

## No. 2005-66

## AN ACT

## HB 1717

Amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons not to possess, use, manufacture, control, sell or transfer firearms, for firearms not to be carried without licenses, for licenses, for loans, lending or giving of firearms, for definitions, for jurisdiction, for full faith and credit and foreign protection orders, for responsibilities of law enforcement agencies, for commencement of proceedings, for hearings and for relief; providing for return of relinquished firearms, other weapons and ammunition, for relinquishment for consignment sale or lawful transfer, for relinquishment to third party for safekeeping and for registry or database of firearm ownership; further providing for emergency relief by minor judiciary, for arrest for violation of order, for private criminal complaints for violation of order or agreement, for contempt for violation of order or agreement and for procedures and other remedies; and providing for immunity, for inability to pay and for limitation on warrantless searches.

The General Assembly finds and declares as follows:

(1) The provisions of 23 Pa.C.S. Ch. 61 (relating to protection from abuse) are necessary and proper in that they further the Commonwealth's compelling State interest to protect victims of domestic violence from abuse.

(2) The Second Amendment to the Constitution of the United States and section 21 of Article I of the Constitution of Pennsylvania recognize a fundamental right to keep and bear arms.

(3) The limitation of firearm rights for the duration of a protection from abuse order as authorized by 23 Pa.C.S. Ch. 61 is a reasonable regulation, a valid exercise of the police power of the Commonwealth and furthers the compelling State interest to protect victims from abuse.

(4) As provided in 23 Pa.C.S. Ch. 61, a court may impose limitations on firearm rights prohibiting someone who has engaged in domestic violence from possessing firearms when the court deems it appropriate to do so in order to protect a victim.

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

Section 1. Section 6102 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:

§ 6102. Definitions.

Subject to additional definitions contained in subsequent provisions of this subchapter which are applicable to specific provisions of this subchapter, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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***“Commonwealth Photo Imaging Network.”*** *The computer network administered by the Commonwealth and used to record and store digital photographs of an individual’s face and any scars, marks, tattoos or other unique features of the individual.*

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***“Pennsylvania Sheriffs’ Association.”*** *The State association of sheriffs authorized by the act of June 14, 1923 (P.L.774, No.305), entitled “An act authorizing the sheriffs of the several counties of this Commonwealth to organize themselves into a State Association, for the purpose of holding annual meetings, to secure more uniformity and cooperation in the conduct of their offices, and providing for the payment of certain expenses in connection with such meetings by the various counties.”*

***“Safekeeping permit.”*** *As defined in 23 Pa.C.S. § 6102 (relating to definitions).*

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***“State.”*** *When used in reference to different parts of the United States, includes the District of Columbia, the Commonwealth of Puerto Rico and territories and possessions of the United States.*

Section 2. Section 6105(a), (a.1), (c)(6), (d), (e)(1) and (f)(2) and (4) of Title 18 are amended and subsection (c) is amended by adding a paragraph to read:

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

(a) Offense defined.—

(1) A person who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or 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).*

(a.1) Penalty.—[Any]

(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.

**(2) A person who is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 (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).**

**(3) (i) A person commits a misdemeanor of the third degree if he intentionally or knowingly accepts 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, 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.**

**(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 commits a misdemeanor of the first degree if he intentionally or knowingly returns a firearm, other weapon or ammunition to a defendant or intentionally or knowingly allows a defendant to have access to the firearm, other weapon or ammunition 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. § 6108.3(d)(1)(i).*

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

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

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(6) A person who is the subject of an active protection from abuse order issued pursuant to 23 Pa.C.S. § 6108 [~~relating to relief~~], which order provided for the [~~confiscation~~] *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 [~~confiscation~~] *relinquishment* of firearms.

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

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

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

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

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

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

(d) Exemption.—A person who has been convicted of a crime specified in subsection (a) or (b) or a person whose conduct meets the criteria in subsection (c)(1), (2), (5) [or (7)], (7) or (9) may make application to the court of common pleas of the county where the principal residence of the applicant is situated for relief from the disability imposed by this section upon the possession, transfer or control of a firearm. The court shall grant such relief if it determines that any of the following apply:

(1) The conviction has been vacated under circumstances where all appeals have been exhausted or where the right to appeal has expired.

(2) The conviction has been the subject of a full pardon by the Governor.

(3) Each of the following conditions is met:

(i) The Secretary of the Treasury of the United States has relieved the applicant of an applicable disability imposed by Federal law upon the possession, ownership or control of a firearm as a result of the applicant's prior conviction, except that the court may waive this condition if the court determines that the Congress of the United States has not appropriated sufficient funds to enable the Secretary of the Treasury to grant relief to applicants eligible for the relief.

(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) [or], 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)*.

(e) Proceedings.—

(1) If a person convicted of an offense under subsection (a), (b) or (c)(1), (2), (5) [or (7)], (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.

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(f) Other exemptions and proceedings.—

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(2) If application is made under this subsection for relief from the disability imposed under subsection (c)(6), notice of such application shall be given to the person who had petitioned for the protection from abuse 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[.], *to the sheriff and to the Pennsylvania State Police. The application and any proceedings on the application shall comply with 23 Pa.C.S. Ch. 61 (relating to protection from abuse)*.

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(4) (i) The owner of any seized or confiscated firearms *or of any firearms ordered relinquished under 23 Pa.C.S. § 6108* 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 [or], 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.

*(ii) 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.*

*(iii) 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.*

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Section 3. Sections 6106(b) and 6109(c), (d), (e), (h), (i) and (k) of Title 18 are amended and the sections are amended by adding subsections to read: § 6106. Firearms not to be carried without a license.

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(b) Exceptions.—The provisions of subsection (a) shall not apply to:

(1) Constables, sheriffs, prison or jail wardens, or their deputies, policemen of this Commonwealth or its political subdivisions, or other law-enforcement officers.

