c)(2).

- 1 Section 4912 (relating to impersonating a public servant)
- 2 if the person is impersonating a law enforcement officer.
- 3 Section 4952 (relating to intimidation of witnesses or
- 4 victims).
- 5 Section 4953 (relating to retaliation against witness,
- 6 victim or party).
- 7 Section 5121 (relating to escape).
- 8 Section 5122 (relating to weapons or implements for
- 9 escape).
- Section 5501(3) (relating to riot).
- 11 Section 5515 (relating to prohibiting of paramilitary
- 12 training).
- Section 5516 (relating to facsimile weapons of mass
- destruction).
- Section 6110.1 (relating to possession of firearm by
- minor).
- 17 Section 6301 (relating to corruption of minors).
- 18 Section 6302 (relating to sale or lease of weapons and
- 19 explosives).
- 20 Any offense equivalent to any of the above-enumerated
- 21 offenses under the prior laws of this Commonwealth or any
- offense equivalent to any of the above-enumerated offenses
- 23 under the statutes of any other state or of the United
- 24 States.
- 25 (c) Other persons. -- In addition to any person who has been
- 26 convicted of any offense listed under subsection (b), the
- 27 following persons shall be subject to the prohibition of
- 28 subsection (a):
- 29 (1) A person who is a fugitive from justice. This
- 30 paragraph does not apply to an individual whose fugitive

- status is based upon a nonmoving or moving summary offense under Title 75 (relating to vehicles).
 - (2) A person who has been convicted of an offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or any equivalent Federal statute or equivalent statute of any other state, that may be punishable by a term of imprisonment exceeding two years.
 - (3) A person who has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) or the former 75 Pa.C.S. § 3731, on three or more separate occasions within a five-year period. For the purposes of this paragraph only, the prohibition of subsection (a) shall only apply to transfers or purchases of firearms after the third conviction.
 - (4) A person who has been adjudicated as an incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under section 302, 303 or 304 of the provisions of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act. This paragraph shall not apply to any proceeding under section 302 of the Mental Health Procedures Act unless the examining physician has issued a certification that inpatient care was necessary or that the person was committable.
 - (5) A person who, being an alien, is illegally or unlawfully in the United States.
 - (6) A person who is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108, which order provided for the relinquishment of firearms during the

period of time the order is in effect. This prohibition shall terminate upon the expiration or vacation of an active protection from abuse order or portion thereof relating to the relinquishment of firearms.

- restraining order issued under section 6190.5, which order provided for the relinquishment of firearms during the period of time the order is in effect. The prohibition under this paragraph shall terminate upon the expiration or vacation of an active firearm restraining order or upon the expiration or vacation of vacation of any provision of a firearm restraining order relating to the relinquishment of firearms.
- (7) A person who was adjudicated delinquent by a court pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or under any equivalent Federal statute or statute of any other state as a result of conduct which if committed by an adult would constitute an offense under sections 2502, 2503, 2702, 2703 (relating to assault by prisoner), 2704, 2901, 3121, 3123, 3301, 3502, 3701 and 3923.
- (8) A person who was adjudicated delinquent by a court pursuant to 42 Pa.C.S. § 6341 or under any equivalent Federal statute or statute of any other state as a result of conduct which if committed by an adult would constitute an offense enumerated in subsection (b) with the exception of those crimes set forth in paragraph (7). This prohibition shall terminate 15 years after the last applicable delinquent adjudication or upon the person reaching the age of 30, whichever is earlier.
- 29 (9) A person who is prohibited from possessing or 30 acquiring a firearm under 18 U.S.C. § 922(g)(9) (relating to

- 1 unlawful acts). If the offense which resulted in the
- 2 prohibition under 18 U.S.C. § 922(g)(9) was committed, as
- 3 provided in 18 U.S.C. § 921(a)(33)(A)(ii) (relating to
- 4 definitions), by a person in any of the following
- 5 relationships:
- 6 (i) the current or former spouse, parent or guardian 7 of the victim;
- 8 (ii) a person with whom the victim shares a child in common;
- 10 (iii) a person who cohabits with or has cohabited
 11 with the victim as a spouse, parent or guardian; or
- 12 (iv) a person similarly situated to a spouse, parent 13 or quardian of the victim;
- then the relationship need not be an element of the offense to meet the requirements of this paragraph.
- 16 (d) Exemption.--A person who has been convicted of a crime
- 17 specified in subsection (a) or (b) or a person whose conduct
- 18 meets the criteria in subsection (c) (1), (2), (5), (7) or (9)
- 19 may make application to the court of common pleas of the county
- 20 where the principal residence of the applicant is situated for
- 21 relief from the disability imposed by this section upon the
- 22 possession, transfer or control of a firearm. The court shall
- 23 grant such relief if it determines that any of the following
- 24 apply:
- 25 (1) The conviction has been vacated under circumstances
- 26 where all appeals have been exhausted or where the right to
- appeal has expired.
- 28 (2) The conviction has been the subject of a full pardon
- 29 by the Governor.
- 30 (3) Each of the following conditions is met:

- 1 (i) The Secretary of the Treasury of the United
 2 States has relieved the applicant of an applicable
 3 disability imposed by Federal law upon the possession,
 4 ownership or control of a firearm as a result of the
 5 applicant's prior conviction, except that the court may
 6 waive this condition if the court determines that the
 7 Congress of the United States has not appropriated
 - (ii) A period of ten years, not including any time spent in incarceration, has elapsed since the most recent conviction of the applicant of a crime enumerated in subsection (b), a felony violation of The Controlled Substance, Drug, Device and Cosmetic Act or the offense which resulted in the prohibition under 18 U.S.C. § 922(g)(9).

sufficient funds to enable the Secretary of the Treasury

to grant relief to applicants eligible for the relief.

(e) Proceedings.--

- (1) If a person convicted of an offense under subsection (a), (b) or (c)(1), (2), (5), (7) or (9) makes application to the court, a hearing shall be held in open court to determine whether the requirements of this section have been met. The commissioner and the district attorney of the county where the application is filed and any victim or survivor of a victim of the offense upon which the disability is based may be parties to the proceeding.
- (2) Upon application to the court of common pleas pursuant to paragraph (1) by an applicant who is subject to the prohibition under subsection (c)(3), the court shall grant such relief if a period of ten years, not including any time spent in incarceration, has passed since the applicant's

- 1 most recent conviction under subsection (c)(3).
 - (f) Other exemptions and proceedings. --

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- (1) Upon application to the court of common pleas under this subsection by an applicant subject to the prohibitions under subsection (c)(4), the court may grant such relief as it deems appropriate if the court determines that the applicant may possess a firearm without risk to the applicant or any other person.
- If application is made under this subsection for relief from the disability imposed under subsection (c)(6) or (6.1), notice of such application shall be given to the person who had petitioned for the protection from abuse order or a firearm restraining order, and such person shall be a party to the proceedings. Notice of any court order or amendment to a court order restoring firearms possession or control shall be given to the person who had petitioned for the protection from abuse order or a firearm restraining order, to the sheriff and to the Pennsylvania State Police[.] and, in the case of a firearm restraining order, to the appropriate law enforcement agency and district attorney in the county wherein the firearm restraining order was issued. The application and any proceedings on the application shall comply with 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or with the applicable provisions of Subchapter E (relating to firearm restraining order).
 - (3) All hearings conducted under this subsection shall be closed unless otherwise requested to be open by the applicant.
- 29 (4) (i) The owner of any seized or confiscated firearms 30 or of any firearms ordered relinquished under 23 Pa.C.S.

1 § 6108 or under section 6190.5 shall be provided with a signed and dated written receipt by the appropriate law enforcement agency. This receipt shall include, but not limited to, a detailed identifying description indicating the serial number and condition of the firearm. In addition, the appropriate law enforcement agency shall be liable to the lawful owner of said confiscated, seized or relinquished firearm for any loss, damage or substantial decrease in value of said firearm that is a direct result of a lack of reasonable care by the appropriate law enforcement agency.

