

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2060 Session of 2018

INTRODUCED BY M. QUINN, ROE, COMITTA, SANTORA, DRISCOLL, BARRAR, DAVIS, KRUEGER-BRANEKY, WATSON, STURLA, WARREN, TOOHIL, MADDEN, SCHWEYER, FRANKEL, CUTLER, ROZZI, YOUNGBLOOD, HARPER, DEAN, STEPHENS, SCHLOSSBERG, HILL-EVANS, McCARTER, MURT, MILNE, KAMPF, CHARLTON, DIGIROLAMO, RABB, FARRY, DALEY, RAVENSTAHL, TAI, DAWKINS AND McCLINTON, FEBRUARY 26, 2018

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 22, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 firearms and other dangerous articles, further providing for
4 persons not to possess, use, manufacture, control, sell or
5 transfer firearms and providing for relinquishment of
6 firearms and firearm licenses by convicted persons and for
7 abandonment of firearms, weapons or ammunition; and, in
8 protection from abuse, further providing for definitions, for
9 commencement of proceedings, for hearings, for relief, for
10 return of relinquished firearms, other weapons and ammunition
11 and additional relief, for relinquishment for consignment
12 sale, lawful transfer or safekeeping and for relinquishment
13 to third party for safekeeping, IMPOSING A PENALTY and <--
14 providing for order to seal record from public view.

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

17 Section 1. Section 6105(a)(2), (a.1)(2) and (3) and (c)(6)
18 and (9) of Title 18 of the Pennsylvania Consolidated Statutes
19 are amended and subsection (c) is amended by adding a paragraph
20 to read:

21 § 6105. Persons not to possess, use, manufacture, control, sell

1 or transfer firearms.

2 (a) Offense defined.--

3 * * *

4 (2) (i) [A] Except as otherwise provided in this
5 paragraph, a person who is prohibited from possessing,
6 using, controlling, selling, transferring or
7 manufacturing a firearm under paragraph (1) or subsection
8 (b) or (c) shall have a reasonable period of time, not to
9 exceed 60 days from the date of the imposition of the
10 disability under this subsection, in which to sell or
11 transfer that person's firearms to another eligible
12 person who is not a member of the prohibited person's
13 household.

14 (ii) This paragraph shall not apply to any person
15 whose disability is imposed pursuant to subsection (c)
16 (6).

17 (iii) A person whose disability is imposed pursuant
18 to subsection (c)(9) shall relinquish any firearms and
19 firearm licenses under that person's possession or
20 control, as described in section 6105.2 (relating to
21 relinquishment of firearms and firearm licenses by
22 convicted persons).

23 (iv) A person whose disability is imposed pursuant
24 to a protection from abuse order shall relinquish any
25 firearms, other weapons, ammunition and firearm licenses
26 under that person's possession or control, as described
27 in 23 Pa.C.S. § 6108(a)(7) (relating to relief).

28 (a.1) Penalty.--

29 * * *

30 (2) A person who is the subject of an active final

1 protection from abuse order issued pursuant to 23 Pa.C.S. §
2 6108 (relating to relief), is the subject of any other active
3 protection from abuse order issued pursuant to 23 Pa.C.S. §
4 6107(b) (relating to hearings), which [order] provided for
5 the relinquishment of firearms[,] or other weapons or
6 ammunition during the period of time the order is in effect,
7 or is otherwise prohibited from possessing or acquiring a
8 firearm under 18 U.S.C. § 922(g)(8) (relating to unlawful
9 acts), commits a misdemeanor of the [first] second degree if
10 he intentionally or knowingly fails to relinquish a
11 firearm[,] or other weapon or ammunition to the sheriff OR <--
12 APPROPRIATE LAW ENFORCEMENT AGENCY AS DEFINED IN 23 PA.C.S. §
13 6102 (RELATING TO DEFINITIONS) as required by the order
14 unless, in lieu of relinquishment, he provides an affidavit
15 which lists the firearms[,] or other weapons or ammunition to
16 the sheriff in accordance with [either] 23 Pa.C.S. § 6108(a)
17 (7) (i) (B), 6108.2 (relating to relinquishment for consignment
18 sale, lawful transfer or safekeeping) or 6108.3 (relating to
19 relinquishment to third party for safekeeping).

20 (3) (i) A person commits a misdemeanor of the third
21 degree if he intentionally or knowingly accepts
22 possession of a firearm, other weapon or ammunition from
23 [a] another person he knows is the subject of an active
24 final protection from abuse order issued pursuant to 23
25 Pa.C.S. § 6108 or an active protection from abuse order
26 issued pursuant to 23 Pa.C.S. § [6108] 6107(b), which
27 order provided for the relinquishment of the firearm,
28 other weapon or ammunition during the period of time the
29 order is in effect.

30 (ii) This paragraph shall not apply to:

1 (A) a third party who accepts possession of a
2 firearm, other weapon or ammunition relinquished
3 pursuant to 23 Pa.C.S. § 6108.3; or

4 (B) a dealer licensed pursuant to section 6113
5 (relating to licensing of dealers) or subsequent
6 purchaser from a dealer licensed pursuant to section
7 6113, who accepts possession of a firearm, other
8 weapon or ammunition relinquished pursuant to 23
9 Pa.C.S. § 6108.2.

