
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 294 Session of
2021

INTRODUCED BY TOOHL, BOBACK, JOZWIAK, DeLUCA, FEE, BROOKS,
McNEILL, HELM, GLEIM, POLINCHOCK, STEPHENS, BURGOS AND
R. BROWN, JANUARY 27, 2021

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 2021

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in protection from abuse, further
3 providing for relief.

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

6 Section 1. Section 6108(a) introductory paragraph and (4) of
7 Title 23 of the Pennsylvania Consolidated Statutes are amended
8 to read:

9 § 6108. Relief.

10 (a) General rule.--Subject to subsection (a.1), the court
11 may grant any protection order or approve any consent agreement
12 to bring about a cessation of abuse or to prevent further abuse
13 of the plaintiff or minor children. The order or agreement may
14 include:

15 * * *

16 (4) Awarding temporary custody of or establishing
17 temporary visitation rights with regard to minor children.
18 Relief under this paragraph shall have the effect of

1 temporarily establishing a custody order or modifying an
2 existing custody order, as appropriate. Notwithstanding the
3 provisions of Chapter 53 (relating to child custody) or any
4 other law to the contrary, in order to provide relief under
5 this paragraph, the court shall not be required to engage in
6 a full custody analysis as specified in Chapter 53. In
7 determining whether to award temporary custody or establish
8 temporary visitation rights pursuant to this paragraph, the
9 court shall consider any risk posed by the defendant to the
10 children as well as risk to the plaintiff. The following
11 shall apply:

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

16 (A) abused the minor children of the parties or
17 poses a risk of abuse toward the minor children of
18 the parties; or

19 (B) has been convicted of violating 18 Pa.C.S. §
20 2904 (relating to interference with custody of
21 children) within two calendar years prior to the
22 filing of the petition for protection order or that
23 the defendant poses a risk of violating 18 Pa.C.S. §
24 2904.

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

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

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

7 (B) deny the defendant custodial access to a
8 child.

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

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

27 (vi) In order to prevent further abuse during
28 periods of access to the plaintiff and child during the
29 exercise of custodial rights, the court shall consider,
30 and may impose on a custody award, conditions necessary

1 to assure the safety of the plaintiff and minor children
2 from abuse.

3 (vii) The court may approve any custody provisions
4 agreed to by the parties.

5 (viii) If relief is sought under this paragraph and
6 the court does not order relief, the court shall state on
7 the record or in the order why no relief under this
8 paragraph has been granted.

9 * * *

10 Section 2. This act shall take effect in 180 days.