- Firearms shall not be engraved or permanently marked in any manner, including, but not limited to, engraving of evidence or other identification numbers. Unless reasonable suspicion exists to believe that a particular firearm has been used in the commission of a crime, no firearm shall be test fired. Any reduction in the value of a firearm due to test firing, engraving or permanently marking in violation of this paragraph shall be considered damage, and the law enforcement agency shall be liable to the lawful owner of the firearm for the reduction in value caused by the test firing, engraving or permanently marking.
- For purposes of this paragraph, the term "firearm" shall include any scope, sight, bipod, sling, light, magazine, clip, ammunition or other firearm accessory attached to or seized, confiscated or relinquished with a firearm.
- 29 (q) Other restrictions. -- Nothing in this section shall exempt a person from a disability in relation to the possession 30

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- 1 or control of a firearm which is imposed as a condition of
- 2 probation or parole or which is imposed pursuant to the
- 3 provision of any law other than this section.
- 4 (h) License prohibition. -- Any person who is prohibited from
- 5 possessing, using, controlling, selling, purchasing,
- 6 transferring or manufacturing any firearm under this section
- 7 shall not be eligible for or permitted to obtain a license to
- 8 carry a firearm under section 6109 (relating to licenses).
- 9 (i) Firearm.--As used in this section only, the term
- 10 "firearm" shall include any weapons which are designed to or may
- 11 readily be converted to expel any projectile by the action of an
- 12 explosive or the frame or receiver of any such weapon.
- 13 (j) Copy of order to State Police. -- If the court grants
- 14 relief from the disabilities imposed under this section, a copy
- 15 of the order shall be sent by the prothonotary within ten days
- 16 of the entry of the order to the Pennsylvania State Police and
- 17 shall include the name, date of birth and Social Security number
- 18 of the individual.
- 19 Section 2. Section 6109(i.1) and (m.1) of Title 18 are
- 20 amended to read:
- 21 § 6109. Licenses.
- 22 * * *
- 23 (i.1) Notice to sheriff. -- Notwithstanding any statute to the
- 24 contrary:
- 25 (1) Upon conviction of a person for a crime specified in
- section 6105(a) or (b) or upon conviction of a person for a
- 27 crime punishable by imprisonment exceeding one year or upon a
- determination that the conduct of a person meets the criteria
- 29 specified in section 6105(c)(1), (2), (3), (5), (6), (6.1) or
- 30 (9), the court shall determine if the defendant has a license

defendant has such a license, the court shall notify the
sheriff of the county in which that person resides, on a form
developed by the Pennsylvania State Police, of the identity

of the person and the nature of the crime or conduct which

to carry firearms issued pursuant to this section. If the

- 6 resulted in the notification. The notification shall be
- 7 transmitted by the judge within seven days of the conviction
- 8 or determination.

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- 9 Upon adjudication that a person is incompetent or 10 upon the involuntary commitment of a person to a mental institution for inpatient care and treatment under the act of 11 12 July 9, 1976 (P.L.817, No.143), known as the Mental Health 13 Procedures Act, or upon involuntary treatment of a person as 14 described under section 6105(c)(4) or 6190.6(c)(3)(ii)(F) 15 (relating to hearing), the judge of the court of common 16 pleas, mental health review officer or county mental health 17 and mental retardation administrator shall notify the sheriff 18 of the county in which that person resides, on a form 19 developed by the Pennsylvania State Police, of the identity 20 of the person who has been adjudicated, committed or treated 21 and the nature of the adjudication, commitment or treatment. 22 The notification shall be transmitted by the judge, mental 23 health review officer or county mental health and mental 24 retardation administrator within seven days of the
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27 (m.1) Temporary emergency licenses.--

adjudication, commitment or treatment.

28 (1) A person seeking a temporary emergency license to
29 carry a concealed firearm shall submit to the sheriff of the
30 county in which the person resides all of the following:

- (i) Evidence of imminent danger to the person or the person's minor child. For purposes of this subparagraph, the term "minor" shall have the same meaning as provided in 1 Pa.C.S. § 1991 (relating to definitions).
 - (ii) A sworn affidavit that contains the information required on an application for a license to carry a firearm and attesting that the person is 21 years of age or older, is not prohibited from owning firearms under section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) or any other Federal or State law and is not currently subject to a protection from abuse order or a protection order issued by a court of another state or an active firearm restraining order under Subchapter E (relating to firearm restraining order).
 - (iii) In addition to the provisions of subsection (h), a temporary emergency license fee established by the Commissioner of the Pennsylvania State Police for an amount that does not exceed the actual cost of conducting the criminal background check or \$10, whichever is less.
 - (iv) An application for a license to carry a firearm on the form prescribed pursuant to subsection (c).
 - (2) Upon receipt of the items required under paragraph (1), the sheriff immediately shall conduct a criminal history, juvenile delinquency and mental health record check of the applicant pursuant to section 6105. Immediately upon receipt of the results of the records check, the sheriff shall review the information and shall determine whether the applicant meets the criteria set forth in this subsection. If the sheriff determines that the applicant has met all of the

- criteria, the sheriff shall immediately issue the applicant a temporary emergency license to carry a concealed firearm.
 - (3) If the sheriff refuses to issue a temporary emergency license, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial or challenge criminal records check results that were the basis of the denial, if applicable, in the same manner as a denial of a license to carry a firearm under this section.
 - (4) A temporary emergency license issued under this subsection shall be valid for 45 days and may not be renewed. A person who has been issued a temporary emergency license under this subsection shall not be issued another temporary emergency license unless at least five years have expired since the issuance of the prior temporary emergency license. During the 45 days the temporary emergency license is valid, the sheriff shall conduct an additional investigation of the person for the purposes of determining whether the person may be issued a license pursuant to this section. If, during the course of this investigation, the sheriff discovers any information that would have prohibited the issuance of a license pursuant to this section, the sheriff shall be authorized to revoke the temporary emergency license as provided in subsection (i).
 - (5) The temporary emergency license issued pursuant to this section shall be consistent with the form prescribed in subsection (e)(3), (4) and (5). In addition to the information provided in those paragraphs, the temporary emergency license shall be clearly marked "Temporary."
 - (6) A person who holds a temporary emergency license to

- carry a firearm shall have the same rights to carry a firearm
 as a person issued a license to carry a firearm under this
 section. A licensee under this subsection shall be subject to
 all other duties, restrictions and penalties under this
 section, including revocation pursuant to subsection (i).
 - (7) A sheriff who issues a temporary emergency license to carry a firearm shall retain, for the entire period during which the temporary emergency license is in effect, the evidence of imminent danger that the applicant submitted to the sheriff that was the basis for the license, or a copy of the evidence, as appropriate.
 - (8) A person applying for a temporary emergency license shall complete the application required pursuant to subsection (c) and shall provide at the time of application the information required in paragraph (1).
 - license, if the sheriff has determined pursuant to investigation that the person issued a temporary emergency license is not disqualified and if the temporary emergency license has not been revoked pursuant to subsection (i), the sheriff shall issue a license pursuant to this section that is effective for the balance of the five-year period from the date of the issuance of the temporary emergency license.

 Records and all other information, duties and obligations regarding such licenses shall be applicable as otherwise provided in this section.
 - (10) As used in this subsection, the term "evidence of imminent danger" means:
- 29 (i) a written document prepared by the Attorney
 30 General, a district attorney, a chief law enforcement

- officer, judicial officer or their designees describing
- 2 the facts that give a person reasonable cause to fear a
- 3 criminal attack upon the person or the person's minor
- 4 child. For the purposes of this subparagraph, the term
- 5 "chief law enforcement officer" shall have the same
- 6 meaning as provided in 42 Pa.C.S. § 8951 (relating to
- 7 definitions) and "judicial officer" shall have the same
- 8 meaning as provided in 42 Pa.C.S. § 102 (relating to
- 9 definitions).
- 10 (ii) a police report.
- 11 * * *
- 12 Section 3. Chapter 61 of Title 18 is amended by adding a
- 13 subchapter to read:
- 14 SUBCHAPTER E
- 15 FIREARM RESTRAINING ORDER
- 16 Sec.
- 17 <u>6190.1. Definitions.</u>
- 18 6190.2. Jurisdiction.
- 19 6190.3. Commencement of proceedings.
- 20 6190.4. Responsibilities of law enforcement agencies.
- 21 6190.5. Relief.
- 22 <u>6190.6</u>. Hearing.
- 23 6190.7. Return of relinquished firearms, other weapons and
- 24 ammunition, and additional relief.
- 25 6190.8. Relinquishment for consignment sale, lawful transfers
- and safekeeping.
- 27 <u>6190.9. Disclosure and confidentiality.</u>
- 28 <u>6190.10</u>. Service of order.
- 29 6190.11. Violation of order.
- 30 6190.12. Contempt for violations and arrest.