10 * * *

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

15 * * *

16 (6) A person who is the subject of an active final
17 protection from abuse order issued pursuant to 23 Pa.C.S. §
18 6108, is the subject of any other active protection from
19 abuse order issued pursuant to 23 Pa.C.S. § 6107(b), which
20 [order] provided for the relinquishment of firearms during
21 the period of time the order is in effect or is otherwise
22 prohibited from possessing or acquiring a firearm under 18
23 U.S.C. § 922(g)(8). This prohibition shall terminate upon the
24 expiration or vacation of [an active protection from abuse]
25 the order or portion thereof relating to the relinquishment
26 of firearms.

27 * * *

28 (9) A person who is prohibited from possessing or
29 acquiring a firearm under 18 U.S.C. § 922(g)(9) [(relating to
30 unlawful acts)]. If the offense which resulted in the

1 prohibition under 18 U.S.C. § 922(g) (9) was committed, as
2 provided in 18 U.S.C. § 921(a) (33) (A) (ii) (relating to
3 definitions), by a person in any of the following
4 relationships:

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

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

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

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

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

15 (10) A person who has been convicted of an offense under
16 subsection (a.1) (2). The prohibition shall terminate five
17 years after the date of conviction, final release from
18 confinement or final release from supervision, whichever is
19 later.

20 * * *

21 Section 2. Title 18 is amended by adding sections to read:

22 § 6105.2. Relinquishment of firearms and firearm licenses by
23 convicted persons.

24 (a) Procedure.--

25 (1) A person subject to a firearms disability pursuant
26 to section 6105(c) (9) (relating to persons not to possess,
27 use, manufacture, control, sell or transfer firearms) shall
28 relinquish any firearms under the person's possession or
29 control to the appropriate law enforcement agency of the
30 municipality as described in subsection (b) or to a dealer as

1 described in subsection (c).

2 (2) The court of conviction shall order the
3 relinquishment and the order shall be transmitted to the
4 appropriate law enforcement agency of the municipality and to
5 the sheriff of the county of which the person is a resident.
6 The order shall contain a list of any firearm ordered
7 relinquished.

8 (3) The person shall inform the court in what manner the
9 person will relinquish the firearms.

10 (4) If the person is present in court at the time of the
11 order, the person shall inform the court whether
12 relinquishment will be made under subsection (b) or (c).

13 (b) Relinquishment to law enforcement agency.--

14 (1) Relinquishment to an appropriate law enforcement
15 agency shall be made within a period not longer than 24 hours
16 following conviction, except for cause shown, in which case
17 the court shall specify the time for relinquishment of any or
18 all of the person's firearms.

19 (2) In securing custody of the person's relinquished
20 firearms, the law enforcement agency shall provide the person
21 subject to the relinquishment order with a signed and dated
22 written receipt, which shall include a detailed description
23 of each firearm and its condition.

24 (3)As used in this subsection, the term "cause" shall be
25 limited to facts relating to the inability of the person to
26 retrieve a specific firearm within a period not longer than
27 24 hours due to the then current location of the firearm.

28 (c) Relinquishment to dealer.--

29 (1) In lieu of relinquishment to the local law
30 enforcement agency, the person subject to a court order may,

1 within 24 hours or within the time ordered by the court upon
2 cause being shown as in subsection (b), relinquish firearms
3 to a dealer licensed pursuant to section 6113 (relating to
4 licensing of dealers).

5 (2) The dealer may charge the person a reasonable fee
6 for accepting relinquishment.

7 (3) The person shall obtain an affidavit from the dealer
8 on a form prescribed by the Pennsylvania State Police, which
9 shall include, at a minimum, the following:

10 (i) The caption of the case in which the person was
11 convicted.

12 (ii) The name, address, date of birth and Social
13 Security number of the person.

14 (iii) A list of the firearms, including the
15 manufacturer, model and serial number.

16 (iv) The name and license number of the dealer
17 licensed pursuant to section 6113 and the address of the
18 licensed premises.

19 (v) An acknowledgment that the firearms will not be
20 returned to the person, unless the person is no longer
21 prohibited from possessing a firearm under Federal or
22 State law, or sold or transferred to a person the dealer
23 knows is a member of the defendant's household.

24 (vi) An acknowledgment that the firearms, if
25 transferred, will be transferred in compliance with this
26 chapter.

27 (4) Any person relinquishing a firearm pursuant to this
28 subsection shall, within the specified time frame, provide to
29 the appropriate law enforcement agency or the sheriff's
30 office, or both, the affidavit required by this subsection

1 and relinquish to the law enforcement agency any firearm
2 ordered to be relinquished that is not specified in the
3 affidavit.

4 (d) Notice of noncompliance.--

5 (1) If the person fails to relinquish any firearm within
6 24 hours or within the time ordered by the court upon cause
7 being shown, the law enforcement agency shall, at a minimum,
8 provide immediate notice to the court, the victim, the
9 prosecutor and the sheriff.

10 (2) For purposes of this subsection, "victim" shall have
11 the same meaning as "direct victim" in section 103 of the act
12 of November 24, 1998 (P.L.882, No.111), known as the Crime
13 Victims Act.

14 (e) Alternate relinquishment to dealer.--

15 (1) If the person relinquishes firearms to the
16 appropriate law enforcement agency pursuant to subsection
17 (b), the person may request that the appropriate law
18 enforcement agency make one transfer of any such firearm to a
19 dealer licensed pursuant to section 6113 within six months of
20 relinquishment.