(2) Members of the army, navy [or], marine corps, *air force or coast guard* of the United States or of the National Guard or organized reserves when on duty.

(3) The regularly enrolled members of any organization duly organized to purchase or receive such [weapons] *firearms* from the United States or from this Commonwealth.

(4) Any persons engaged in target shooting with [rifle, pistol, or revolver] *a firearm*, if such persons are at or are going to or from their places of assembly or target practice and if, while going to or from their places of assembly or target practice, [the cartridges or shells are carried in a separate container and the rifle, pistol or revolver is unloaded] *the firearm is not loaded*.

(5) Officers or employees of the United States duly authorized to carry a concealed firearm.

(6) Agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property in the discharge of such duties.

(7) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person,

having in his possession, using or carrying a firearm in the usual or ordinary course of such business.

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

(9) Persons licensed to hunt, take furbearers or fish in this Commonwealth, if such persons are actually hunting, taking furbearers or fishing **as permitted by such license**, or are going to the places where they desire to hunt, take furbearers or fish or returning from such places.

(10) Persons training dogs, if such persons are actually training dogs during the regular training season.

(11) Any person while carrying a firearm in any vehicle, which person possesses a valid and lawfully issued license for that firearm which has been issued under the laws of the United States or any other state.

(12) A person who has a lawfully issued license to carry a firearm pursuant to section 6109 (relating to licenses) and that said license expired within six months prior to the date of arrest and that the individual is otherwise eligible for renewal of the license.

(13) Any person who is otherwise eligible to possess a firearm under this chapter and who is operating a motor vehicle which is registered in the person's name or the name of a spouse or parent and which contains a firearm for which a valid license has been issued pursuant to section 6109 to the spouse or parent owning the firearm.

(14) **A person lawfully engaged in the interstate transportation of a firearm as defined under 18 U.S.C § 921(a)(3) (relating to definitions) in compliance with 18 U.S.C. § 926A (relating to interstate transportation of firearms).**

(15) **Any person who possesses a valid and lawfully issued license or permit to carry a firearm which has been issued under the laws of another state, regardless of whether a reciprocity agreement exists**

*between the Commonwealth and the state under section 6109(k), provided:*

*(i) The state provides a reciprocal privilege for individuals licensed to carry firearms under section 6109.*

*(ii) The Attorney General has determined that the firearm laws of the state are similar to the firearm laws of this Commonwealth.*

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*(e) Definitions.—*

*(1) For purposes of subsection (b)(3), (4), (5), (7) and (8), the term “firearm” shall include any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of the weapon.*

*(2) As used in this section, the phrase “place of instruction” shall include any hunting club, rifle club, rifle range, pistol range, shooting range, the premises of a licensed firearms dealer or a lawful gun show or meet.*

§ 6109. Licenses.

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(c) Form of application and content.—The application for a license to carry a firearm shall be uniform throughout this Commonwealth and shall be on a form prescribed by the Pennsylvania State Police. The form may contain provisions, not exceeding one page, to assure compliance with this section. Issuing authorities shall use only the application form prescribed by the Pennsylvania State Police. One of the following reasons for obtaining a firearm license shall be set forth in the application: self-defense, employment, hunting and fishing, target shooting, gun collecting or another proper reason. The application form shall be dated and signed by the applicant and shall contain the following statement:

*I have never been convicted of a crime [of violence in the Commonwealth of Pennsylvania or elsewhere] that prohibits me from possessing or acquiring a firearm under Federal or State law. I am of sound mind and have never been committed to a mental institution. I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that, if I knowingly make any false statements herein, I am subject to penalties prescribed by law. I authorize the sheriff, or his designee, or, in the case of first class cities, the chief or head of the police department, or his designee, to inspect only those records or documents relevant to information required for this application. **If I am issued a license and knowingly become ineligible to legally possess or acquire firearms, I will promptly notify the sheriff of the county in which I reside or, if I reside in a city of the first class, the chief of police of that city.***

(d) Sheriff to conduct investigation.—The sheriff to whom the application is made shall:



(1) investigate the applicant's record of criminal **[convictions, shall conviction];**

(2) investigate whether or not the applicant is under indictment for or has ever been convicted of a crime punishable by imprisonment exceeding one year, **[shall];**

(3) investigate whether the applicant's character and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety **[and shall];**

(4) investigate whether the applicant would be precluded from receiving a license under subsection (e)(1) or section 6105(h) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) **[and shall]; and**

(5) conduct a criminal background, juvenile delinquency **[or mental health check following the procedures set forth in section 6111 (relating to firearm ownership)] and mental health check following the procedures set forth in section 6111 (relating to sale or transfer of firearms), receive a unique approval number for that inquiry and record the date and number on the application.**

(e) Issuance of license.—

(1) A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle and shall be issued if, after an investigation not to exceed 45 days, it appears that the applicant is an individual concerning whom no good cause exists to deny the license. A license shall not be issued to any of the following:

(i) An individual whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety.

(ii) An individual 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.

(iii) An individual convicted of a crime enumerated in section 6105.

(iv) An individual who, within the past ten years, has been adjudicated delinquent for a crime enumerated in section 6105 or for an offense under The Controlled Substance, Drug, Device and Cosmetic Act.

(v) An individual who is not of sound mind or who has ever been committed to a mental institution.

(vi) An individual who is addicted to or is an unlawful user of marijuana or a stimulant, depressant or narcotic drug.

(vii) An individual who is a habitual drunkard.

(viii) An individual who is charged with or has been convicted of a crime punishable by imprisonment for a term exceeding one year except as provided for in section 6123 (relating to waiver of disability or pardons).

(ix) A resident of another state who does not possess a current license or permit or similar document to carry a firearm issued by that state if a license is provided for by the laws of that state, as published annually in the Federal Register by the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury under 18 U.S.C. § 921(a)(19) (relating to definitions).