- 1 6190.13. Civil contempt for violation of an order.
- 2 6190.14. Procedures and other remedies.
- 3 6190.15. Immunity.
- 4 <u>6190.16</u>. Inability to pay.
- 5 6190.17. Warrantless searches.
- 6 <u>6190.18</u>. Construction.
- 7 § 6190.1. Definitions.
- 8 The following words and phrases when used in this subchapter
- 9 shall have the meanings given to them in this section unless the
- 10 context clearly indicates otherwise:
- "Family or household member." As defined in 23 Pa.C.S. §
- 12 <u>6102 (relating to definitions).</u>
- 13 <u>"Firearm." As defined in section 6113(d) (relating to</u>
- 14 licensing of dealers).
- 15 "Firearm restraining order." An order entered by the court
- 16 <u>under this subchapter prohibiting a named person from having in</u>
- 17 the person's custody or control, purchasing, possessing or
- 18 receiving any firearms, other weapons or ammunition.
- 19 "Hearing officer." As defined in 23 Pa.C.S. § 6102 (relating
- 20 to definitions).
- "Law enforcement officer." Any officer of the Commonwealth
- 22 <u>or a political subdivision who is empowered to conduct</u>
- 23 investigations of or to make arrests for offenses enumerated in
- 24 this title and any attorney authorized by law to prosecute or
- 25 participate in the prosecution of an offense.
- 26 "Other weapon." Anything readily capable of lethal use and
- 27 possessed under circumstances not manifestly appropriate for
- 28 <u>lawful uses which it may have. The term does not include a</u>
- 29 firearm.
- 30 "Physical safety." Personal or physical harm or bodily

- 1 <u>injury or the threat of personal or physical harm or bodily</u>
- 2 injury whether by acts of hostility, aggression or harassment.
- 3 "Safekeeping permit." A permit issued by a sheriff allowing
- 4 <u>a person to take possession of any firearm, other weapon or</u>
- 5 <u>ammunition that a judge ordered a subject of a firearm</u>
- 6 restraining order in a proceeding under this subchapter.
- 7 "Sheriff."
- 8 (1) Except as provided in paragraph (2), the sheriff of
- 9 <u>a county.</u>
- 10 (2) In a city of the first class, the chief or head of
- 11 <u>the police department.</u>
- 12 <u>"Weapon." Anything readily capable of lethal use and</u>
- 13 possessed under circumstances not manifestly appropriate for
- 14 lawful uses which it may have. The term includes a firearm which
- 15 is not loaded or lacks a magazine, clip or other components to
- 16 render it immediately operable and components which can readily
- 17 be assembled into a weapon as defined by section 907 (relating
- 18 to possessing instruments of crime).
- 19 § 6190.2. Jurisdiction.
- 20 (a) General rule. -- The court shall have jurisdiction over
- 21 <u>all proceedings under this subchapter and may, at the court's</u>
- 22 discretion, develop rules or procedures as necessary to govern
- 23 proceedings under this subchapter.
- 24 (b) Effect of departure and nonresidence. -- The right of the
- 25 petitioner to relief under this subchapter shall not be affected
- 26 by the absence of the subject of the petition or restraining
- 27 <u>order from this Commonwealth or the nonresidence of the subject</u>
- 28 in this Commonwealth, if the court has personal jurisdiction
- 29 over the person in accordance with 42 Pa.C.S. § 5322 (relating
- 30 to bases of personal jurisdiction over persons outside this

- 1 Commonwealth).
- 2 § 6190.3. Commencement of proceedings.
- 3 (a) General rule.--
- 4 <u>(1) A law enforcement officer, a family or household</u>
- 5 member or a person licensed under the act of July 9, 1987
- 6 (P.L.220, No.39), known as the Social Workers, Marriage and
- Family Therapists and Professional Counselors Act, or a
- 8 <u>health care practitioner as defined under section 103 of the</u>
- 9 act of July 19, 1979 (P.L.130, No.48), known as the Health
- 10 Care Facilities Act, may petition the court for a firearm
- 11 restraining order enjoining the subject of the petition from
- 12 <u>having in the subject's custody or control, purchasing,</u>
- 13 <u>possessing or receiving a firearm, other weapon or</u>
- 14 <u>ammunition</u>.
- 15 (2) A petition for a firearm restraining order must
- include instructions which, in the court's discretion, must
- 17 require the petitioner to describe the number, type and
- location of any firearm, other weapon and ammunition known by
- the petitioner to be owned, possessed or controlled by the
- 20 <u>subject of the petition.</u>
- 21 (b) Notification of defendant's occupation. -- A law
- 22 enforcement officer, family or household member or other person
- 23 under subsection (a)(1) shall notify the court if the person has
- 24 knowledge or reason to believe that the subject of a firearm
- 25 <u>restraining order is any of the following:</u>
- 26 (1) a licensed firearms dealer;
- 27 (2) employed by a licensed firearms dealer or
- 28 manufacturer;
- 29 (3) employed as a writer, researcher or technician in
- 30 the firearms or hunting industry; or

- 1 (4) required to carry a firearm as a condition of
- 2 <u>employment</u>.
- 3 (c) Certain fees not permitted.--
- 4 (1) A person seeking relief under this subchapter shall
- 5 not be charged any fees or costs associated with the filing,
- 6 <u>issuance</u>, registration or service of a petition, motion,
- 7 <u>complaint, order or any other filing required under this</u>
- 8 <u>subchapter. Prohibited fees or costs shall include, but are</u>
- 9 <u>not limited to, those associated with modifying, withdrawing,</u>
- dismissing or certifying copies of a petition, motion,
- 11 complaint, order or any other filing, as well as any judicial
- 12 <u>surcharge or computer system fee.</u>
- 13 (2) A person seeking relief under this subchapter shall
- not be charged any fees or costs associated with filing a
- 15 <u>motion for reconsideration or an appeal from any order or</u>
- 16 action taken under this subchapter.
- 17 (3) Nothing in this subsection shall expand or diminish
- 18 the court's authority to enter an order under Pa.R.C.P. No.
- 19 1023.1 (relating to Scope. Signing of Documents.
- 20 Representations to the Court. Violation).
- 21 (d) Assessment of fees and costs. -- If a firearm restraining
- 22 order is granted under this subchapter, fees and costs may be
- 23 assessed against the subject of the order. The court shall waive
- 24 <u>fees and costs upon a showing of good cause or if the court</u>
- 25 makes a finding that the subject of the petition or order is not
- 26 able to pay the fees and costs. Nothing in this subsection shall
- 27 <u>expand or diminish the court's authority to enter an order under</u>
- 28 Pa.R.C.P. No. 1023.1.
- 29 (e) Surcharge on order.--
- 30 (1) Notwithstanding subsection (d), if a firearm

Τ.	restraining order is granted under this subchapter, a
2	surcharge of \$100 shall be assessed against the subject of
3	the restraining order.
4	(2) All money received from surcharges shall be
5	distributed in the following order of priority:
6	(i) Fifty dollars shall be forwarded to the
7	Commonwealth and shall be annually appropriated by the
8	<pre>General Assembly as follows:</pre>
9	(A) Twenty-five dollars shall be appropriated to
10	the Pennsylvania State Police to assist with the
11	maintenance of the Statewide registry established in
12	accordance with 23 Pa.C.S. § 6105(e) (relating to
13	responsibilities of law enforcement agencies).
14	(B) Twenty-five dollars shall be appropriated to
15	the Supreme Court for use by county courts and
16	magisterial district courts to carry out their duties
17	under this subchapter.
18	(ii) Fifty dollars shall be retained by the county
19	and shall be used to carry out the provisions of this
20	<pre>subchapter as follows:</pre>
21	(A) Twenty-five dollars shall be used by the
22	<pre>sheriff.</pre>
23	(B) Twenty-five dollars shall be forwarded to
24	the local law enforcement agency.
25	(3) The surcharge allocated under paragraph (2)(i) shall
26	be used to supplement and not to supplant any other source of
27	funds received for the purpose of carrying out the provisions
28	of this subchapter.
29	(f) Service
30	(1) The court shall adopt a means of prompt and

- 1 <u>effective service</u>. If the court adopts a means of prompt and
- 2 effective service, the sheriff or another court-designated
- 3 agency or individual shall serve the petition and order. The
- 4 <u>petitioner shall not be obligated to serve the petition or</u>
- 5 firearm restraining order.
- 6 (2) The petition and order shall be served upon the subject of the petition.
- 8 (3) Within two business days, the order shall be served
- 9 <u>upon the local law enforcement agency, sheriff and district</u>
- 10 attorney in the jurisdiction where the order was entered.
- 11 (4) A certified copy of the order shall be issued to the
- 12 <u>petitioner.</u>
- 13 (5) A copy of the order shall be issued as otherwise
- ordered by the court or hearing officer.
- 15 (6) Failure to serve the local law enforcement agency,
- sheriff or district attorney's office shall not stay the
- 17 effect of a valid order.
- 18 (q) Assistance and advice to petitioner. -- The court or
- 19 hearing officer shall provide simplified forms and clerical
- 20 assistance in English and Spanish to help with the writing and
- 21 filing of petitions for firearm restraining orders for any
- 22 individual requesting the assistance or not represented by
- 23 counsel.
- 24 § 6190.4. Responsibilities of law enforcement agencies.
- 25 (a) General rule. -- The Pennsylvania State Police, local law
- 26 enforcement agencies and the sheriff of each county shall ensure
- 27 that the entities' troopers, officers, deputies and other
- 28 designated employees are familiar with the provisions of this
- 29 <u>subchapter</u>. Instruction concerning firearm restraining orders
- 30 shall be made a part of the training curriculum for all trainee