21 (2) If requesting a subsequent transfer, the person
22 shall provide the appropriate law enforcement agency with the
23 dealer affidavit described in subsection (c).

24 (3) The appropriate law enforcement agency shall make
25 the transfer, if the person complies with this subsection,
26 and may charge the person for any costs associated with
27 making the transfer.

28 (f) Recordkeeping.--Any portion of an order or petition or
29 other paper that includes a list of firearms ordered to be
30 relinquished shall be kept in the files of the court as a

1 permanent record and withheld from public inspection, except
2 upon an order of the court granted upon cause shown, after
3 redaction of information relating to the firearms, or as
4 necessary, by law enforcement and court personnel.

5 (g) Relinquishment of licenses.--

6 (1) A person convicted of a crime resulting in a firearm
7 disability pursuant to section 6105(c)(9) shall also
8 relinquish to the sheriff any firearm license issued under
9 section 6106 (relating to firearms not to be carried without
10 a license) or 6109 (relating to licenses) or 23 Pa.C.S. §
11 6108.3 (relating to relinquishment to third party for
12 safekeeping).

13 (2) The provisions of subsections (a)(2) and (3), (b),
14 (d) and (f) shall also apply to firearm licenses of the
15 person.

16 (h) Penalty.--A person convicted of a crime resulting in a
17 firearm disability pursuant to section 6105(c)(9) commits a
18 misdemeanor of the second degree if the person intentionally or
19 knowingly fails to relinquish a firearm or other weapon or
20 ammunition to an appropriate law enforcement agency or a dealer
21 in accordance with this section.

22 (i) Definition.--As used in this section, the term "firearm"
23 means any weapon which is designed to or may readily be
24 converted to expel any projectile by the action of an explosive
25 or the frame or receiver of any such weapon.

26 § 6128. Abandonment of firearms, weapons or ammunition.

27 (a) General rule.--Firearms, weapons or ammunition which are
28 itemized on a list required under 23 Pa.C.S. § 6108(a)(7)(v)
29 (relating to relief) or the possession or acquisition of which
30 is prohibited under 18 U.S.C. § 922(g)(9) (relating to unlawful

1 acts) and relinquished into or otherwise coming into the custody
2 of a police department, PENNSYLVANIA STATE POLICE, coroner, <--
3 medical examiner, district attorney, sheriff or licensed dealer
4 shall be deemed abandoned when:

5 (1) Relinquished by its lawful owner pursuant to court
6 order or executed warrant and no written request to return or
7 otherwise dispose of the firearms, weapons or ammunition is
8 made by the lawful owner or the lawful owner's attorney or
9 duly appointed representative after a period of one year from
10 the date an order of relinquishment or seizure has expired.

11 (2) Found, discovered or otherwise passed into the
12 custody of the police department, PENNSYLVANIA STATE POLICE, <--
13 coroner, medical examiner, district attorney, sheriff or
14 licensed dealer and no owner can be determined after a
15 documented search of the database of firearms sales
16 maintained by the Pennsylvania State Police is made at the
17 time the firearms come into the custody of the police
18 department, coroner, medical examiner, district attorney,
19 sheriff or licensed dealer and is again made one year from
20 the date of the first documented search.

21 (b) Methods of disposal.--If firearms, weapons or ammunition
22 are deemed abandoned under subsection (a), the custodian may
23 dispose of the firearms, weapons or ammunition by:

24 (1) Arranging for the sale of the firearms, weapons or
25 ammunition to a federally licensed firearms dealer by sealed
26 bid with proceeds of the sale to be retained by the
27 custodian.

28 (2) Arranging for the lawful and complete destruction of
29 the firearms, weapons or ammunition. Firearms, weapons or
30 ammunition that cannot lawfully be sold to a federally

1 licensed firearms dealer in this Commonwealth shall be
2 destroyed.

3 (c) Limitation.--A custodian may not dispose of firearms,
4 weapons or ammunition deemed abandoned under subsection (a)(1)
5 without first notifying the person who relinquished the
6 firearms, weapons or ammunition. If the person who relinquished
7 the firearms, weapons or ammunition fails to respond within 20
8 days to the notice, the custodian may proceed with disposal of
9 the firearms, weapons or ammunition. Notification shall be by
10 certified mail to:

11 (1) an address where the person relinquishing the
12 firearms, weapons or ammunition is now known by the custodian
13 to reside;

14 (2) the last known address of the person relinquishing
15 the firearms, weapons or ammunition;

16 (3) the address of the person relinquishing the
17 firearms, weapons or ammunition which was provided at the
18 time of relinquishment; or

19 (4) the address of the person relinquishing the
20 firearms, weapons or ammunition which is found after
21 searching the available sources of address data maintained in
22 the Commonwealth's databases of motor vehicle registration,
23 motor vehicle driver licensing, occupational and professional
24 licensure, corrections facilities and public assistance.

25 (d) Illegal seizure.--A custodian who sells or destroys
26 seized firearms, weapons or ammunition with pending or
27 unresolved evidentiary challenges to the legality of the seizure
28 shall be liable to the lawful owner of the illegally seized
29 firearms, weapons or ammunition for the actual value of the
30 illegally seized firearms, weapons or ammunition plus reasonable

1 attorney fees. Actual value shall be determined by the owner,
2 who shall be required to obtain an estimate of value from a
3 private third-party licensed firearms dealer.

