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**Pennsylvania's Protection From Abuse Act – 23 Pa. C.S.A. § 6101 et seq.**

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Petition</b>	1 PFA Petition Contents – Defendant's Employment	No requirement, although petition form found in Pa. R.C.P. 1905 includes defendant's place of employment under defendant's address.	Plaintiff must inform court if defendant is a licensed firearms dealer, or is employed in a profession that requires defendant to handle firearms, or is required to carry a firearm as a condition of employment. 23 Pa. C.S.A. §6106(a.2).
<b>Hearing</b>	2 Time of Hearing	Within 10 days of filing of petition. 23 Pa. C.S.A. §6107(a).	Within 10 BUSINESS days of filing of petition. 23 Pa. C.S.A. §6107(a).
<b>Hearing</b>	3 Notice of Hearing	Notice shall advise defendant of right to counsel and that any protection order granted may be considered in subsequent proceedings. 23 Pa. C.S.A. §6107(a).	Notice shall advise defendant of right to counsel and that any protection order granted may be considered in subsequent proceedings AND of possibility that weapons, firearms, ammunition, firearms license may be ordered to be temporarily relinquished, of the options for firearms relinquishment, and of the possibility that federal law may prohibit firearms possession. 23 Pa. C.S.A. §6107(a).

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Fees</b>	4 Fees	Filing fees in advance prohibited; fees may not be assessed against a prevailing plaintiff. Fees may be assessed against plaintiff who does not prevail. Court may waive fees assessed if court determines party cannot pay. 23 Pa. C.S.A. §6106(b) and (c).	Filing fees and costs against plaintiff are prohibited. 23 Pa. C.S.A. §6106(b).  Filing fees and costs shall be assessed against defendant, unless court determines defendant is unable to pay. 23 Pa. C.S.A. §6106(c).
<b>Relief</b>	5 Duration	Up to 18 months. 23 Pa. C.S.A. §6108(d).	Up to 3 years. 23 Pa. C.S.A. §6108(d).
<b>Relief</b>	6a Child Custody	Court has authority to award temporary custody of children. 23 Pa. C.S.A. §6108(a)(4).	In determining whether to award temporary custody or temporary visitation, the court SHALL consider the risk posed by defendant to the children AND to the plaintiff. 23 Pa. C.S.A. §6108(a)(4).

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<b>Relief</b>	6b Child Custody	Court may not grant defendant custody, partial custody or unsupervised visitation where court finds that the defendant abused children or has been convicted of interfering with custody of children. 23 Pa. C.S.A. §6108(a)(4)(i)(A)-(B).	Court may not grant defendant custody, partial custody or unsupervised visitation where court finds that the defendant abused children OR POSES A RISK OF ABUSE TOWARD CHILDREN, or has been convicted of interfering with custody of children OR POSES A RISK OF CRIMINALLY INTERFERING WITH CUSTODY OF CHILDREN. 23 Pa. C.S.A. §6108(a)(4)(i)(A)-(B).
<b>Fees</b>	7 Surcharge on Final Order if Hearing Led to Final Order	\$25 surcharge against defendant on final order, distributed to Commw. for PSP statewide registry. 23 Pa. C.S.A. §6106(d)(2).	\$100 surcharge against defendant on final order distributed as follows: <ul style="list-style-type: none"> <li>• \$25 to Commw./PSP;</li> <li>• \$50 for county distributed \$25 to county sheriff and \$25 to court;</li> <li>• \$25 to DPW to use with DV victims.</li> </ul> 23 Pa. C.S.A. §6106(d)(1)-(3).
<b>Enforcement</b>	8 Contempt Jurisdiction	Contempt jurisdiction where the violation occurred. 23 Pa. C.S.A. §6114(a.1).	Contempt jurisdiction where the violation occurred OR in the county where the PFA order was granted. 23 Pa. C.S.A. §6114(a.1).