- 1 troopers, officers and deputies or other designated employees of
- 2 the Pennsylvania State Police, local law enforcement agencies
- 3 and the sheriff. The Pennsylvania State Police and all other law
- 4 <u>enforcement agencies within this Commonwealth shall adopt a</u>
- 5 written policy to govern firearm restraining orders.
- 6 (b) Notice of arrest. -- The applicable law enforcement agency
- 7 <u>shall make reasonable effort to notify a family or household</u>
- 8 member or other person under section 6190.3(a)(1) (relating to
- 9 <u>commencement of proceedings</u>) of the arrest of the subject of a
- 10 firearm restraining order for violation of an order as soon as
- 11 possible, except that, if a family or household member or other
- 12 person cannot be located at the time of arrest, notice of the
- 13 arrest shall be provided not more than 24 hours after
- 14 preliminary arraignment.
- 15 <u>(c) Statewide registry.--</u>
- 16 (1) Notwithstanding any other provision of law or
- 17 regulation, the Pennsylvania State Police shall cause each
- 18 valid temporary and final firearm restraining order granted
- 19 under this subchapter to be entered into the Statewide
- 20 registry established under 23 Pa.C.S. § 6105(e) (relating to
- 21 <u>responsibilities of law enforcement agencies</u>). The registry
- 22 of firearm restraining orders maintained in the Statewide
- 23 <u>registry shall include, but may not be limited to, the</u>
- 24 following:
- 25 (i) The names of the petitioner and family and
- 26 household members of the subjects of the restraining
- orders, if known.
- 28 (ii) The names and addresses of the subjects of
- firearm restraining orders.
- 30 (iii) The familial and professional relationship

L	between the petitioners and the subjects of firearm
2	restraining orders, if known.
3	(iv) The date the order was entered.
1	(v) The date the order expires.
5	(vi) The relief granted under this subchapter.
5	(vii) The judicial district in which the order was
7	entered.
3	(viii) The Social Security number and date of birth
9	of the subject of the restraining order.
)	(ix) A listing of all firearms, other weapons or
	ammunition ordered to be relinquished.
	(2) The prothonotary shall send, on a form prescribed by
	the Pennsylvania State Police, a copy of the firearm
	restraining order to the Statewide registry so that the copy
	is received within 24 hours of the entry of the order.
	Amendments to or the revocation, vacation or expiration of an
	order shall be transmitted by the prothonotary within 24
	hours of the entry of the order for modification or
	revocation, vacation or expiration. The Pennsylvania State
	Police shall enter orders, amendments, revocations, vacations
	and expirations in the Statewide registry of firearm
	restraining orders within eight hours of receipt. Each
	revoked, vacated or expired order shall be purged from the
	registry within eight hours of receipt.
	(3) The Statewide registry shall be available at all
	times to inform courts, police dispatchers and law
	enforcement officers of any valid firearm restraining order
	involving any individual subject to an order.
	(4) If an order granting relief under section
	6190.5(a.1)(3) (relating to relief) has been entered by the

- 1 court, the information shall be available to the Pennsylvania
- 2 <u>State Police for the purpose of conducting a criminal history</u>
- 3 records check, juvenile records check and mental health
- 4 <u>records check following the procedures under section 6111</u>
- 5 <u>(relating to sale or transfer of firearms).</u>
- 6 (5) Information contained in the Statewide registry
- 7 shall not be subject to access under the act of February 14,
- 8 2008 (P.L.6, No.3), known as the Right-to-Know Law.
- 9 (d) Information concerning firearm restraining orders.--Each
- 10 local law enforcement agency and the Pennsylvania State Police
- 11 shall transmit to the Pennsylvania State Police, in a manner
- 12 prescribed by the Pennsylvania State Police, the information
- 13 <u>specified under subsection (c)(1).</u>
- 14 <u>(e) Annual report.--</u>
- 15 (1) The Pennsylvania State Police shall annually compile
- 16 <u>and publish in the Pennsylvania Bulletin a Statewide report</u>
- 17 which includes aggregate, county-based statistical profiles
- 18 of firearm restraining orders granted under this subchapter.
- 19 (2) The Pennsylvania State Police shall incorporate the
- 20 report under paragraph (1) into the annual report compiled in
- 21 accordance with 23 Pa.C.S. § 6105(q).
- 22 § 6190.5. Relief.
- 23 (a) Issuance of order. -- Notwithstanding any other provision
- 24 of law, the court:
- 25 (1) May issue a firearm restraining order enjoining the
- subject of a petition from having in the subject's custody or
- 27 <u>control, purchasing, possessing or receiving a firearm, other</u>
- weapon or ammunition if it determines that there is good
- 29 cause to believe that the subject of a petition poses an
- immediate and present danger to the physical safety of a

Τ.	Tamily of household member of other person by having in the
2	subject's custody or control, purchasing, possessing or
3	receiving a firearm, other weapon or ammunition.
4	(2) Shall issue a firearm restraining order enjoining
5	the subject of a protection order under 23 Pa.C.S. (relating
6	to domestic relations) from having in his custody or control,
7	purchasing, possessing or receiving a firearm, other weapon
8	or ammunition.
9	(a.1) Regulations and prohibitions A firearm restraining
10	order issued by the court under subsection (a) may:
11	(1) Prohibit the person subject to the firearm
12	restraining order from having in the subject's custody or
13	control, purchasing, possessing or receiving or attempting to
14	purchase, possess or receive a firearm, other weapon or
15	ammunition for the duration of the order.
16	(2) Require the subject of the firearm restraining order
17	to relinquish to the sheriff any firearm license in
18	accordance with section 6106 (relating to firearms not to be
19	carried without a license) or 6109 (relating to licenses) the
20	defendant may possess.
21	(3) Order the person subject to a firearm restraining
22	order to temporarily relinquish to the sheriff any firearm or
23	other weapons and ammunition which the person may own,
24	possess or have in the person's custody or control. If
25	relinquishment is ordered, the following shall apply:
26	(i) (A) The court's order shall require the subject
27	of the restraining order to relinquish the firearms,
28	other weapons, ammunition and any firearm license
29	under the provisions of this section within 24 hours
30	of service of a temporary order or the entry of a

final order or the close of the next business day as

necessary by closure of the sheriffs' offices, except

for cause shown at the hearing, in which case the

court shall specify the time for relinquishment of

the subject's firearms, other weapons and ammunition

or firearm license.

(B) A person subject to a temporary firearm restraining order requiring the relinguishment of firearms, other weapons and ammunition shall, in lieu of relinquishing specific firearms, other weapons or ammunition which cannot reasonably be retrieved within the time for relinquishment in clause (A) due to their current location, provide the sheriff with an affidavit listing the firearms, other weapons or ammunition and their current location. If the subject of the order, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, under this section, any firearms, other weapons or ammunition ordered to be relinguished which are not specified in the affidavit, the sheriff shall, at a minimum, provide immediate notice to the court, the petitioner and appropriate law enforcement agencies. The subject of the temporary order shall not have in the subject's custody or control or possession any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff under this clause for the duration of the temporary order.