4 (e) Public inspection.--A portion of an order or petition or
5 other paper which includes a list of firearms or other weapons
6 or ammunition in possession of a custodian under this section
7 shall be withheld from public inspection except:

8 (1) upon an order of a court granted upon cause shown;

9 (2) as necessary, by law enforcement and court
10 personnel; or

11 (3) after redaction of information listing firearms,
12 other weapons or ammunition.

13 (f) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection unless the context clearly indicates otherwise:

16 "Custodian." A police department, PENNSYLVANIA STATE POLICE, <--
17 coroner, medical examiner, district attorney, sheriff or
18 licensed dealer into whose custody firearms, weapons or
19 ammunition has passed.

20 "Firearm." Any weapon which is designed to or may readily be
21 converted to expel any projectile by the action of an explosive
22 or the frame or receiver of any such weapon.

23 Section 3. Section 6102(a) of Title 23 is amended by adding
24 ~~a definition~~ DEFINITIONS to read: <--

25 § 6102. Definitions.

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

29 * * *

30 "Appropriate law enforcement agency." The duly constituted

1 municipal law enforcement agency that regularly provides primary
2 police services to a political subdivision or, in the absence of
3 any such municipal law enforcement agency, the Pennsylvania
4 State Police installation that regularly provides primary police
5 services to the political subdivision.

6 * * *

7 "COMMERCIAL ARMORY." A FOR-PROFIT ENTITY WHICH HOLDS THE <--
8 APPROPRIATE FEDERAL AND STATE LICENSES TO POSSESS AND SECURE
9 FIREARMS OF THIRD PERSONS.

10 Section 4. Section 6106(d) of Title 23 is amended and the
11 section is amended by adding a subsection to read:

12 § 6106. Commencement of proceedings.

13 * * *

14 (a.3) Notification of need to protect plaintiff.--The
15 plaintiff shall notify the court anytime during the period
16 commencing upon filing the petition and granting of an order or
17 approving a consent agreement at a hearing held under section
18 6107(a) (relating to hearings) if the plaintiff has reason to
19 believe the plaintiff's safety is at risk. In such a case, the
20 court shall direct the Pennsylvania State Police, the municipal
21 police or the sheriff to accompany the plaintiff to the
22 plaintiff's residence to retrieve personal belongings or to
23 accompany the plaintiff while the petition or order is served
24 upon the defendant by the sheriff or competent adult, as set
25 forth in the Pennsylvania Rules of Civil Procedure.

26 * * *

27 (d) Surcharge on order.--When a protection order is granted
28 under section 6107(a) [(relating to hearings)], other than
29 pursuant to an agreement of the parties, a surcharge of \$100
30 shall be assessed against the defendant. All moneys received

1 from surcharges shall be distributed in the following order of
2 priority:

3 (1) \$25 shall be forwarded to the Commonwealth and shall
4 be appropriated to the Pennsylvania State Police to establish
5 and maintain the Statewide registry of protection orders
6 provided for in section 6105.

7 (2) \$50 shall be retained by the county and shall be
8 used to carry out the provisions of this chapter as follows:

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

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

11 (3) \$25 shall be forwarded to the Department of Public
12 Welfare for use for victims of domestic violence in
13 accordance with the provisions of section 2333 of the act of
14 April 9, 1929 (P.L.177, No.175), known as The Administrative
15 Code of 1929.

16 * * *

17 Section 5. Section 6107(a) and (c) of Title 23 are amended
18 to read:

19 § 6107. Hearings.

20 (a) General rule.--Within ten business days of the filing of
21 a petition under this chapter, a hearing shall be held before
22 the court, at which the plaintiff must prove the allegation of
23 abuse by a preponderance of the evidence. The court shall, at
24 the time the defendant is given notice of the hearing, advise
25 the defendant of the right to be represented by counsel, of the
26 right to present evidence, of the right to compel attendance of
27 witnesses, of the method by which witnesses may be compelled, of
28 the possibility that any firearm, other weapon or ammunition
29 owned and any firearm license possessed may be ordered
30 temporarily relinquished, of the options for relinquishment of a

1 firearm pursuant to this chapter, of the possibility that
2 Federal or State law may prohibit the possession of firearms,
3 including an explanation of 18 U.S.C. § 922(g) (8) (relating to
4 unlawful acts) and 18 Pa.C.S. § 6105 (relating to persons not to
5 possess, use, manufacture, control, sell or transfer firearms),
6 and that any protection order granted by a court may be
7 considered in any subsequent proceedings under this title. This
8 notice shall be printed and delivered in a manner which easily
9 attracts attention to its content and shall specify that child
10 custody is one of the proceedings where prior protection orders
11 may be considered.

12 * * *

13 (c) Continued hearings.--

14 (1) If a hearing under subsection (a) is continued and
15 no temporary order is issued, the court may make ex parte
16 temporary orders under subsection (b) as it deems necessary.

17 (2) If a hearing is scheduled to take place within three
18 business days after a defendant is served under section 6106
19 (relating to commencement of proceedings), the court shall
20 grant a continuance until the three business day-period has
21 elapsed, if requested by the defendant.

22 (3) The court shall notify the defendant of the right to
23 such continuance.