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Enforcement</b>	9 Who May Arrest for PFA Violation	Arrest for violation of 6108(a)(1), (2), (3), (4), (6), (7) and (9) shall occur upon probable cause without warrant, whether violation is committed in presence of police or not. 23 Pa. C.S.A. § 6113(a).	Arrest for violation of 6108(a)(1), (2), (3), (4), (6), (7) and (9) shall occur upon probable cause without warrant, whether violation is committed in presence of police or not. SHERIFF is added so that sheriff has same authority, duty and responsibility as police with regard to arrest. 23 Pa. C.S.A. §6113(a).
<b>Enforcement</b>	10 Who May File for Indirect Criminal Contempt (ICC)	Plaintiff or police may file ICC charges against the defendant. 23 Pa. C.S.A. §6114(a).	Plaintiff, police OR SHERIFF may file ICC charges against the defendant. 23 Pa. C.S.A. §6114(a).
<b>Enforcement</b>	11 Sentence for ICC	Defendant may be sentenced to imprisonment of up to six months AND a fine between \$100 and \$1000 and other relief. 23 Pa. C.S.A. §6114(b).	<ol style="list-style-type: none"> <li>1. Defendant may be sentenced to imprisonment of up to six months and a fine between <u>\$300</u> and \$1000; OR</li> <li>2. Defendant may be sentenced to SUPERVISED PROBATION and a fine between <u>\$300</u> and \$1000;</li> <li>3. Other relief.</li> </ol> 23 Pa. C.S.A. §6114, 23 Pa. C.S.A. §6114(b)(1).

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<b>Enforcement</b>	12 Disposition of ICC fines	All ICC fines forwarded to Commonwealth for PSP statewide registry. 23 Pa. C.S.A. §6114(b).	All ICC fines are distributed as follows: <ul style="list-style-type: none"> <li>• \$100 to Commonwealth for PSP statewide registry;</li> <li>• \$100 retained by county to carry out requirements of act with \$50 distributed to sheriff, \$50 retained by court;</li> <li>• \$100 forwarded to DPW to use for DV victims;</li> <li>• any remaining fine amount is forwarded to Commonwealth for PSP statewide registry.</li> </ul> 23 Pa. C.S.A. §6114(b)(2).
<b>Enforcement</b>	13 Notice of ICC Conviction	No notice required.	The court shall give notice of ICC conviction to sheriff of the jurisdiction where PFA order was entered. 23 Pa. C.S.A. §6114(b)(5).
<b>Enforcement</b>	14 Extension of PFA Order after ICC Conviction	PFA Act was silent; however Commw. v. Snell authorized extension of PFA order at ICC hearing.	At request of plaintiff and upon defendant's ICC conviction, the court shall grant an extension of the PFA order for an additional term. 23 Pa. C.S.A. §6114(b)(4).

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<b><u>Topic</u></b>		<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Bad Faith</b>	15 Bad Faith	No specific provisions; civil remedies for misuse of PFA process were available in PFA cases as in all civil proceedings. See 42 Pa. C.S.A. § 8351; Pa. R.C.P. 1023.1.	Amendments refer specifically to already existing civil and criminal remedies for misuse of PFA process, listing Pa. R.C.P. 1023.1. 42 Pa. Ch. 83 Subch. E; and 18 Pa. C.S. Ch. 49. See 23 Pa. C.S.A. §§ 6106(b), (c); 6113.1(b), (c) and 6122.

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<b>Topic</b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<p>16a Firearms Provisions - Ex Parte Orders</p>	<p>At ex parte proceeding, court could order relinquishment of those weapons used or threatened to be used during abuse. 23 Pa. C.S.A. §6107(b) and 23 Pa. C.S.A. §6108(a)(7).</p>	<p>At ex parte proceeding, court may order relinquishment of ANY firearms, other weapons or ammunition if the petition demonstrates any of these:</p> <ol style="list-style-type: none"> <li>1. Abuse involving firearm or weapon;</li> <li>2. An immediate and present danger of abuse. In determining whether there is an immediate and present danger of abuse, the court SHALL consider a number of factors, including but not limited to, the following:               <ul style="list-style-type: none"> <li>• whether the temporary order is not likely to achieve protection if weapons surrender is not ordered,</li> <li>• whether defendant has previously violated a PFA order,</li> <li>• whether past or present abuse resulted in injury,</li> <li>• whether the abuse occurred in public,</li> <li>• whether the abuse includes: threats of abuse; suicide threats; killing or threatening to kill pets; an escalation of violence; stalking; obsessive behavior; sexual violence; drug or excessive alcohol use.</li> </ul> </li> </ol> <p>23 Pa. C.S.A. §§ 6107(b)(3), 6108(a)(7).</p>