(x) An alien who is illegally in the United States.

(xi) An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

(xii) An individual who is a fugitive from justice. This subparagraph does not apply to an individual whose fugitive status is based upon nonmoving or moving summary offense under Title 75 (relating to vehicles).

(xiii) An individual who is otherwise prohibited from possessing, using, manufacturing, controlling, purchasing, selling or transferring a firearm as provided by section 6105.

*(xiv) An individual who is prohibited from possessing or acquiring a firearm under the statutes of the United States.*

**(3) The license [shall bear the] to carry a firearm shall be designed to be uniform throughout this Commonwealth and shall be in a form prescribed by the Pennsylvania State Police. The license shall bear the following:**

*(i) The name, address, date of birth, race, sex, citizenship, [Social Security number,] height, weight, color of hair, color of eyes and signature of the licensee[; the].*

*(ii) The signature of the sheriff issuing the license[; the].*

*(iii) A license number of which the first two numbers shall be a county location code followed by numbers issued in numerical sequence.*

*(iv) The point-of-contact telephone number designated by the Pennsylvania State Police under subsection (l).*

*(v) The reason for issuance[; and the].*

*(vi) The period of validation.*

**(4) The sheriff [may also] shall require a photograph of the licensee on the license. The photograph shall be in a form compatible with the Commonwealth Photo Imaging Network.**

**(5) The original license shall be issued to the applicant. The first copy of the license shall be forwarded to the [commissioner] Pennsylvania State Police within seven days of the date of issue[, and a]. The second copy shall be retained by the issuing authority for a period of [six years.] seven years. Except pursuant to court order, both copies and the application shall, at the end of the seven-year period, be destroyed unless the license has been renewed within the seven-year period.**

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**(h) Fee.—[The]**

**(1) In addition to fees described in paragraphs (2)(ii) and (3), the fee for a license to carry a firearm is \$19. This includes [a] all of the following:**

**(i) A renewal notice processing fee of \$1.50. [This includes an]**

**(ii) An administrative fee of \$5 under section 14(2) of the act of July 6, 1984 (P.L.614, No.127), known as the Sheriff Fee Act.**

**(2) (i) The Pennsylvania Commission on Crime and Delinquency shall implement, within five years of the effective date of this paragraph, a system in conjunction with the Pennsylvania State Police and the Pennsylvania Sheriffs' Association to standardize and modernize the process of issuing licenses to carry firearms. Upon implementation of the system under this paragraph, the Pennsylvania Commission on Crime and Delinquency shall publish notice thereof in the Pennsylvania Bulletin.**

**(ii) An additional temporary fee of \$5 shall be remitted by the sheriff to the Firearms License to Carry Modernization Account, which is hereby established as a special restricted receipt account within the General Fund of the State Treasury. Moneys and investment income in the account shall be awarded as grants to sheriffs to implement the system, including grants to reimburse sheriffs for expenses incurred prior to the effective date of this paragraph.**

**(iii) Moneys credited to the account and any investment income accrued are hereby appropriated on a continuing basis to the Pennsylvania Commission on Crime and Delinquency. The commission shall establish procedures related to the application process for and distribution of funds to sheriffs under this paragraph. Notwithstanding the provisions of subparagraph (ii), the commission may withhold annually an amount not exceeding 5% of the funds credited to the account in that fiscal year for the cost to implement the system under subparagraph (i) and for administrative costs directly related to the responsibilities of the commission under this paragraph.**

**(iv) This paragraph shall expire five years after its effective date. Any surplus funds remaining in the account established in subparagraph (ii) at such time shall lapse into the General Fund.**

**(3) An additional fee of \$1 shall be paid by the applicant for a license to carry a firearm and shall be remitted by the sheriff to the Firearms License Validation System Account, which is hereby established as a special restricted receipt account within the General Fund of the State Treasury. The account shall be used for purposes under subsection (1). Moneys credited to the account and any investment income accrued are hereby appropriated on a continuing basis to the Pennsylvania State Police.**

(4) No fee other than that provided by this [paragraph] subsection or the Sheriff Fee Act may be assessed by the sheriff for the performance of any background check made pursuant to this act.

(5) The fee is payable to the sheriff to whom the application is submitted and is payable at the time of application for the license.

(6) Except for the administrative fee of \$5 under section 14(2) of the Sheriff Fee Act, all other fees shall be refunded if the application is denied but shall not be refunded if a license is issued and subsequently revoked.

(7) A person who sells or attempts to sell a license to carry a firearm for a fee in excess of the amounts fixed under this subsection commits a summary offense.

(i) Revocation.—A license to carry firearms may be revoked by the issuing authority for good cause. A license to carry firearms shall be revoked by the issuing authority for any reason stated in subsection (e)(1) which occurs during the term of the permit. Notice of revocation shall be in writing and shall state the specific reason for revocation. Notice shall be sent by certified mail *to the individual whose license is revoked*, and, at that time, **[a copy shall be forwarded to the commissioner.] notice shall also be provided to the Pennsylvania State Police by electronic means, including e-mail or facsimile transmission, that the license is no longer valid.** An individual whose license is revoked shall surrender the license to the issuing authority within five days of receipt of the notice. An individual whose license is revoked may appeal to the court of common pleas for the judicial district in which the individual resides. An individual who violates this section commits a summary offense.