24 Section 6. Section 6108(a) introductory paragraph and (7) of
25 Title 23 are amended, subsection (e) (1) is amended by adding a
26 subparagraph and the section is amended by adding subsections to
27 read:

28 § 6108. Relief.

29 (a) General rule.--[The] Subject to subsection (a.1), the
30 court may grant any protection order or approve any consent

1 agreement to bring about a cessation of abuse of the plaintiff
2 or minor children. The order or agreement may include:

3 * * *

4 (7) [Ordering] Prohibiting the defendant from acquiring
5 or possessing any firearm for the duration of the order,
6 ordering the defendant to temporarily relinquish to the
7 sheriff [the defendant's other weapons and ammunition which
8 have been used or been threatened to be used in an incident
9 of abuse against the plaintiff or the minor children and the
10 defendant's firearms and prohibiting the defendant from
11 acquiring or possessing any firearm for the duration of the
12 order] OR THE APPROPRIATE LAW ENFORCEMENT AGENCY any firearms <--
13 under the defendant's possession or control, and requiring
14 the defendant to relinquish to the sheriff OR THE APPROPRIATE <--
15 LAW ENFORCEMENT AGENCY any firearm license issued under
16 section 6108.3 (relating to relinquishment to third party for
17 safekeeping) or 18 Pa.C.S. § 6106 (relating to firearms not
18 to be carried without a license) or 6109 (relating to
19 licenses) the defendant may possess. The court may also order
20 the defendant to relinquish the defendant's other weapons or
21 ammunition that have been used or been threatened to be used
22 in an incident of abuse against the plaintiff or the minor
23 children. A copy of the court's order shall be transmitted to
24 the chief or head of the [police force or police department] <--
25 appropriate law enforcement agency of the municipality] <--
26 APPROPRIATE LAW ENFORCEMENT AGENCY and to the sheriff of the
27 county of which the defendant is a resident. When
28 relinquishment is ordered, the following shall apply:
29 (i) (A) The court's order shall require the
30 defendant to relinquish such firearms, other weapons,

1 ammunition and any firearm license pursuant to the
2 provisions of this chapter within 24 hours of service
3 of a temporary order or the entry of a final order or
4 the close of the next business day as necessary by
5 closure of the sheriffs' offices, except for cause
6 shown at the hearing, in which case the court shall
7 specify the time for relinquishment of any or all of
8 the defendant's firearms.

9 (B) A defendant subject to a temporary order
10 requiring the relinquishment of firearms, other
11 weapons or ammunition shall, in lieu of relinquishing
12 specific firearms, other weapons or ammunition which
13 cannot reasonably be retrieved within the time for
14 relinquishment in clause (A) due to their current
15 location, provide the sheriff OR THE APPROPRIATE LAW <--
16 ENFORCEMENT AGENCY with an affidavit listing the
17 firearms, other weapons or ammunition and their
18 current location. If the defendant, within the time
19 for relinquishment in clause (A), fails to provide
20 the affidavit or fails to relinquish, pursuant to
21 this chapter, any firearms, other weapons or
22 ammunition ordered to be relinquished which are not
23 specified in the affidavit, the sheriff OR THE <--
24 APPROPRIATE LAW ENFORCEMENT AGENCY shall, at a
25 minimum, provide immediate notice to the court, the
26 plaintiff and appropriate law enforcement
27 authorities. The defendant shall not possess any
28 firearms, other weapons or ammunition specifically
29 listed in the affidavit provided to the sheriff OR <--
30 THE APPROPRIATE LAW ENFORCEMENT AGENCY pursuant to

1 this clause for the duration of the temporary order.

2 (C) As used in this subparagraph, the term
3 "cause" shall be limited to facts relating to the
4 inability of the defendant to retrieve a specific
5 firearm within 24 hours due to the current location
6 of the firearm.

7 (ii) The court's order shall contain a list of any
8 firearm, other weapon or ammunition ordered relinquished.
9 Upon the entry of a final order, the defendant shall
10 inform the court in what manner the defendant is going to
11 relinquish any firearm, other weapon or ammunition
12 ordered relinquished. Relinquishment may occur pursuant
13 to section 6108.2 (relating to relinquishment for
14 consignment sale, lawful transfer or safekeeping) or
15 6108.3 or to the sheriff OR THE APPROPRIATE LAW <--
16 ENFORCEMENT AGENCY pursuant to this paragraph. Where the
17 sheriff OR THE APPROPRIATE LAW ENFORCEMENT AGENCY is <--
18 designated, the sheriff OR THE APPROPRIATE LAW <--
19 ENFORCEMENT AGENCY shall secure custody of the
20 defendant's firearms, other weapons or ammunition and any
21 firearm license listed in the court's order for the
22 duration of the order or until otherwise directed by
23 court order. In securing custody of the defendant's
24 relinquished firearms, the sheriff OR THE APPROPRIATE LAW <--
25 ENFORCEMENT AGENCY shall comply with 18 Pa.C.S. § 6105(f)
26 (4) (relating to persons not to possess, use,
27 manufacture, control, sell or transfer firearms). In
28 securing custody of the defendant's other weapons and
29 ammunition, the sheriff OR THE APPROPRIATE LAW <--
30 ENFORCEMENT AGENCY shall provide the defendant with a

1 signed and dated written receipt which shall include a
2 detailed description of the other weapon or ammunition
3 and its condition. The court shall inform the defendant
4 that firearms, other weapons or ammunition shall be
5 deemed abandoned when the conditions under 18 Pa.C.S. §
6 6128(a) (relating to abandonment of firearm, weapon or
7 ammunition) are satisfied and may then be disposed of in
8 accordance with 18 Pa.C.S. § 6128.