(C) As used in this subparagraph, the term
"cause" shall be limited to facts relating to the

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1	inability of the subject of a firearm restraining
2	order to retrieve a specific firearm within 24 hours
3	due to the current location of the firearm.
4	(ii) The court's order shall contain a list of the
5	firearm, other weapon or ammunition ordered to be
6	relinquished. Upon the entry of a final order, the
7	subject of the firearm restraining order shall inform the
8	court in what manner the subject will relinquish any
9	firearm, other weapon or ammunition ordered to be
10	relinquished. Relinquishment may occur under section
11	6190.8 (relating to relinquishment for consignment sale,
12	lawful transfers and safekeeping) or to the sheriff under
13	this paragraph. If the sheriff is designated, the sheriff
14	shall secure custody of the firearms, other weapons or
15	ammunition and any firearm license listed in the court's
16	order for the duration of the order or until otherwise
17	directed by court order. In securing custody of the
18	subject's relinquished firearms, the sheriff shall comply
19	with section 6105(f)(4) (relating to persons not to
20	possess, use, manufacture, control, sell or transfer
21	firearms). In securing custody of the subject's other
22	weapons and ammunition, the sheriff shall provide the
23	subject with a signed and dated written receipt which
24	shall include a detailed description of the other weapons
25	and ammunition and their condition.
26	(iii) The sheriff shall provide the petitioner with
27	the name of the person to which any firearm, other weapon
28	or ammunition was relinquished.
29	(iv) If the subject of a firearm restraining order
30	has not complied with subparagraph (i) (B) or section

_	diso.6 and raits to retrinquish any rifearm, other weapon,
2	ammunition or firearm license within 24 hours or upon the
3	close of the next business day due to closure of
4	sheriffs' offices or within the time ordered by the court
5	upon cause shown at the hearing, the sheriff shall, at a
6	minimum, provide immediate notice to the court, the
7	petitioner and appropriate law enforcement agencies.
8	(v) Any portion of any order or any petition or
9	other paper which includes a list of any firearm, other
10	weapon or ammunition ordered to be relinquished shall be
11	kept in the files of the court as a permanent record
12	thereof and withheld from public inspection except:
13	(A) upon an order of the court granted upon
14	<pre>cause shown;</pre>
15	(B) as necessary, by law enforcement and court
16	<pre>personnel; or</pre>
17	(C) after redaction of information listing any
18	firearm, other weapon or ammunition.
19	(vi) As used in this paragraph, the term "subject's
20	firearms" shall, if the subject is a licensed firearms
21	dealer, only include firearms in the subject's personal
22	firearms collection under 27 CFR § 478.125a (relating to
23	personal firearms collection).
24	(4) If the subject of a firearm restraining order is a
25	licensed firearms dealer, order the subject to follow
26	restrictions as the court may require concerning the conduct
27	of his business, which may include ordering the subject to
28	relinquish any Federal or State license for the sale,
29	manufacture or importation of firearms as well as firearms in
30	the subject's business inventory. In restricting the subject

- of a firearm restraining order under this paragraph, the
- 2 <u>court shall make a reasonable effort to preserve the</u>
- 3 financial assets of the subject's business while fulfilling
- 4 <u>the goals of this subchapter.</u>
- 5 (b) Identifying information. -- Any order issued under this
- 6 section shall specify the Social Security number and date of
- 7 birth of the subject of the firearm restraining order.
- 8 (c) Duration and amendment of order. -- A firearm restraining
- 9 order shall be for a fixed period of time not to exceed one
- 10 year. The court may amend its order at any time upon subsequent
- 11 petition filed by a petitioner, family or household member or
- 12 <u>other person under section 6190.3 (relating to commencement of</u>
- 13 proceedings).
- 14 (d) Extension of firearm restraining order.--
- 15 <u>(1) An extension of a firearm restraining order may be</u>
- 16 granted:
- (i) Where the court finds, after a duly filed
- 18 petition, notice to the subject of an order and a hearing
- in accordance with the procedures set forth in sections
- 20 6190.5 (relating to relief) and 6190.6 (relating to
- 21 hearing) that the subject of the firearm restraining
- 22 order is alleged to have committed one or more of the
- offenses enumerated in section 6105(b) or has engaged in
- a pattern of conduct which indicates a continued risk of
- 25 danger to the physical safety of the petitioner, family
- or household member or other person or himself subsequent
- 27 to the entry of the final order.
- 28 (ii) If a contempt petition or charge has been filed
- with the court or with a hearing officer in Philadelphia
- 30 County and the hearing has not occurred before the

- 1 <u>expiration of the order, the order shall be extended, at</u>
- a minimum, until the disposition of the contempt petition
- 3 <u>and may be extended for another term beyond the</u>
- 4 <u>disposition of the contempt petition.</u>
- 5 (2) Service of an extended order shall be made in
- 6 <u>accordance with section 6190.10 (relating to service of</u>
- 7 order).
- 8 (3) There shall be no limitation on the number of
- 9 <u>extensions that may be granted.</u>
- 10 (e) Notice. -- Notice shall be given to the subject of a
- 11 firearm restraining order, in orders issued under this section
- 12 and temporary orders issued under section 6190.6, stating that
- 13 <u>violations of a firearm restraining order will subject the</u>
- 14 <u>subject of the restraining order to arrest under section 6105</u>
- 15 or 6190.11 (relating to violation of order) or contempt of court
- 16 <u>under section 6190.12</u> (relating to contempt for violation;
- 17 arrest).
- 18 (f) Transmission of order. -- A copy of the court's order
- 19 shall be transmitted to the Pennsylvania State Police, the chief
- 20 or head of the local law enforcement agency of the municipality
- 21 in which the subject of the firearm is a resident and in which
- 22 the order was issued, the district attorney and the sheriff of
- 23 the county in which the subject of the firearm restraining order
- 24 is a resident and in which the order was issued.
- 25 (g) False reports.--A person who knowingly gives false
- 26 information to any law enforcement officer with the intent to
- 27 <u>implicate another under this chapter commits an offense under</u>
- 28 section 4906 (relating to false reports to law enforcement
- 29 authorities).
- 30 <u>§ 6190.6</u>. Hearing.

- 1 (a) Schedule of hearing. -- Within 10 business days of the
- 2 <u>filing of a petition under this subchapter</u>, a hearing shall be
- 3 held before the court, at which the petitioner must prove the
- 4 <u>allegation</u>, by a preponderance of the evidence, that the subject
- 5 of the petition poses an immediate and present danger to the
- 6 physical safety of the petitioner, family or household member,
- 7 other person or himself. The court shall, at the time the
- 8 <u>subject of the petition is given notice of the hearing, advise</u>
- 9 the subject of the following:
- 10 (1) The right to be represented by counsel.
- 11 (2) The possibility that any firearm, other weapon or
- 12 <u>ammunition owned and any firearm license possessed by him may</u>
- 13 <u>be ordered to be temporarily relinquished.</u>
- 14 (3) The options for relinquishment of a firearm under
- this subchapter.
- 16 (4) The possibility that Federal law may prohibit the
- 17 <u>possession of firearms</u>.
- 18 (5) The penalty for violation of the firearm restraining
- 19 order.
- 20 (6) Any firearm restraining order granted by a court may
- 21 be considered in any subsequent proceedings under this title.
- The notice shall be printed and delivered in a manner which
- easily attracts attention to its content.
- 24 (b) Review prior to hearing. -- Prior to a hearing on the
- 25 issuance, extension or vacation of a firearm restraining order,
- 26 the court shall conduct a review to determine whether the
- 27 subject of the petition has been convicted of or has pled quilty
- 28 or nolo contendere to any of the enumerated offenses under
- 29 section 6105 (relating to persons not to possess, use,
- 30 manufacture, control, sell or transfer firearms).

1	(c) Temporary orders The following shall apply:
2	(1) If a law enforcement officer, family or household
3	member or other person under section 6190.3 (relating to
4	commencement of proceedings) petitions the court for a
5	temporary firearm restraining order alleging an immediate and
6	present danger to the physical safety of a family or
7	household member, another person or the subject of the
8	petition, the court shall conduct an ex parte proceeding.
9	(2) The court may enter a temporary order as the court
10	deems necessary to protect the petitioner, a family or
11	household member, other person or the subject of the
12	petition, if the petition demonstrates that the subject of
13	the petition poses an immediate and present danger to the
14	physical safety of such petitioner, family or household
15	member, other person or himself. The order shall remain in
16	effect until modified or terminated by the court after notice
17	and hearing.
18	(3) In addition to any other relief, the court may,
19	under section 6190.5 (relating to relief), direct the subject
20	of a firearm restraining order to temporarily relinquish to
21	the sheriff any firearms, other weapons or ammunition for the
22	duration of the temporary order if the petition demonstrates
23	any of the following:
24	(i) Conduct which involves a firearm or other
25	weapon.
26	(ii) An immediate and present danger to physical
27	safety. In determining whether an immediate and present
28	danger to physical safety exists, the court shall
29	consider the following factors, including, but not
30	limited to:

1	(A) Whether the temporary firearm restraining
2	order is not likely to achieve the order's purpose in
3	the absence of such a condition.
4	(B) Whether the subject of the petition has
5	previously violated a protection from abuse order
6	under 23 Pa.C.S. Ch. 61 (relating to protection from
7	abuse).
8	(C) Whether past or present conduct or abuse of
9	a family or household member, another person or
10	himself resulted in bodily injury.
11	(D) Whether the conduct or abuse occurred in
12	public.
13	(E) Whether the conduct or abuse includes:
14	(I) threats to physical safety or of abuse
15	or suicide;
16	(II) killing or threatening to kill pets or
17	<pre>other animals;</pre>
18	(III) an escalation of violence;
19	(IV) stalking, harassment or obsessive
20	<pre>behavior;</pre>
21	(V) sexual violence; or
22	(VI) controlled substance, as defined under
23	the act of April 14, 1972 (P.L.233, No.64), known
24	as The Controlled Substance, Drug, Device and
25	Cosmetic Act, or excessive alcohol use.
26	(F) Whether the subject of the petition has been
27	adjudicated as incompetent or has been involuntarily
28	committed to a mental institution for inpatient care
29	and treatment under section 302, 303 or 304 of the
30	act of July 9, 1976 (P.L.817, No.143), known as the

Τ	Mental Health Procedures Act. This paragraph shall
2	not apply to any proceeding under section 302 of the
3	Mental Health Procedures Act unless the examining
4	physician has issued a certification that inpatient
5	care was necessary or that the person was
6	<pre>committable.</pre>
7	(G) Whether the subject of the petition has been
8	convicted of any offense enumerated in section
9	6105(b).
- 0	(H) Whether the subject of the petition has been
.1	convicted of an offense under The Controlled
_2	Substance, Drug, Device and Cosmetic Act or any
_3	equivalent Federal statute or equivalent statute of
4	any other state, that may be punishable by a term of
_5	imprisonment of not more than two years.
6	(I) Whether the subject of the petition has been
_7	convicted of driving under the influence of alcohol
8 .	or controlled substance as provided in 75 Pa.C.S. §
9	3802 (relating to driving under influence of alcohol
20	or controlled substance) on three or more separate
21	occasions within a five-year period.
22	(4) If the court orders the subject of the petition to
23	temporarily relinquish any firearm, other weapon or
24	ammunition under paragraph (3), the subject of the petition
25	shall decide in what manner he will relinquish the firearm,
26	other weapon or ammunition listed in the order.
27	Relinquishment may be to the sheriff under section
28	6190.5(a.1)(3).
29	(d) Continued hearings If a hearing under subsection (a)
30	is continued and no temporary order is issued, the court may

- 1 <u>make ex parte temporary orders under subsection (c) as it deems</u>
- 2 necessary.
- 3 § 6190.7. Return of relinguished firearms, other weapons and
- 4 <u>ammunition, and additional relief.</u>
- 5 (a) General rule. -- Any court order requiring the
- 6 relinquishment of firearms, other weapons or ammunition shall
- 7 provide for the return of the relinquished firearms, other
- 8 <u>weapons or ammunition to the subject of a firearm restraining</u>
- 9 order upon revocation, vacation or expiration of the order or
- 10 <u>dismissal of a petition for a firearm restraining order. The</u>
- 11 <u>subject of a firearm restraining order may take custody of the</u>
- 12 relinquished firearms, other weapons or ammunition provided that
- 13 <u>such subject is otherwise eligible to lawfully possess the</u>
- 14 <u>relinquished firearms</u>, other weapons or ammunition. The subject
- 15 of the firearm restraining order shall not be required to pay
- 16 any fees, costs or charges associated with the returns, whether
- 17 the fees, costs or charges are imposed by the Pennsylvania State
- 18 Police, any local law enforcement agency or any other entity,
- 19 including a licensed importer, licensed manufacturer or licensed
- 20 dealer, in order to secure return of the relinquished firearms,
- 21 other weapons or ammunition.
- 22 (b) Hearing. -- Within 10 business days of the filing of a
- 23 petition under this section, a hearing shall be held before the
- 24 court.
- 25 (c) Definitions.--As used in this section, the term "other
- 26 person" shall mean any person, except the subject of the
- 27 <u>restraining order, who is the lawful owner of a firearm, other</u>
- 28 weapon or ammunition relinquished under this subchapter.
- 29 § 6190.8. Relinguishment for consignment sale, lawful transfers
- and safekeeping.

- 1 (a) General rule. -- Notwithstanding any other provision of
- 2 <u>law</u>, an individual who is the subject of a firearm restraining
- 3 order, which order provides for the relinquishment of firearms,
- 4 other weapons or ammunition during the period of time the order
- 5 is in effect, may, within the time frame specified in the order
- 6 and in lieu of relinquishment to the sheriff, relinquish to a
- 7 <u>dealer licensed under section 6113 (relating to licensing of</u>
- 8 <u>dealers</u>) any firearms, other weapons or ammunition for
- 9 consignment sale, lawful transfers and safekeeping.
- 10 (b) Affidavit. -- The subject of a firearm restraining order
- 11 relinguishing firearms, other weapons or ammunition to a
- 12 <u>licensed dealer under subsection (a) shall obtain an affidavit</u>
- 13 <u>from the dealer on a form prescribed by the Pennsylvania State</u>
- 14 Police which shall include, at a minimum, the following:
- 15 <u>(1) The caption of the case in which the firearm</u>
- 16 <u>restraining order was issued.</u>
- 17 (2) The name, address, date of birth and Social Security
- 18 <u>number of the subject of the firearm restraining order.</u>
- 19 (3) A list of the firearms, other weapons or ammunition,
- including, if applicable, the manufacturer, model and serial
- 21 number.
- 22 (4) The name, license number and address of the licensed
- 23 premises of the dealer licensed under section 6113 receiving
- the relinquished firearm, other weapon or ammunition.
- 25 (5) An acknowledgment that the firearms, other weapons
- or ammunition will not be returned to the subject of the
- 27 <u>restraining order or sold or transferred to an individual the</u>
- dealer knows is a family or household member of the subject
- 29 while he or she is the subject of an active firearm
- restraining order under this subchapter or an active

- 1 protection from abuse order under 23 Pa.C.S. Ch. 61 (relating
- 2 to protection from abuse) which order or orders provide for
- 3 the relinguishment of the firearm, other weapon or ammunition
- 4 <u>being returned</u>, sold or transferred.
- 5 (6) An acknowledgment that the firearms, other weapons
- or ammunition, if sold or transferred, will be sold or
- 7 <u>lawfully transferred in compliance with Chapter 61 (relating</u>
- 8 <u>to firearms and other dangerous articles).</u>
- 9 (c) Failure to provide affidavit. -- The subject of a firearm
- 10 restraining order relinquishing firearms, other weapons or
- 11 ammunition to a dealer under subsection (a) shall, within the
- 12 time frame specified in the order for relinquishing firearms,
- 13 other weapons or ammunition, provide to the sheriff the
- 14 <u>affidavit obtained under subsection (b) and relinquish to the</u>
- 15 sheriff any firearms, other weapons or ammunition ordered to be
- 16 relinquished which are not specified in the affidavit, in an
- 17 affidavit provided in accordance with section 6190.5(a.1)(3)(i)
- 18 (B) (relating to relief). If the subject of a firearm
- 19 restraining order fails to comply with this subsection, the
- 20 sheriff shall, at a minimum, provide immediate notice to the
- 21 court, the petitioner and appropriate law enforcement agencies.
- 22 (d) Form. -- The Pennsylvania State Police shall develop and
- 23 make available to licensed dealers a form to be used by dealers
- 24 to accept possession of firearms, other weapons or ammunition
- 25 for consignment sale, lawful transfer or safekeeping under this
- 26 section.
- 27 <u>(e) Transfer upon entry of final order.--Upon entry of a</u>
- 28 final firearm restraining order issued under section 6190.5,
- 29 which provides for the relinquishment of firearms, other weapons
- 30 or ammunition during the period of time the order is in effect,