*(i.1) Notice to sheriff.—Notwithstanding any statute to the contrary:*

*(1) Upon conviction of a person for a crime specified in section 6105(a) or (b) or upon conviction of a person for a crime punishable by imprisonment exceeding one year or upon a determination that the conduct of a person meets the criteria specified in section 6105(c)(1), (2), (3), (5), (6) or (9), the court shall determine if the defendant has a license to carry firearms issued pursuant to this section. If the 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 resulted in the notification. The notification shall be transmitted by the judge within seven days of the conviction or determination.*

*(2) Upon adjudication that a person is incompetent or upon the involuntary commitment of a person to a mental institution for inpatient care and treatment under the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, or upon involuntary treatment of a person as described under section 6105(c)(4), the judge of the court of common pleas, mental health*

*review officer or county mental health and mental retardation administrator 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 who has been adjudicated, committed or treated and the nature of the adjudication, commitment or treatment. The notification shall be transmitted by the judge, mental health review officer or county mental health and mental retardation administrator within seven days of the adjudication, commitment or treatment.*

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**(k) Reciprocity.—**

*(1) The Attorney General [may] shall have the power and duty to enter into reciprocity agreements with other states providing for the mutual recognition of [each state's license to carry a firearm.] a license to carry a firearm issued by the Commonwealth and a license or permit to carry a firearm issued by the other state. To carry out this duty, the Attorney General is authorized to negotiate reciprocity agreements and grant recognition of a license or permit to carry a firearm issued by another state.*

*(2) The Attorney General shall report to the General Assembly within 180 days of the effective date of this paragraph and annually thereafter concerning the agreements which have been consummated under this subsection.*

**(l) Firearms License Validation System.—**

*(1) The Pennsylvania State Police shall establish a nationwide toll-free telephone number, known as the Firearms License Validation System, which shall be operational seven days a week, 24 hours per day, for the purpose of responding to law enforcement inquiries regarding the validity of any Pennsylvania license to carry a firearm.*

*(2) Notwithstanding any other law regarding the confidentiality of information, inquiries to the Firearms License Validation System regarding the validity of any Pennsylvania license to carry a firearm may only be made by law enforcement personnel acting within the scope of their official duties.*

*(3) Law enforcement personnel outside this Commonwealth shall provide their originating agency identifier number and the license number of the license to carry a firearm which is the subject of the inquiry.*

*(4) Responses to inquiries by law enforcement personnel outside this Commonwealth shall be limited to the name of the licensee, the validity of the license and any information which may be provided to a criminal justice agency pursuant to Chapter 91 (relating to criminal history record information).*

**(m) Inquiries.—**

*(1) The Attorney General shall, not later than one year after the effective date of this subsection and not less than once annually, contact*

*in writing the appropriate authorities in any other state which does not have a current reciprocity agreement with the Commonwealth to determine if:*

- (i) the state will negotiate a reciprocity agreement;*
- (ii) a licensee may carry a concealed firearm in the state ; or*
- (iii) a licensee may apply for a license or permit to carry a firearm issued by the state.*

*(2) The Attorney General shall maintain a current list of those states which have a reciprocity agreement with the Commonwealth, those states which allow licensees to carry a concealed firearm and those states which allow licensees to apply for a license or permit to carry a firearm. This list shall be posted on the Internet, provided to the Pennsylvania State Police and made available to the public upon request.*

*(n) Definition.—As used in this section, the term “licensee” means an individual who is licensed to carry a firearm under this section.*

Section 4. Section 6115(b) of Title 18 is amended by adding a paragraph to read:

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

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(b) Exception.—

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

Section 5. The definitions of “confidential communications” and “hearing officer” in section 6102(a) of Title 23 are amended and the section is amended by adding definitions to read:

§ 6102. Definitions.

(a) General rule.—The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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“Confidential communications.” All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship. *The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor or advocate in the course of the relationship.*

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“Firearm.” *Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame*

*or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).*

\*\*\*

“Hearing officer.” A magisterial district judge, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue) [and], master appointed under 42 Pa.C.S. § 1126 (relating to masters) *and master for emergency relief.*

“Master for emergency relief.” A member of the bar of the Commonwealth appointed under section 6110(e) (relating to emergency relief by minor judiciary).

\*\*\*

“Other weapon.” *Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.*

“Safekeeping permit.” *A permit issued by a sheriff allowing a person to take possession of any firearm, other weapon or ammunition that a judge ordered a defendant to relinquish in a protection from abuse proceeding.*

\*\*\*

“Sheriff.”

(1) *Except as provided in paragraph (2), the sheriff of the county.*

(2) *In a city of the first class, the chief or head of the police department.*

\*\*\*

“Weapon.” *Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).*

\*\*\*

Section 6. Sections 6103, 6104(d) and 6105(e) of Title 23 are amended to read:

§ 6103. [Effect of departure to avoid abuse.] *Jurisdiction.*

(a) *General rule.*—The court shall have jurisdiction over all proceedings under this chapter. [The right of plaintiff to relief under this chapter shall not be affected by plaintiff leaving the residence or household to avoid further abuse.]

(b) *Effect of departure and nonresidence.*—The right of the plaintiff to relief under this chapter shall not be affected by either of the following:

(1) *The plaintiff’s leaving the residence or household to avoid further abuse.*

(2) *The defendant’s absence from this Commonwealth or the defendant’s nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with*

**42 Pa.C.S. § 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).**

§ 6104. Full faith and credit and foreign protection orders.

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(d) Filing a foreign protection order.—A plaintiff may file a certified copy of a foreign protection order with the prothonotary in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. The following provisions shall apply:

(1) **[Filing of a foreign protection order shall be without fee or cost.] No costs or fees associated with filing a foreign protection order shall be assigned to the plaintiff, including the cost of obtaining certified copies of the order. Costs and fees associated with filing a foreign protection order may be assessed against the defendant.**

(2) Upon filing of a foreign protection order, a prothonotary shall transmit, in a manner prescribed by the Pennsylvania State Police, a copy of the order to the Pennsylvania State Police registry of protection orders.

(3) Filing of a foreign protection order shall not be a prerequisite for **service and enforcement.**

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§ 6105. Responsibilities of law enforcement agencies.