9 (iii) The sheriff OR THE APPROPRIATE LAW ENFORCEMENT <--
10 AGENCY shall provide the plaintiff with the name of the
11 person to which any firearm, other weapon or ammunition
12 was relinquished.

13 (iv) Unless the defendant has complied with
14 subparagraph (i) (B) or section 6108.2 or 6108.3, if the
15 defendant fails to relinquish any firearm, other weapon,
16 ammunition or firearm license within 24 hours or upon the
17 close of the next business day due to closure of
18 sheriffs' OR APPROPRIATE LAW ENFORCEMENT AGENCIES' <--
19 offices or within the time ordered by the court upon
20 cause being shown at the hearing, the sheriff OR THE <--
21 APPROPRIATE LAW ENFORCEMENT AGENCY shall, at a minimum,
22 provide immediate notice to the court, the plaintiff and
23 appropriate law enforcement agencies, AS APPROPRIATE. <--

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

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

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

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

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

11 * * *

12 ~~(a.1) Final order or agreement. Any final order or~~ <--
13 ~~agreement must direct the defendant to refrain from abusing,~~
14 ~~harassing, stalking, threatening or attempting or threatening to~~
15 ~~use physical force against the plaintiff or minor children and~~
16 ~~must order that the defendant is subject to the firearms, other~~
17 ~~weapons or ammunition and firearm license prohibition and~~
18 ~~relinquishment provisions under subsection (a) (7).~~

19 (A.1) FINAL ORDER OR AGREEMENT.--THE FOLLOWING APPLY: <--

20 (1) ANY FINAL ORDER MUST DIRECT THE DEFENDANT TO REFRAIN
21 FROM ABUSING, HARASSING, STALKING, THREATENING OR ATTEMPTING
22 OR THREATENING TO USE PHYSICAL FORCE AGAINST THE PLAINTIFF OR
23 MINOR CHILDREN AND MUST ORDER THAT THE DEFENDANT IS SUBJECT
24 TO THE FIREARMS, OTHER WEAPONS OR AMMUNITION AND FIREARMS
25 LICENSE PROHIBITION RELINQUISHMENT PROVISIONS UNDER
26 SUBSECTION (A) (7).

27 (2) A FINAL AGREEMENT MAY DIRECT THE DEFENDANT TO
28 REFRAIN FROM ABUSING, HARASSING, STALKING, THREATENING OR
29 ATTEMPTING OR THREATENING TO USE PHYSICAL FORCE AGAINST THE
30 PLAINTIFF OR MINOR CHILDREN AND MAY ORDER THAT THE DEFENDANT

1 IS SUBJECT TO THE FIREARMS, OTHER WEAPONS OR AMMUNITION AND
2 FIREARMS LICENSE PROHIBITION AND RELINQUISHMENT PROVISIONS
3 UNDER SUBSECTION (A) (7).

4 * * *

5 (e) Extension of protection orders.--

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

7 * * *

8 (iii) If the plaintiff files a petition for an
9 extension of the order and the defendant is or was
10 incarcerated and will be released from custody in the
11 next 90 days or has been released from custody within the
12 past 90 days. The plaintiff does not need to show that
13 the defendant committed one or more acts of abuse
14 subsequent to the entry of the order or that the
15 defendant engaged in a pattern or practice that indicates
16 continued risk of harm to the plaintiff or minor children
17 as set forth in subparagraph (i).

18 * * *

19 (i) Third parties and affidavits.--A court requiring
20 relinquishment of firearms under this section shall provide for
21 the hearing of petitions by third parties who request the return
22 of a firearm relinquished by the defendant under subsection (a)
23 (7). The following apply:

24 (1) A third party claiming to be the lawful owner of a
25 firearm relinquished by the defendant under subsection (a) (7)
26 may request the return of the firearm by providing proof of
27 ownership and a sworn affidavit.

28 (2) The affidavit under paragraph (1) must affirm all of
29 the following:

30 (i) The third party who is the lawful owner will not

1 intentionally or knowingly return to the defendant the
2 firearm or allow access to the firearm by the defendant.

3 (ii) The third party who is the lawful owner
4 understands that violating subparagraph (i) constitutes a
5 misdemeanor of the second degree under 18 Pa.C.S. Ch. 61
6 (relating to firearms and other dangerous articles).

7 (iii) If the third party who is the lawful owner is
8 a family or household member of the defendant, any
9 firearm returned under this section must be stored in a
10 gun safe to which the defendant does not have access and
11 will not be permitted to access, or stored in a location
12 outside the third party's home to which the defendant
13 does not have access.

14 (3) If the court orders the return of a firearm under
15 this section, prior to the return of the firearm, the sheriff
16 shall independently confirm that the person seeking relief
17 under this section is legally eligible to possess firearms
18 under Federal and State law. The sheriff shall conduct the
19 background check as soon as practicable after the court
20 enters an order under this section.