**Firearms**

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Firearms</b>	16b Firearms Relinquishment – Court Authority to Order Relinquishment	Court may order defendant to relinquish weapons which were used or threatened to be used in abuse and prohibiting defendant from acquiring or possessing any other weapon for the duration of the order. 23 Pa. C.S.A. §6108(a)(7).	Court may order the defendant to relinquish any or all firearms, other weapons, firearms licenses and ammunition, whether they were used or threatened to be used during an act of abuse. The court may also prohibit the defendant from acquiring or possessing any firearm for the duration of the order. 23 Pa. C.S.A. §6108(a)(7).
<b>Firearms</b>	16c Firearms Relinquishment – Time for Relinquishment After Temporary Order	No specific provisions in the Protection From Abuse Act, but 60 days permitted for transfer in the Pennsylvania Firearms Act. 18 Pa. C.S.A. §6105(a)(2).	When the court orders relinquishment, the court shall require defendant to relinquish within 24 hours of service of temporary order, or close of the next business day as necessitated by closure of sheriff's office. 23 Pa. C.S.A. §6108(a)(7)(i)(A).
<b>Firearms</b>	16d Firearms Relinquishment After Service of A Temporary Protection Order – When Defendant Cannot Comply Due to Location of Firearms	No specific provisions in the Protection From Abuse Act, but the Uniform Firearms Act applies. See 18 Pa. C.S.A. §6101, <i>et seq.</i>	If defendant cannot surrender firearms within 24 hours DUE TO THE LOCATION OF THE FIREARMS, in lieu of relinquishment, the defendant shall provide the sheriff with an affidavit listing the firearms, ammunition, or other weapons and the location of these items. If defendant fails to relinquish, or provide affidavit, sheriff shall, at a minimum, notify the court, plaintiff, and other law enforcement immediately. 23 Pa. C.S.A. §6108(a)(7)(i)(B).

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Firearms</b>	16e Firearms Relinquishment – Time For Relinquishment After Final Order Hearing	No specific provisions in the Protection From Abuse Act, but 60 days permitted for transfer in the Pennsylvania Firearms Act. 18 Pa. C.S.A. §6105(a)(2).	When the court orders relinquishment as part of the final order, the court shall require the defendant to relinquish within 24 hours of the final order or the close of the next business day as necessitated by closure of the sheriff's office.  The only exception to the 24-hour requirement is IF THE DEFENDANT DEMONSTRATES CAUSE AT THE FINAL ORDER HEARING, relating to the inability of defendant to retrieve a specific firearm within 24 hours due to the current location of the firearm. If the defendant demonstrates cause, the court shall specify the time for relinquishment. 23 Pa. C.S.A. § 6108(a)(7)(i)(A) and (C).
	16f Defendant's Options for Relinquishment After Temporary Order	No specific provisions in the Protection From Abuse Act, but the Uniform Firearms Act permits sale or transfer to an eligible person who is not a household member of defendant. 18 Pa. C.S.A. §6105(a)(2).	If court orders relinquishment as part of temporary order, defendant may decide to relinquish: 1. to the sheriff OR 2. to a third party, provided defendant and third party first comply with all of the requirements to obtain a safekeeping permit and provided defendant complies with the 24-hour time frame. 23 Pa. C.S.A. §§ 6107(b)(4); 6108(a)(7)(i)(A)&(B); 6108.2.

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Firearms</b>	16g Defendant's Options for Relinquishment After Final Order	No Specific Provisions.	If relinquishment had not already been ordered and court orders relinquishment as part of final order, defendant may, within time frame in order, relinquish: <ol style="list-style-type: none"> <li>1. to the sheriff;</li> <li>2. to a third party provided defendant and third party first comply with all of the requirements to obtain a safekeeping permit; or</li> <li>3. to a licensed firearms dealer.</li> </ol> 23 Pa. C.S.A. §§ 6108(a)(7)(i)(A)-(C); 6108.2, 6108.3.
<b>Firearms</b>	16h If Defendant Fails to Relinquish Firearms, Ammunition, and Other Weapons on Time	No Specific Provisions.	If defendant fails to relinquish within time frame on court order, sheriff is to, at a minimum, immediately notify court, plaintiff, and other law enforcement personnel. 23 Pa. C.S.A. §§ 6108(a)(7)(i)(B); 6108(a)(7)(iv); 6108.2(c); 6108.3(b)(6).

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	<b><u>Topic</u></b>	<b><u>Until May 9, 2006</u></b>	<b><u>After May 9, 2006</u></b>
<b>Seizure</b>	16i Search and Seizure of Weapons	Search and seizure of defendant's firearms after a final order hearing and without arrest of defendant approved by Superior Court in <i>Kelly v. Mueller</i> . PA Supreme Court accepted case to review search and seizure authority under the PFA Act. Awaiting Supreme Court decision. Seizure incident to arrest authorized: 23 Pa. C.S.A. § 6113(b).	After arrest for violation of the order, police or sheriff shall seize all firearms, etc., used or threatened to be used during the violation or during prior incidents and any other firearms in defendant's possession. 23 Pa. C.S.A. § 6113(b).  Warrantless search for firearms, other weapons and ammunition not prohibited following an arrest. 23 Pa. C.S.A. § 6121.
	16j Return of Relinquished Firearms by Sheriff at Expiration of Order	The court's order shall provide for the return of the weapons and any firearms license to the defendant subject to any restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse using weapons. 23 Pa. C.S.A. §6108(a)(7).	The court's order shall provide for the return of relinquished firearms upon expiration of order. Defendant may take custody of firearms provided that defendant is otherwise eligible to lawfully possess the relinquished items. 23 Pa. C.S.A. §6108.1(a).

