

No. 218

AN ACT

SB 1243

Relating to abuse of adults and children by a person who resides with them; and providing for remedies and procedures.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Protection From Abuse Act.”

Section 2. Definitions.—As used in this act:

“Abuse” means the occurrence of one or more of the following acts between family or household members who reside together:

(i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.

(ii) Placing by physical menace another in fear of imminent serious bodily injury.

(iii) Sexually abusing minor children as defined pursuant to the act of November 26, 1975 (No.124), known as the “Child Protective Services Law.”

“Adult” means any person 18 years of age or older.

“Court” shall mean the court of common pleas.

“Family or household members” means spouses, persons living as spouses, parents and children, or other persons related by consanguinity or affinity.

Terms not otherwise defined by this act shall have the meaning given to them by the Crimes Code.

Section 3. Jurisdiction.—The court shall have jurisdiction over all proceedings under this act. The plaintiff’s right to relief under this act shall not be affected by his or her leaving the residence or household to avoid further abuse.

Section 4. Commencement of Proceeding.—A person may seek relief under this act for himself or herself, or any parent or adult household member may seek relief under this act on behalf of minor children by filing a petition with the court alleging abuse by the defendant.

Section 5. Hearings.—(a) Within ten days of the filing of a petition under this act a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of his right to be represented by counsel.

(b) The court may enter such temporary orders as it deems necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

Section 6. Relief.—(a) The court shall be empowered to grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children, which may include:

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

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff, or by consent agreement allowing the defendant to provide suitable, alternate housing.

(4) Awarding temporary custody of and/or establishing temporary visitation rights with regard to minor children.

(b) Any protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) No order or agreement under this act shall in any manner affect title to any real property.

Section 7. Notification.—A copy of any order under this act shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement.

Section 8. Emergency Relief.—(a) When the court is unavailable from the close of business at the end of the week to the resumption of business at the beginning of the week a petition may be filed before a district justice who may grant relief in accordance with section 6(a),(2) or (3) if the district justice deems it necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(b) Any order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the week or within 72 hours, whichever occurs sooner; at which time, the plaintiff may seek a temporary order from the court.

(c) Any order issued under this section and any documentation in support thereof shall be immediately certified to the court. Such certification to the court shall have the effect of commencing proceedings under section 4 and invoking the other provisions of this act.

Section 9. Procedure.—Any proceeding under this act shall be in accordance with the Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

Section 10. Contempt.—Upon violation of a protection order or a court approved consent agreement the court may hold the defendant in contempt and punish him in accordance with law.

Section 11. Effective Date.—This act shall take effect in 60 days.

APPROVED—The 7th day of October, A. D. 1976.

MILTON J. SHAPP