21 Section 7. Section 6108.1(a) and (b) of Title 23 are amended
22 and the section is amended by adding subsections to read:

23 § 6108.1. Return of relinquished firearms, other weapons and
24 ammunition and additional relief.

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

1 weapons and ammunition provided that the defendant is otherwise
2 eligible to lawfully possess the relinquished items. The
3 defendant shall not be required to pay any fees, costs or
4 charges associated with the returns, whether those fees, costs
5 or charges are imposed by the Pennsylvania State Police, any
6 local law enforcement agency or any other entity, including a
7 licensed importer, licensed manufacturer or licensed dealer in
8 order to secure return of the relinquished firearms, other
9 weapons or ammunition. The sheriff's OR THE APPROPRIATE LAW <--
10 ENFORCEMENT AGENCY'S office shall maintain a weapons return form
11 that the defendant may fill out and return to the office once a
12 temporary or final protection from abuse order has been
13 dismissed or expires.

14 (a.1) Conditions for return.--The following conditions must
15 be satisfied prior to the firearms, other weapons or ammunition
16 being returned to the defendant:

17 (1) The firearms, other weapons or ammunition
18 relinquished must not be evidence of a crime.

19 (2) The defendant or owner must not be otherwise
20 prohibited by applicable Federal or State law, or another
21 condition, including, but not limited to, bail, from taking
22 possession of the firearms, other weapons or ammunition
23 seized.

24 (3) The defendant or owner must have been given a
25 clearance by the Pennsylvania State Police Instant Check
26 System Unit or through the National Instant Criminal
27 Background Check System (NICS), requested by the sheriff's
28 office.

29 (a.2) Notice to plaintiff.--The plaintiff of the protection
30 from abuse order shall be notified of the defendant's request to

1 return the firearms, other weapons or ammunition.

2 (a.3) Petition for return.--If there is a determination
3 under subsection (a.1) that the defendant is ineligible to
4 regain possession of the firearms, other weapons or ammunition,
5 the defendant or owner may file a petition appealing that
6 determination and seeking their return. A copy of the petition
7 must be served upon the plaintiff, sheriff and the district
8 attorney.

9 (a.4) Abandonment.--Any firearms, other weapons or
10 ammunition shall be deemed abandoned when the conditions under
11 18 Pa.C.S. § 6128(a) (relating to abandonment of firearm, weapon
12 or ammunition) are satisfied and may then be disposed of in
13 accordance with 18 Pa.C.S. § 6128.

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

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

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

27 * * *

28 Section 8. Section 6108.2(a) and (e) of Title 23 are amended
29 to read:

30 § 6108.2. Relinquishment for consignment sale, lawful transfer

1 or safekeeping.

2 (a) General rule.--Notwithstanding any other provision of
3 law, a defendant who is the subject of a final protection from
4 abuse order, which order provides for the relinquishment of
5 firearms, other weapons or ammunition during the period of time
6 the order is in effect, may, within the time frame specified in
7 the order and in lieu of relinquishment to the sheriff OR THE <--
8 APPROPRIATE LAW ENFORCEMENT AGENCY, relinquish to a dealer
9 licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of
10 dealers) any firearms, other weapons or ammunition for
11 consignment sale, lawful transfer or safekeeping. The dealer may
12 charge the defendant a reasonable fee for accepting
13 relinquishment and for storage of any firearms, other weapons or
14 ammunition.

15 * * *

16 (e) Transfer upon entry of final order.--Upon entry of a
17 final protection from abuse order issued pursuant to section
18 6108, [which order provides for the relinquishment of firearms,
19 other weapons or ammunition during the period of time the order
20 is in effect,] a defendant who had relinquished firearms, other
21 weapons or ammunition to the sheriff pursuant to a temporary
22 order may request that the firearms, other weapons or ammunition
23 be relinquished to a dealer for consignment sale, lawful
24 transfer or safekeeping pursuant to this section. If the
25 defendant can identify a licensed dealer willing to accept the
26 firearms, other weapons or ammunition in compliance with this
27 section, the court shall order the sheriff to transport the
28 firearms, other weapons or ammunition to the licensed dealer at
29 no cost to the defendant or the licensed dealer.

30 * * *

1 Section 9. Section 6108.3(a) of Title 23 is amended and
2 subsection (b)(3)(ii) is amended by adding clauses to read:
3 § 6108.3. Relinquishment to third party for safekeeping.

4 (a) General rule.--A defendant who is the subject of a
5 protection from abuse order, which order provides for the
6 relinquishment of firearms, other weapons or ammunition during
7 the period of time the order is in effect, may, within the time
8 frame specified in the order and in lieu of relinquishment to
9 the sheriff, relinquish any firearms, other weapons or
10 ammunition [to a third party for safekeeping.] for safekeeping
11 to a third party who meets the requirements of a third party
12 under subsection (b)(3).

13 (b) Transfer to third party.--

14 * * *

15 (3) * * *

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

22 * * *

23 (N) An acknowledgment that the third party and
24 the defendant are not family or household members.

25 (O) An acknowledgment that the third party is an <--
26 attorney at law, and that the attorney at law and the
27 ONE OF THE FOLLOWING: <--

28 (I) AN ATTORNEY AT LAW, AND FURTHER
29 ACKNOWLEDGMENT THAT THE ATTORNEY AT LAW AND THE
30 defendant are in an attorney-client relationship.