- 1 the subject of a firearm restraining order who had relinquished
- 2 <u>firearms</u>, other weapons or ammunition to the sheriff under a
- 3 temporary order may request that the firearms, other weapons or
- 4 <u>ammunition be relinquished to a dealer for consignment sale,</u>
- 5 <u>lawful transfer or safekeeping under this section. If the</u>
- 6 <u>defendant can identify a licensed dealer willing to accept the</u>
- 7 <u>firearms</u>, other weapons or ammunition in compliance with this
- 8 section, the court shall order the sheriff to transport the
- 9 firearms, other weapons or ammunition to the licensed dealer at
- 10 no cost to the subject of the firearm restraining order or the
- 11 <u>licensed dealer.</u>
- 12 (f) Nondisclosure. -- The affidavit obtained under subsection
- 13 (b) shall not be subject to access under the act of February 14,
- 14 2008 (P.L.6, No.3), known as the Right-to-Know Law.
- 15 (g) Definitions. -- As used in this section, the following
- 16 words and phrases shall have the meanings given to them in this
- 17 subsection:
- 18 "Safekeeping." The secure custody of firearms, other weapons
- 19 or ammunition ordered to be relinquished by an active firearm
- 20 restraining order.
- 21 "Sale or lawful transfer." Any sale or transfer to a person
- 22 other than the subject of a firearm restraining order or a
- 23 family or household member of the subject which is conducted in
- 24 accordance with Chapter 61.
- 25 § 6190.9. Disclosure and confidentiality.
- 26 (a) Certain disclosures prohibited. --
- 27 (1) During the course of a proceeding under this
- 28 subchapter, the court or hearing officer may consider whether
- 29 the petitioner or petitioner's family or household members or
- 30 other person would be endangered by disclosure of the

- 1 permanent or temporary address of the petitioner or
- 2 petitioner's family or household member or other person. If
- 3 the court determines that disclosure of the petitioner's
- 4 <u>address may pose a threat to the physical safety of the</u>
- 5 <u>petitioner</u>, a family or household member of such petitioner
- or other person, the court or hearing officer shall not
- 7 <u>require disclosure of the petitioner's, family or household</u>
- 8 <u>member's or other person's address in either the pleadings or</u>
- 9 <u>during proceedings or hearings under this subchapter.</u>
- 10 (2) If the court concludes that the subject of a
- 11 <u>restraining order continues to pose a threat to the physical</u>
- 12 <u>safety of the petitioner, a family or household member of the</u>
- 13 <u>petitioner or another person and where the petitioner, family</u>
- or household member or other person requests that his or her
- 15 <u>address, telephone number and information about whereabouts</u>
- not be disclosed, the court shall enter an order directing
- that law enforcement agencies and any other person or entity,
- 18 as the court so determines, shall not disclose the presence
- of the petitioner, family or household member or other person
- in any jurisdiction or furnish any address, telephone number
- or any other demographic information about the petitioner,
- family or household member or other person, except by further
- order of the court.
- 24 (b) Confidentiality. -- Information retained to ensure
- 25 compliance with this subchapter shall not be subject to access
- 26 under the act of February 14, 2008 (P.L.6, No.3), known as the
- 27 <u>Right-to-Know Law.</u>
- 28 <u>§ 6190.10</u>. Service of order.
- 29 (a) Issuance. -- A copy of an order under this subchapter
- 30 shall be issued to the petitioner, the subject of the

- 1 restraining order and the local law enforcement agencies with
- 2 appropriate jurisdiction to enforce the order in accordance with
- 3 the provisions of this subchapter or as ordered by the court or
- 4 <u>hearing officer.</u>
- 5 (b) Placement in registry. -- Upon receipt of an order, the
- 6 <u>local law enforcement agency shall immediately advise the</u>
- 7 Pennsylvania State Police of entry of the order and collaborate
- 8 with it to ensure that the order is timely entered into the
- 9 registry established in accordance with 23 Pa.C.S. § 6105
- 10 (relating to responsibilities of law enforcement agencies). The
- 11 <u>local law enforcement agency with jurisdiction shall continue</u>
- 12 <u>its collaboration with the Pennsylvania State Police to ensure</u>
- 13 that the registry is current at all times and that orders are
- 14 <u>removed upon vacation or expiration.</u>
- 15 § 6190.11. Violation of order.
- 16 (a) General rule. -- An arrest for violation of an order
- 17 issued under this subchapter may be without warrant upon
- 18 probable cause whether or not the violation is committed in the
- 19 presence of the law enforcement officer or sheriff in
- 20 <u>circumstances where the subject of a firearm restraining order</u>
- 21 has violated a provision of an order consistent with section
- 22 6190.5 (relating to relief). The law enforcement officer or
- 23 sheriff may verify the existence of a firearm restraining order
- 24 by telephone, radio or other electronic communication with the
- 25 <u>appropriate law enforcement agency, the Pennsylvania State</u>
- 26 Police registry or the issuing authority. A law enforcement
- 27 <u>officer or sheriff shall arrest a subject of a firearm</u>
- 28 restraining order for violating an order issued under this
- 29 <u>subchapter</u>.
- 30 (b) Seizure of firearms, other weapons and ammunition.--

- 1 Subsequent to an arrest, the law enforcement officer or sheriff
- 2 shall seize all firearms, other weapons and ammunition used or
- 3 threatened to be used during a violation of a firearm
- 4 <u>restraining order or during prior incidents that posed an</u>
- 5 <u>immediate and present danger to the physical safety of the</u>
- 6 petitioner, a family or household member or other person and any
- 7 other firearms, other weapons or ammunition in the subject's
- 8 possession. As soon as it is reasonably possible, the arresting
- 9 <u>law enforcement officer shall deliver the confiscated firearms</u>,
- 10 other weapons and ammunition to the office of the sheriff. The
- 11 sheriff shall maintain possession of the firearms, other weapons
- 12 and ammunition until the court issues an order specifying the
- 13 firearms, other weapons and ammunition to be relinquished and
- 14 the persons to whom the firearms, other weapons and ammunition
- 15 <u>shall be relinquished.</u>
- 16 <u>(c) Procedure following arrest.--Subsequent to an arrest</u>
- 17 under subsection (a), the subject of a firearm restraining order
- 18 shall be taken by the law enforcement officer or sheriff without
- 19 unnecessary delay before the court in the judicial district
- 20 where the contempt is alleged to have occurred. If that court is
- 21 unavailable, the law enforcement officer or sheriff shall convey
- 22 the subject of the firearm restraining order to a magisterial
- 23 district judge designated as appropriate by local rules of court
- 24 or, in the City of Pittsburgh, to a magistrate of the Pittsburgh
- 25 Magistrates Court or, in counties of the first class, to the
- 26 appropriate hearing officer. For purposes of procedure relating
- 27 to arraignments for arrest for violation of an order issued
- 28 under this subchapter, the judges of Pittsburgh Magistrates
- 29 Court shall be deemed to be magisterial district judges.
- 30 (d) Preliminary arraignment. -- The subject of a firearm

- 1 restraining order shall be afforded a preliminary arraignment
- 2 without unnecessary delay.
- 3 (e) Other emergency powers unaffected. -- This section shall
- 4 not be construed to limit any of the other powers for emergency
- 5 <u>relief provided in this subchapter.</u>
- 6 (f) Hearing. -- A hearing shall be scheduled within 10 days of
- 7 the filing of the charge or complaint of indirect criminal
- 8 contempt. The hearing and any adjudication shall not preclude a
- 9 <u>hearing on other criminal charges underlying the contempt, nor</u>
- 10 shall a hearing or adjudication on other criminal charges
- 11 preclude a hearing on a charge of indirect criminal contempt.
- 12 § 6190.12. Contempt for violations and arrest.
- 13 (a) General rule.--If the law enforcement officer, sheriff
- 14 or the petitioner has filed charges of indirect criminal
- 15 contempt against a defendant for violation of a firearm
- 16 <u>restraining order issued under this subchapter, the court may</u>
- 17 hold the subject of the restraining order in indirect criminal
- 18 contempt and punish the subject in accordance with law.
- 19 (b) Jurisdiction. -- The court shall have jurisdiction over
- 20 indirect criminal contempt charges for violation of a firearm
- 21 restraining order issued under this subchapter in the county
- 22 where the violation occurred and in the county where the order
- 23 was granted.
- 24 (c) Minors. -- A subject of a firearm restraining order who is
- 25 <u>a minor and who is charged with indirect criminal contempt for</u>
- 26 allegedly violating a firearm restraining order shall be
- 27 <u>considered to have committed an alleged delinquent act as that</u>
- 28 term is defined in 42 Pa.C.S. § 6302 (relating to definitions)
- 29 and shall be treated as provided in 42 Pa.C.S. Ch. 63 (relating
- 30 <u>to juvenile matters).</u>

1	<u>(d) Trial and punishment</u>
2	(1) A sentence for contempt under this subchapter may
3	<pre>include:</pre>
4	(i) (A) a fine of not less than \$300 nor more than
5	\$1,000 and imprisonment for not more than six months;
6	<u>or</u>
7	(B) a fine of not less than \$300 nor more than
8	\$1,000 and supervised probation not to exceed six
9	months; and
10	(ii) an order for other relief set forth in this
11	subchapter.
12	(2) All money received from the imposition of fines
13	under this section shall be distributed in the following
14	order of priority:
15	(i) One hundred dollars shall be forwarded to the
16	Commonwealth and shall be appropriated by the General
17	Assembly to the Pennsylvania State Police to assist with
18	the maintenance of the Statewide registry established in
19	accordance with 23 Pa.C.S. § 6105(e) (relating to
20	responsibilities of law enforcement agencies).
21	(ii) One hundred dollars shall be retained by the
22	county and shall be used to carry out the provisions of
23	this subchapter as follows:
24	(A) Fifty dollars shall be used by the sheriff.
25	(B) Fifty dollars shall be forwarded to the
26	local law enforcement agency.
27	(iii) Fifty dollars shall be forwarded to the
28	Commonwealth and shall be appropriated to the Supreme
29	Court for use by county courts and magisterial district
30	courts to carry out their duties under this subchapter.