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(e) Statewide registry.—

(1) The Pennsylvania State Police shall establish a Statewide registry of protection orders and shall maintain a complete and systematic record and index of all valid temporary and final court orders of protection, court-approved consent agreements and a foreign protection order filed pursuant to section 6104(d) (relating to full faith and credit and foreign protection orders). The Statewide registry shall include, but need not be limited to, the following:

(i) The names of the plaintiff and any protected parties.

(ii) The name and address of the defendant.

**(iii) The relationship between the plaintiff and defendant.**

**[(iii)] (iv) The date the order was entered.**

**[(iv)] (v) The date the order expires.**

**[(v)] (vi) The relief granted under sections 6108(a)(1), (2), (4), (6) and (7) (relating to relief) and 6110(a) (relating to emergency relief by minor judiciary).**

**[(vi)] (vii) The judicial district in which the order was entered.**

**[(vii)] (viii) Where furnished, the Social Security number and date of birth of the defendant.**

**(ix) Whether or not any or all firearms, other weapons or ammunition were ordered relinquished.**

(2) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of the protection order or approved consent agreement to the Statewide registry of protection orders so that it



is received within 24 hours of the entry of the order. Likewise, amendments to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry of protection orders within eight hours of receipt. *Vacated or expired orders shall be purged from the registry.*

(3) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order involving any defendant.

(4) When an order granting relief under section 6108(a)(7) has been entered by a court, such information shall be available to the Pennsylvania State Police for the purpose of conducting a criminal history records check in compliance with the applicable provisions of 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act).

(5) *Information contained in the Statewide registry shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.*

\*\*\*

Section 7. Section 6106(b), (c), (d), (g) and (g.1) of Title 23 are amended and the section is amended by adding subsections to read:

§ 6106. Commencement of proceedings.

\*\*\*

*(a.2) Notification of defendant's occupation.—The plaintiff shall notify the court if the plaintiff has reason to believe that the defendant is a licensed firearms dealer, is employed by a licensed firearms dealer or manufacturer, is employed as a writer, researcher or technician in the firearms or hunting industry or is required to carry a firearm as a condition of employment.*

*(b) [No prepayment of fees.—The petition shall be filed and service shall be made without prepayment of fees.] Plaintiff fees not permitted.—No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee. No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken pursuant to this chapter. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).*

(c) Assessment of fees and costs[.—If the plaintiff prevails in the action] *against the defendant.*—*When an order is granted pursuant to this chapter, fees and costs shall be [assigned to] assessed against the defendant. [, or, should the court determine that the defendant is not able to pay the costs of filing and service, the court shall waive fees and costs. If the plaintiff does not prevail, costs of filing and service may be assigned to the plaintiff or, should the court determine that the plaintiff is not able to pay the costs of filing and service, the] The court shall waive fees and costs[.] upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.*

(d) Surcharge on order.—When a protection order is granted under section 6107(a) (relating to hearings), other than pursuant to an agreement of the parties, a surcharge of [**\$25**] **\$100** shall be assessed against the defendant. All moneys received from surcharges shall [be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).] *be distributed in the following order of priority:*

(1) *\$25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.*

(2) *\$50 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:*

(i) *\$25 shall be used by the sheriff.*

(ii) *\$25 shall be used by the court.*

(3) *\$25 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.*

(d.1) *Limitation.*—*The surcharge allocated under subsection (d)(1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.*

\* \* \*

(g) Service of petition and orders.—The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments *and sheriff* with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police *and sheriff*. Failure to serve shall not stay the effect of a valid order.

(g.1) Service of original process of a foreign protection order.—*[There shall be no prepayment of fees for service of original process of a foreign protection order.] No plaintiff or petitioner shall be charged any costs or fees associated with the service of original process of a foreign protection*

*order. Costs or fees associated with the service of original process of a foreign protection order may be assessed against the defendant.*

**\* \* \***

Section 8. Sections 6107(a) and (b) and 6108 of Title 23 are amended to read:

§ 6107. Hearings.

(a) General rule.—Within ten *business* days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel, *of the possibility that any firearm, other weapon or ammunition owned and any firearm license possessed may be ordered temporarily relinquished, of the options for relinquishment of a firearm pursuant to this chapter, of the possibility that Federal law may prohibit the possession of firearms, including an explanation of 18 U.S.C. § 922(g)(8) (relating to unlawful acts)*, and [of the fact] that any protection order granted by a court may be considered in any subsequent proceedings under this title. This notice shall be printed and delivered in a manner which easily attracts attention to its content and shall specify that child custody is one of the proceedings where prior protection orders may be considered.

(b) Temporary orders.—

(1) If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding.

(2) The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse. The order shall remain in effect until modified or terminated by the court after notice and hearing. [Any order issued under this section shall, where furnished by the plaintiff, specify the Social Security number and date of birth of the defendant.]

(3) *In addition to any other relief, the court may, pursuant to section 6108 (relating to relief), direct that the defendant temporarily relinquish to the sheriff any firearms, other weapons or ammunition for the duration of the temporary order if the petition demonstrates any of the following:*

(i) *Abuse which involves a firearm or other weapon.*

(ii) *An immediate and present danger of abuse. In determining whether an immediate and present danger of abuse exists, the court shall consider a number of factors, including, but not limited to:*

(A) *Whether the temporary order of protection from abuse is not likely to achieve its purpose in the absence of such a condition.*

*(B) Whether the defendant has previously violated a protection from abuse order.*

*(C) Whether past or present abuse to the plaintiff or any of the plaintiff's minor children resulted in injury.*

*(D) Whether the abuse occurred in public.*

*(E) Whether the abuse includes:*

*(I) threats of abuse or suicide;*

*(II) killing or threatening to kill pets;*

*(III) an escalation of violence;*

*(IV) stalking or obsessive behavior;*

*(V) sexual violence; or*

*(VI) drug or excessive alcohol use.*

*(4) If the court orders the defendant to temporarily relinquish any firearm, other weapon or ammunition pursuant to paragraph (3), the defendant shall decide in what manner the defendant is going to relinquish any firearm, other weapon or ammunition listed in the order. Relinquishment may be to the sheriff pursuant to section 6108(a)(7) or to a third party for safekeeping pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping).*

\* \* \*

#### § 6108. Relief.

(a) General rule.—The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement 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 or restoring possession to the plaintiff **[when]** if the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) **[When]** If 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 or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing.