1 The attorney at law and the defendant shall sign
2 a written agreement stating in substantially the
3 following form: "Firearm(s) can be relinquished
4 to the attorney at law upon the express, written
5 condition that firearm(s) will be returned to the
6 defendant, or otherwise transferred, only if in
7 strict conformance with applicable law."

8 (II) A COMMERCIAL ARMORY, AND FURTHER <--
9 ACKNOWLEDGMENT THAT THE OWNER OR OPERATOR OR
10 OPERATOR OF THE COMMERCIAL ARMORY IS NOT A FAMILY
11 OR HOUSEHOLD MEMBER OF THE DEFENDANT; THE
12 COMMERCIAL ARMORY IS A SECURE STORAGE FACILITY
13 DESIGNED TO STORE FIREARMS; THE COMMERCIAL ARMORY
14 POSSESSES ALL FEDERAL AND STATE LICENSES TO STORE
15 FIREARMS; AND A FORM STATING SUBSTANTIALLY THE
16 FOLLOWING: "FIREARMS CAN BE RELINQUISHED TO THE
17 COMMERCIAL ARMORY UPON THE EXPRESS, WRITTEN
18 CONDITION THAT FIREARM(S) WILL BE RETURNED, OR
19 TRANSFERRED, TO THE DEFENDANT ONLY IN STRICT
20 CONFORMANCE WITH APPLICABLE LAW."

21 * * *

22 Section 10. Title 23 is amended by adding a ~~section~~ SECTIONS <--
23 to read:

24 § 6108.6. PENALTY FOR FAILURE TO SECURE FIREARMS. <--

25 IN ADDITION TO ANY OTHER PENALTY PROVIDED BY 18 PA.C.S. CH.
26 61 SUBCH. A (RELATING TO UNIFORM FIREARMS ACT), A COMMERCIAL
27 ARMORY WHICH VIOLATES THE PROVISIONS OF THIS CHAPTER REGARDING
28 SAFEKEEPING SHALL FORFEIT ALL FEDERAL AND STATE LICENSES RELATED
29 TO FIREARMS.

30 § ~~6108.6~~ 6108.7. Order to seal record from public view. <--

1 (a) General rule.--Notwithstanding any other provision of
2 this chapter, an individual who has entered into a consent
3 agreement approved by the court under section 6108(a) (relating
4 to relief) may petition the court for an order to seal the
5 record of the of the individual from public view. The court may
6 grant the order if the petitioner proves all of the following by
7 clear and convincing evidence:

8 (1) The consent agreement for which the individual seeks
9 relief under this section is the only such consent agreement
10 to which the individual has ever been subject, and that,
11 during the period in which the consent agreement was in
12 effect, the individual did not violate an order or consent
13 agreement under section 6108.

14 (2) A period of at least 10 years has elapsed since the
15 expiration of the consent agreement.

16 (3) The individual has not been subject to another final
17 protection from abuse order under section 6108.

18 ~~(4) The individual has not been convicted of any of the <--~~
19 ~~offenses set forth in 18 Pa.C.S. § 2711 (relating to probable~~
20 ~~cause arrests in domestic violence cases) where the victim is~~
21 ~~a family or household member.~~

22 (4) THE INDIVIDUAL HAS NOT BEEN CONVICTED OF ONE OF THE <--
23 FOLLOWING OFFENSES WHERE THE VICTIM IS A FAMILY OR HOUSEHOLD
24 MEMBER:

25 (I) AN OFFENSE SET FORTH IN 18 PA.C.S. § 2711
26 (RELATING TO PROBABLE CAUSE ARRESTS IN DOMESTIC VIOLENCE
27 CASES).

28 (II) AN OFFENSE EQUIVALENT TO SUBPARAGRAPH (I) UNDER
29 THE LAWS OF THE UNITED STATES OR ONE OF ITS TERRITORIES
30 OR POSSESSIONS, ANOTHER STATE, THE DISTRICT OF COLUMBIA,

1 THE COMMONWEALTH OF PUERTO RICO OR A FOREIGN NATION.

2 (b) Notice to district attorney and plaintiff.--

3 (1) The petitioner shall serve a copy of the petition
4 under subsection (a) to the district attorney and to the
5 plaintiff within 10 days of the filing of the petition.

6 (2) The district attorney and the plaintiff shall have
7 an opportunity to be heard at the hearing.

8 (3) Within 30 days of receipt of notice, the district
9 attorney or plaintiff may file objections to the petition.

10 (4) If no objection under paragraph (3) is timely filed,
11 the court may grant the petition without further hearing if
12 the requirements of this section have been met.

13 (5) As used in this subsection, the term "plaintiff"
14 means the person who entered into the consent agreement with
15 the defendant.

16 (c) Notice to prothonotary.--Notice of an order to seal the
17 individual's record from public view shall promptly be submitted
18 to the prothonotary of the county holding the record. The
19 prothonotary may not permit a member of the public from
20 accessing the individual's record regarding the consent
21 agreement. Nothing in this section shall be construed to limit
22 access of the record of the individual by a criminal justice
23 agency as defined in 18 Pa.C.S. § 9102 (relating to
24 definitions).

25 Section 11. This act shall apply to orders issued pursuant
26 to 23 Pa.C.S. § 6108 on or after the effective date of this
27 section.

28 Section 12. This act shall take effect in 180 days.