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<b>Firearms</b>	16k Fees Charged to Defendant Relevant to Return of Firearms	No Specific Provisions.	Defendant shall not be required to pay any fees, costs, or charges associated with return of relinquished firearms. Parties specifically prohibited from assessing fees for return of firearms include the Pennsylvania State Police, law enforcement, licensed importers, licensed manufacturers, licensed dealers or any other entity, which may include third party safekeeping permit holders. 23 Pa. C.S.A. §6108.1(a).
<b>Firearms</b>	16l Special Considerations for Licensed Firearms Dealers Who Are PFA Defendants – Personal Collection	No Specific Provisions.	When a licensed firearms dealer is ordered to relinquish firearms, the only firearms that may be ordered relinquished are those that are in the defendant's personal collection. 23 Pa. C.S.A. §6108(a)(7)(vi).
<b>Firearms</b>	16m Special Considerations for Licensed Firearms Dealers who are PFA Defendants – Business Assets	No Specific Provisions.	If a PFA defendant is a licensed firearms dealer, court may order relinquishment of defendant's firearms license and firearms in defendant's business inventory. In restricting the defendant dealer's access to firearms, ammunition or firearms licenses, the court shall make a reasonable effort to preserve the defendant's business assets while fulfilling the goals of the PFA Act. 23 Pa. C.S.A. §6108(a)(7.1).

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	<u>Topic</u>	<u>Until May 9, 2006</u>	<u>After May 9, 2006</u>
<b>Firearms</b>	16n PFA Petition/Order Contents – Firearms Lists	No Specific Provisions	Any portion of a PFA petition or order which includes a list of firearms, other weapons or ammunition shall be kept in court files and withheld from public inspection except: <ol style="list-style-type: none"> <li>1. Upon court order;</li> <li>2. as necessary by law enforcement and court personnel; or</li> <li>3. after redaction of information listing firearms, other weapons or ammunition.</li> </ol> 23 Pa. C.S.A. §6108(a)(7)(v).
<b>Firearms</b>	16o Penalty for Disclosing Non-Public Firearms List	No Specific Provisions	A person who violates the firearms list non-disclosure requirement by releasing information with the intent and purpose of committing a violation may be charged with a third-degree misdemeanor. 23 Pa. C.S.A. §6108.5.

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<b>Modification</b>	17 Court's Modification of Relief Provisions	Plaintiff and defendant may seek modification of relief provision of an order. 23 Pa. C.S.A. §6117.	Plaintiff and defendant may seek modification of relief provision of an order. 23 Pa. C.S.A. §6117.  Defendant may petition court to allow return of firearms, other weapons and ammunition prior to the expiration of court's order. The petition shall be served on plaintiff and plaintiff shall be a party to the proceedings. 23 Pa. C.S.A. §6108.1(b)(1).  Any other person may petition court to allow return of that person's firearms, other weapons and ammunition prior to the expiration of the order. The petition shall be served on the plaintiff and plaintiff shall be given notice and opportunity to be heard. 23 Pa. C.S.A. §6108.1(b)(2).  Defendant may petition the court to provide for alternative means of relinquishing firearms, other weapons or ammunition. 23 Pa. C.S.A. §6108.1(c).
	18 Confidential Communications Between Victim and Domestic Violence Advocate	All information, whether written or spoken, between a victim and a domestic violence advocate is confidential. 23 Pa. C.S.A. §6102(a).	All information, whether written or spoken, between a victim and a domestic violence advocate is confidential. These confidential communications also INCLUDE COMMUNICATIONS BY OR TO AN INTERPRETER assisting a victim or advocate. 23 Pa. C.S.A. §6102(a).

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<b>Miscellaneous</b>	19 Installment Payments/ No Specific Provisions Credit Cards for Payment of Fees, Fines and Relief		After pleading and proof that a person is financially unable to pay a fine, fee, costs, or economic relief under 23 Pa. C.S.A. §6108(a), the court may order installment payments. 23 Pa. C.S.A. §6120(a). County treasurer may allow use of credit or bank cards to pay moneys owed. 23 Pa. C.S.A. §6120(b).

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