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

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

(A) abused the minor children of the parties or [where the defendant] *poses a risk of abuse toward the minor children of the parties; or*

(B) has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order[,] *or that the defendant poses a risk of violating 18 Pa.C.S. § 2904.*

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

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

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

(B) [may] deny the defendant custodial access to a child.

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

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

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

(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support, requiring the defendant, under sections 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the unreimbursed medical expenses of a spouse or minor child of the defendant to the provider or to

the plaintiff when he or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

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

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

**(i) (A) The court's order shall require the defendant to relinquish such firearms, other weapons, ammunition and any firearm license pursuant to the provisions of this chapter within 24 hours 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 any or all of the defendant's firearms.**

*(B) A defendant subject to a temporary order requiring the relinquishment of firearms, other weapons or 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 defendant, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, pursuant to this chapter, any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement authorities. The defendant shall not possess any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff pursuant to 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 inability of the defendant to retrieve a specific firearm within 24 hours due to the current location of the firearm.*

*(ii) The court's order shall contain a list of any firearm, other weapon or ammunition ordered relinquished. Upon the entry of a final order, the defendant shall inform the court in what manner the defendant is going to relinquish any firearm, other weapon or ammunition ordered relinquished. Relinquishment may occur pursuant to section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 or to the sheriff pursuant to this paragraph. Where the sheriff is designated, the sheriff shall secure custody of the defendant's firearms, other weapons or ammunition and any firearm license listed in the court's order for the duration of the order or until otherwise directed by court order. In securing custody of the defendant's relinquished firearms, the sheriff shall comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms). In securing custody of the defendant's other weapons and ammunition, the sheriff shall provide the defendant with a signed and dated written receipt which shall include a detailed description of the other weapon or ammunition and its condition.*

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

*(iv) Unless the defendant has complied with subparagraph (i)(B) or section 6108.2 or 6108.3, if the defendant fails to relinquish any firearm, other weapon, ammunition or firearm license within 24*

*hours or upon the close of the next business day due to closure of sheriffs' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.*

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

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

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

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

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

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

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

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

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

(b) Identifying information.—Any order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant.

(c) Mutual orders of protection.—Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied



with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate findings and, where issuing orders on behalf of both petitioners, enter separate orders.

(d) Duration and amendment of order or agreement.—A protection order or approved consent agreement shall be for a fixed period of time not to exceed **[18 months] three years**. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(e) Extension of protection orders.—

(1) An extension of a protection order may be granted:

(i) Where the court finds, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 6106 and 6107, that the defendant committed one or more acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor child.

(ii) When a contempt petition or charge has been filed *with the court or with a hearing officer in Philadelphia County*, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition *and may be extended for another term beyond the disposition of the contempt petition*.

(2) Service of an extended order shall be made in accordance with section 6109 (relating to service of orders).

(3) There shall be no limitation on the number of extensions that may be granted.

(f) Support procedure.—The domestic relations section shall enforce any support award in a protection order where the plaintiff files a complaint for support under subsection (a)(5).

(g) Notice.—Notice shall be given to the defendant, in orders issued under this section, stating that violations of an order will subject the defendant to arrest under section 6113 (relating to arrest for violation of order) or contempt of court under section 6114 (relating to contempt for violation of order or agreement). Resumption of coresidency on the part of the plaintiff and defendant shall not nullify the provisions of the court order.

(h) Title to real property unaffected.—No order or agreement under this chapter shall in any manner affect title to any real property.

Section 9. Title 23 is amended by adding sections to read:

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

**(a) General rule.—Any court order requiring the relinquishment of firearms, other weapons or ammunition shall provide for the return of the relinquished firearms, other weapons or ammunition to the defendant upon expiration of the order or dismissal of a petition for a protection from abuse order. The defendant may take custody of the firearms, other**

*weapons and ammunition provided that the defendant is otherwise eligible to lawfully possess the relinquished items. The defendant shall not be required to pay any fees, costs or charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition.*

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

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

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

*(c) Modification of court's order to provide for alternative means of relinquishing firearms, other weapons or ammunition.—The defendant may petition the court for modification of the order to provide for an alternative means of relinquishment in accordance with this chapter. The petition shall be served upon the plaintiff, and the plaintiff shall have an opportunity to be heard at the hearing as provided in subsection (d). Where the court orders a modification pursuant to this subsection providing for alternative means of relinquishment, the sheriff shall proceed as directed by the court.*

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

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

*“Other person.” Any person, except the defendant, who is the lawful owner of a firearm, other weapon or ammunition relinquished pursuant to this chapter.*

*“Safekeeping.” The secure custody of a firearm, other weapon or ammunition ordered relinquished by an active protection from abuse order.*

**§ 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.**

*(a) General rule.—Notwithstanding any other provision of law, a defendant who is the subject of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the*

*sheriff, relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers) any firearms, other weapons or ammunition for consignment sale, lawful transfer or safekeeping.*

*(b) Affidavit.—A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:*

*(1) The caption of the case in which the protection from abuse order was issued.*

*(2) The name, address, date of birth and Social Security number of the defendant.*

*(3) A list of the firearms, other weapons or ammunition, including, if applicable, the manufacturer, model and serial number.*

*(4) The name and license number of the dealer licensed pursuant to 18 Pa.C.S. § 6113 and the address of the licensed premises.*