Τ	(1V) Any additional money shall be forwarded to the
2	Commonwealth and shall be appropriated to the
3	Pennsylvania State Police and used by it to maintain the
4	Statewide registry established under 23 Pa.C.S. §
5	6105(e).
6	(3) The subject of a firearm restraining order shall not
7	have a right to a jury trial on a charge of indirect criminal
8	contempt, except that the defendant shall be entitled to
9	counsel.
10	(4) Upon conviction for indirect criminal contempt and
11	at the request of the petitioner, the court shall also grant
12	an extension of the firearm restraining order for an
13	additional term.
14	(5) Upon conviction for indirect criminal contempt, the
15	court shall notify the sheriff of the jurisdiction which
16	issued the firearm restraining order of the conviction.
17	(6) The minimum fine required under paragraph (1)
18	allocated under paragraph (2)(i) and (iii) shall be used to
19	supplement and not to supplant any other source of funds
20	received for the purpose of carrying out the provisions of
21	this subchapter.
22	(e) Notification upon release The appropriate releasing
23	authority or other official as designated by local rule shall
24	use all reasonable means to notify the petitioner sufficiently
25	in advance of the release of the subject of a firearm
26	restraining order from any incarceration imposed under this
27	subchapter. Notification shall be required for work release,
28	furlough, medical leave, community service, discharge, escape
29	and recapture. Notification shall include the terms and
30	conditions imposed on any temporary release from custody. The

- 1 petitioner must keep the appropriate releasing authority or
- 2 other official as designated by local rule advised of personal
- 3 contact information; failure to do so may constitute waiver of
- 4 any right to notification under this subsection.
- 5 (f) Multiple remedies. -- Disposition of a charge of indirect
- 6 <u>criminal contempt shall not preclude the prosecution of other</u>
- 7 <u>criminal charges associated with the incident giving rise to the</u>
- 8 contempt, nor shall disposition of other criminal charges
- 9 preclude prosecution of indirect criminal contempt associated
- 10 with the criminal conduct giving rise to the charges.
- 11 § 6190.13. Civil contempt for violation of an order.
- 12 (a) General rule. -- A petitioner may file a petition for
- 13 civil contempt with the issuing court alleging that the subject
- 14 of a firearm restraining order has violated any provision of an
- 15 <u>order issued under this subchapter.</u>
- 16 (b) Civil contempt order. -- Upon finding of a violation of a
- 17 firearm restraining order issued under this subchapter, the
- 18 court, either under petition for civil contempt or on the
- 19 court's own accord, may hold the subject of the restraining
- 20 order in civil contempt and restrain the subject in accordance
- 21 with law.
- 22 (c) Sentencing. -- A sentence for civil contempt under this
- 23 <u>subchapter may include imprisonment until the subject of the</u>
- 24 restraining order complies with provisions of the order or
- 25 <u>demonstrates the intent to do so. A term of imprisonment under</u>
- 26 this section shall not exceed a period of six months.
- 27 (d) Jury trial and counsel. -- The subject of a restraining
- 28 order shall not have a right to a jury trial except that the
- 29 defendant shall be entitled to counsel.
- 30 § 6190.14. Procedures and other remedies.

- 1 (a) General rule. -- Unless otherwise indicated under this
- 2 <u>subchapter</u>, a proceeding under this <u>subchapter</u> shall be in
- 3 accordance with applicable general rules and shall be in
- 4 <u>addition to any other available civil or criminal remedies.</u>
- 5 (b) Remedies for bad faith. -- Notwithstanding any other
- 6 provision of law, upon finding that an individual commenced a
- 7 proceeding under this chapter in bad faith, the court shall
- 8 <u>direct the individual to pay to the subject of the petition or</u>
- 9 firearm restraining order actual damages and reasonable attorney
- 10 fees. Failure to prove an allegation of an immediate and present
- 11 danger to the physical safety of the petitioner, family or
- 12 household member or other person by a preponderance of the
- 13 evidence shall not, by itself, result in a finding of bad faith.
- 14 § 6190.15. Immunity.
- 15 (a) General rule.--
- 16 (1) Law enforcement agencies and their employees,
- including troopers, officers, sheriffs and their deputies,
- 18 shall, except as provided under subsection (b), be immune
- 19 from civil liability for actions taken in good faith to carry
- 20 out their duties relating to the seizure and relinguishment
- of firearms, other weapons and ammunition as provided for
- 22 under this subchapter, except for gross negligence,
- 23 <u>intentional misconduct or reckless, willful or wanton</u>
- 24 misconduct.
- 25 (2) A person licensed under the act of July 9, 1987
- 26 (P.L.220, No.39), known as the Social Workers, Marriage and
- 27 <u>Family Therapists and Professional Counselors Act, or as a</u>
- health care practitioner as defined under section 103 of the
- 29 <u>act of July 19, 1979 (P.L.130, No.48), known as the Health</u>
- 30 Care Facilities Act, who initiates a proceeding for the

- 1 <u>issuance of a firearm restraining order in accordance with</u>
- 2 <u>section 6190.3 (relating to commencement of proceedings)</u>
- 3 <u>shall not be held civilly or criminally liable for actions</u>
- 4 <u>taken under the provisions of this subchapter, if the person</u>
- 5 acted in good faith and without malice.
- 6 (b) Exception. -- Law enforcement agencies and their
- 7 employees, including troopers, officers, sheriffs and their
- 8 <u>deputies</u>, may be liable to the lawful owner of confiscated,
- 9 <u>seized or relinquished firearms in accordance with section</u>
- 10 6105(f) (relating to persons not to possess, use, manufacture,
- 11 control, sell or transfer firearms) and may be liable to the
- 12 <u>lawful owner of confiscated</u>, seized or relinquished other
- 13 <u>weapons or ammunition for any loss, damage or substantial</u>
- 14 <u>decrease in the value of the other weapons or ammunition that is</u>
- 15 <u>a direct result of a lack of reasonable care by the law</u>
- 16 <u>enforcement agency or its employees.</u>
- 17 § 6190.16. Inability to pay.
- 18 (a) Order for installment payments. -- Upon plea and proof
- 19 that a person is without the financial means to pay a fine, fee
- 20 or cost under section 6190.5 (relating to relief) or a cost, the
- 21 court may order payment of money owed in installments
- 22 appropriate to the circumstances of the person and shall fix the
- 23 <u>amounts, times and manner of payment. The failure to make the</u>
- 24 payments in the amount, time and manner fixed by the court may
- 25 subject the person to contempt under the applicable provisions
- 26 of this subchapter.
- 27 (b) Use of credit cards. -- The treasurer of each county may
- 28 allow the use of credit cards and bank cards in the payment of
- 29 fines, fees and costs set forth under this subchapter.
- 30 § 6190.17. Warrantless searches.

- 1 Except as provided under section 6190.11 (relating to
- 2 violation of order), nothing under this subchapter shall
- 3 authorize a warrantless search for firearms, other weapons or
- 4 <u>ammunition</u>.
- 5 § 6190.18. Construction.
- 6 Nothing under this subchapter shall be construed to:
- 7 (1) Preclude an action for wrongful use of civil process
- 8 under 42 Pa.C.S. Ch. 83 Subch. E (relating to wrongful use of
- 9 <u>civil proceedings</u>) or criminal prosecution for a violation of
- 10 Chapter 49 (relating to falsification and intimidation).
- 11 (2) Allow a government agency or law enforcement agency,
- or an agent or employee of either, or any other person or
- entity to create, maintain or operate a database or registry
- of firearm ownership within this Commonwealth, except that
- information may be retained to ensure compliance with this
- subchapter and to document the return of relinquished
- firearms, other weapons and ammunition in accordance with
- this subchapter.
- 19 Section 4. This act shall take effect in 60 days.