*(5) An acknowledgment that the firearms, other weapons or ammunition will not be returned to the defendant or sold or transferred to a person the dealer knows is a member of the defendant's household, while the defendant is the subject of an active protection from abuse order pursuant to section 6108, which order provides for the relinquishment of the firearm, other weapon or ammunition being returned, sold or transferred.*

*(6) An acknowledgment that the firearms, other weapons or ammunition, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).*

*(c) Failure to provide affidavit.—A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons or ammunition, provide to the sheriff the affidavit obtained pursuant to subsection (b) and relinquish to the sheriff any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, in an affidavit provided in accordance with section 6108(a)(7)(i)(B) (relating to relief) or in an acknowledgment of receipt from a third party provided to the sheriff pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping). If the defendant fails to comply with this subsection, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.*

*(d) Form.—The Pennsylvania State Police shall develop and make available a form to be used by dealers to accept possession of firearms, other weapons and ammunition for consignment sale, lawful transfer or safekeeping pursuant to this section.*

*(e) Transfer upon entry of final order.—Upon entry of a final protection from abuse order issued pursuant to section 6108, which order*

*provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, a defendant who had relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order may request that the firearms, other weapons or ammunition be relinquished to a dealer for consignment sale, lawful transfer or safekeeping pursuant to this section. If the defendant can identify a licensed dealer willing to accept the firearms, other weapons or ammunition in compliance with this section, the court shall order the sheriff to transport the firearms, other weapons or ammunition to the licensed dealer at no cost to the defendant or the licensed dealer.*

*(f) Nondisclosure.—The affidavit obtained under subsection (c) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.*

*(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*“Safekeeping.” The secure custody of firearms, other weapons or ammunition ordered relinquished by an active protection from abuse order.*

*“Sale or lawful transfer.” Any sale or transfer to a person other than the defendant or a member of the defendant’s household which is conducted in accordance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).*

**§ 6108.3. Relinquishment to third party for safekeeping.**

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

*(b) Transfer to third party.—*

*(1) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons and ammunition, report to the sheriff’s office in the county where the order was entered along with the third party.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(F) A plain-language summary of 18 Pa.C.S. §§ 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or transfer of firearms) and*

*6115 (relating to loans on, or lending or giving firearms prohibited).*

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

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

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

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

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

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

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

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

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

*(6) If the defendant fails to provide the acknowledgment of receipt to the sheriff as required under paragraph (5), an affidavit prepared in accordance with section 6108(a)(7)(i)(B) (relating to relief), an affidavit under section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or fails to relinquish any firearms, other weapons or ammunition, the sheriff shall, at a minimum, provide*

*immediate notice to the court, the plaintiff and appropriate law enforcement agencies.*

*(c) Revocation of safekeeping permit.—*

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

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

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

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

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

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

*(i) Required pursuant to paragraph (1)(i) or (ii), the sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may report to the sheriff's office in order to relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.*

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

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

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

*(d) Return of safekeeping permit.—*

*(1) Following expiration of a protection from abuse order, which order provided for the relinquishment of firearms, other weapons or ammunition, the defendant and the third party shall report to the*

*sheriff's office to return the safekeeping permit. Upon a determination by the sheriff that the defendant is:*

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

*(ii) Prohibited from possessing a firearm, other weapon or ammunition pursuant to any Federal or State law, the sheriff shall accept return of the permit and seize from the third party all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section. The sheriff shall return to the defendant any firearm, other weapon or ammunition which the defendant is lawfully entitled to possess.*

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

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

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

*(f) Forms.—The Pennsylvania State Police shall develop and make available:*

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

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



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

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

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

**“Safekeeping.”** *The secure custody of firearms, other weapons or ammunition which were ordered relinquished by an active protection from abuse order.*

**“Third party.”** *A person, other than the defendant, who:*

**(1)** *Is not a member of the defendant’s household.*

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

**§ 6108.4. Registry or database of firearm ownership.**

**(a) Confidentiality.**—*Information retained to ensure compliance with this chapter and to document the return of firearms shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.*

**(b) Construction.**—*Nothing in this chapter shall be construed to 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. However, information may be retained to ensure compliance with this chapter and to document the return of firearms.*

**§ 6108.5. Penalties for release of information.**

*Any person who violates section 6108(a)(7)(v) (relating to relief) by releasing information with the intent and purpose of committing such violation commits a misdemeanor of the third degree.*

Section 10. Section 6110 of Title 23 is amended by adding a subsection to read:

**§ 6110. Emergency relief by minor judiciary.**

**\* \* \***

**(e) Master for emergency relief.**—*The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the*

*president judge with the approval of the Administrative Office of Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.*

Section 11. Sections 6113 and 6113.1 of Title 23 are amended to read:

§ 6113. Arrest for violation of order.

(a) General rule.—An arrest for violation of an order issued pursuant to this chapter or a foreign protection order may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer *or sheriff* in circumstances where the defendant has violated a provision of an order consistent with section 6108(a)(1), (2), (3), (4), (6), (7) or (9) (relating to relief). The police officer *or sheriff* may verify the existence of a protection order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry, protection order file or issuing authority. A police officer *or sheriff* shall arrest a defendant for violating an order issued under this chapter by a court within the judicial district, issued by a court in another judicial district within this Commonwealth or a foreign protection order issued by a comparable court.

(b) Seizure of [weapons] *firearms, other weapons and ammunition*.—Subsequent to an arrest, the police officer *or sheriff* shall seize all [weapons] *firearms, other weapons and ammunition* used or threatened to be used during the violation of the protection order or during prior incidents of abuse *and any other firearms in the defendant's possession*. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated [weapons] *firearms, other weapons and ammunition* to the office of the sheriff. The sheriff shall maintain possession of the [weapons] *firearms, other weapons and ammunition* until the court issues an order specifying the [weapons] *firearms, other weapons and ammunition* to be relinquished and the persons to whom the [weapons] *firearms, other weapons and ammunition* shall be relinquished.

(c) Procedure following arrest.—Subsequent to an arrest, the defendant shall be taken by the police officer *or sheriff* without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer *or sheriff* shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in the city of Pittsburgh, to a magistrate of the Pittsburgh Magistrates Court or, in counties of the first class, to the appropriate hearing officer. For purposes of procedure relating to arraignments for arrest for violation of an order issued under this chapter, the judges of Pittsburgh Magistrates Court shall be deemed to be magisterial district judges.

(d) Preliminary arraignment.—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected.—This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing.—A hearing shall be scheduled within ten days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

§ 6113.1. Private criminal complaints for violation of order or agreement.

(a) General rule.—A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a noneconomic violation of any provision of an order or court-approved consent agreement issued under this chapter or a foreign protection order, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that, in a city of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

(b) Procedure service.—Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule. *No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff at any stage of the proceeding, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).*

(c) *Fees and costs.—After a finding of indirect criminal contempt, fees and costs may be assessed against the defendant. The court shall waive fees and costs imposed pursuant to this chapter upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.*

Section 12. Sections 6114 and 6117 of Title 23 are amended to read:

§ 6114. Contempt for violation of order or agreement.

(a) General rule.—Where the police, *sheriff* or the plaintiff have filed charges of indirect criminal contempt against a defendant for violation of a protection order issued under this chapter, a foreign protection order or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(a.1) Jurisdiction.—A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order issued pursuant to this chapter **[or a foreign protection order]** in the county where the violation occurred[,] *and in the county where the protection order was granted. A court shall have jurisdiction over indirect criminal contempt charges for*

*violation of a foreign protection order in the county where the violation occurred.*

(a.2) Minor defendant.—Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection from abuse order shall be considered to have committed an alleged delinquent act as that term is defined in 42 Pa.C.S. § 6302 (relating to definitions) and shall be treated as provided in 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(b) Trial and punishment.—

(1) A sentence for contempt under this chapter may include [imprisonment up to six months or a fine of not less than \$100 nor more than \$1,000, or both, and may include other relief set forth in this chapter. All moneys received under this section shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies). The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.]:

(i) (A) *a fine of not less than \$300 nor more than \$1,000 and imprisonment up to six months; or*

(B) *a fine of not less than \$300 nor more than \$1,000 and supervised probation not to exceed six months; and*

(ii) *an order for other relief set forth in this chapter.*

(2) *All money received under this section shall be distributed in the following order of priority:*

(i) *\$100 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).*

(ii) *\$100 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:*

(A) *\$50 shall be used by the sheriff.*

(B) *\$50 shall be used by the court.*

(iii) *\$100 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.*

(iv) *Any additional money shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.*

**(3) The defendant shall not have a right to a jury trial on a charge of indirect criminal contempt. However, the defendant shall be entitled to counsel.**

**(4) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.**

**(5) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.**

**(6) The minimum fine required by subsection (b)(1) allocated pursuant to subsection (b)(2)(i) and (iii) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.**

(c) Notification upon release.—The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (b). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody. The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) Multiple remedies.—Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

§ 6117. Procedure and other remedies.

**(a) General rule.**—Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of an order issued under section 6108 (relating to relief) at any time during the pendency of an order. **[Modification] Except as otherwise indicated in this chapter, modification** may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

**(b) Remedies for bad faith.**—**Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of abuse by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.**

Section 13. Title 23 is amended by adding sections to read:

§ 6119. Immunity.

*(a) General rule.—Law enforcement agencies and their employees, including police officers and sheriffs, shall, except as provided in subsection (b), be immune from civil liability for actions taken in good faith to carry out their duties relating to the seizure and relinquishment of firearms, other weapons and ammunition as provided for in this chapter, except for gross negligence, intentional misconduct or reckless, willful or wanton misconduct.*

*(b) Exception.—Law enforcement agencies and their employees, including police officers and sheriffs, shall be liable to the lawful owner of confiscated, seized or relinquished firearms in accordance with 18 Pa.C.S. § 6105(f) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) and shall be liable to the lawful owner of confiscated, seized or relinquished other weapons or ammunition for any loss, damage or substantial decrease in the value of the other weapons or ammunition that is a direct result of a lack of reasonable care by the law enforcement agency or its employees.*

**§ 6120. Inability to pay.**

*(a) Order for installment payments.—Upon plea and proof that a person is without the financial means to pay a fine, a fee, economic relief ordered under section 6108(a)(8) (relating to relief) or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.*

*(b) Use of credit cards.—The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.*

**§ 6121. Warrantless searches.**

*Except as provided in section 6113 (relating to arrest for violation of order), nothing in this chapter shall authorize a warrantless search for firearms, other weapons or ammunition.*

**§ 6122. Construction.**

*Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process pursuant to 42 Pa.C.S. Ch. 83 Subch. E (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).*

Section 14. The Pennsylvania Commission on Crime and Delinquency shall submit a report to the General Assembly three years after the effective date of this section on the progress of the Firearms License to Carry Modernization Account.

Section 15. This act shall take effect as follows:

(1) The addition or amendment of 18 Pa.C.S. § 6109(e)(3) introductory paragraph, (i), (ii), (v) and (vi) shall take effect in 90 days.

(2) The addition or amendment of 18 Pa.C.S. § 6109(e)(3)(iii), (iv) and (4) shall take effect upon publication of the notice under 18 Pa.C.S. § 6109(h)(2) or five years and 60 days, whichever is first.

- (3) This section shall take effect immediately.
- (4) The remainder of this act shall take effect in 180 days.

APPROVED—The 10th day of November, A.D. 2005.

EDWARD G. RENDELL