

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CH. 21]

#### Internal Operating Procedures; Doc. No. 1 JD 94

*Per Curiam:*

#### Order

*And Now*, this 20th day of February, 1998, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted Internal Operating Procedures, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide the publication of the Internal Operating Procedures in the *Pennsylvania Bulletin*.

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#### Rule 101. Classification of Judges.

Judges who are serving a term of office which has not expired shall be classified as Active Members or Judges. Those Judges whose terms have expired, but who must continue to participate in a

hearing in accordance with Article V, § 18(b)(2), shall be classified as Participating Former Members or Judges.

#### Rule 102. Composition of Court or Panel.

En banc or full Court proceedings shall be conducted by the entire Court. The President Judge shall preside unless he or she is unavailable to participate, in which case, the empanelled Judge most senior shall preside. Panels appointed to conduct a trial pursuant to C.J.D.R.P. No. 501 shall be composed of no fewer than three Judges of the Court, one of whom shall be the Conference Judge, and at least one of whom shall be a non-lawyer elector in accordance with C.J.D.R.P. No. 501(B). The Judge who has seniority shall preside over three-member panel proceedings.

#### Rule 103. Location of Proceedings.

Proceedings before the Court shall be in Harrisburg, unless the Court selects another location for a proceeding.

#### Rule 104. Duty Month Judges.

Each month an Active Judge of the Court shall be designated the duty Judge for the month. Assignment as duty Judge shall be based upon reverse seniority. A new assignment schedule shall be developed by the Court Administrator each year, following the appointment of new members, and shall be approved by the Court. The schedule shall reflect any previous service of members by ensuring that assignments are made in an equitable fashion.

#### Rule 105. Conducting Conferences by Telephone.

When a particular proceeding does not entail the creation of a record or public access, the Court or a Judge conducting a conference, may elect to proceed by teleconference.

#### Rule 106. Miscellaneous Orders of Court.

a. When the Court determines that the issuance of an Order regarding a pending matter is warranted, and when the matter requires a majority vote of the members of the Court, the President Judge shall cause to be distributed for vote by the Court a proposed Per Curiam Order.

b. Circulation of Proposed Per Curiam Orders. The President Judge shall direct the Court Administrator to provide a response sheet with each Proposed Per Curiam Order upon which each Judge shall respond as to whether or not he or she is in agreement with the Proposed Order. The response sheet shall indicate the date by which a response is directed to be forwarded. Responses shall be returned to the Court Administrator, who shall keep the President Judge informed as to the status of votes.

#### Rule 107. Judicial Conferences.

The Court shall convene regularly to address the business of the Court. The President Judge shall preside over conferences. The Court Administrator shall develop an agenda for judicial conferences in consultation with the President Judge, who shall approve the agenda. The Court Administrator shall distribute copies of the agenda and any related materials to all Judges before the date of the judicial conference.

**Rule 108. Adoption of Rules of Procedure.**

When the Court determines that it should adopt or amend any rule of procedure, Counsel shall draft a proposed rule for consideration by the full Court. When the Court determines that the rule satisfies the purpose or need for the adoption or amendment, it shall vote upon the new or amended rule. When approved by a majority of the Court, the Court Administrator shall forward a copy of the rule to the Legislative Reference Bureau for initial publication in the *Pennsylvania Bulletin*, seeking responses in the form of criticisms or suggestions from the public. If suggestions or criticisms are received during the 30-day response period, the Court shall consider those suggestions and criticisms before final adoption of the rule, and, if a majority believes that the suggestions or criticisms should be reflected in the rule, the approval procedure described above shall be repeated and the full Court must approve the new draft for republication in the *Pennsylvania Bulletin* and response as set forth above. If the Court rejects the suggestions and criticisms, or if the Court receives no suggestions or criticisms, the Court Administrator shall submit the rule for final publication and adoption in the *Pennsylvania Bulletin*. All proposed and final rule adoptions and changes sent to the Legislative Reference Bureau shall be accompanied by a Per Curiam Order stating whether the publication is for public response or a final rule adoption. The Court may forego the above procedures herein described if it determines that exigent circumstances warrant the immediate adoption or amendment of a rule.

**Rule 109. Confidentiality.**

All members of the Court, staff employees and any contractual employees shall at all times maintain strict confidentiality concerning proceedings before the Court, and shall refrain from discussing with persons not a member or employee of the Court the substance of deliberations concerning any matter. This provision applies to all matters involving the deliberative process regardless of whether the matter still is pending or has already been decided.

**FORMAL COMPLAINTS****Rule 201. Assignment of Conference Judge.**

When the Judicial Conduct Board files a Formal Complaint with the Court, the Court Administrator shall immediately notify the President Judge that a Formal Complaint has been filed. The President Judge shall appoint a Conference Judge or Judges in accordance with C.J.D.R.P. No. 301(B). The President Judge, at his or her discretion, may appoint two other members to serve as Co-conference Judges. In such a case, the Conference Judge and Co-conference Judges shall serve as a panel in the performance of all duties to be performed by a Conference Judge under this Court's Rules of Procedure and these Internal Operating Procedures.

**Rule 202. Distribution of Formal Complaints and Filings Related to Formal Complaints.**

When the Judicial Conduct Board files a Formal Complaint, the Court Administrator shall forward copies of the Complaint to all Active Judges of the Court. The Court Administrator shall forward copies of all pleadings and filings related to a Formal Complaint to all Active Judges. When a former member of the Court must participate in a pending matter by virtue of Article V, § 18(b)(2), the Court Administrator shall forward copies of pleadings and filings relating to the pending matter to such Participating Former Members.

**Rule 203. Orders and Decisions of Conference Judge.**

When a Conference Judge issues an order or decision regarding a preliminary matter which the Conference Judge has the power to decide in accordance with C.J.D.R.P. Nos. 301 and 421, the Court Administrator shall circulate copies of said orders and decisions to all Active Judges, and, if applicable under I.O.P. No. 101, shall circulate said copies to Participating Former Members of the Court.

**Rule 204. Deferral of Disposition of Omnibus Motion by Conference Judge to the Full Court.**

When, under the authority of C.J.D.R.P. No. 414(A), a Conference Judge determines that the full Court should dispose of an issue or issues raised in an Omnibus Motion, or, when, upon consideration of an Omnibus Motion, a Conference Judge proposes to dismiss a charge or terminate the case, under C.J.D.R.P. No. 414(C), he or she shall submit a memorandum to the President Judge summarizing the issues to be decided. The President Judge shall set a date for determination of the issues by the full Court and may schedule a date for hearing or argument if either is necessary.

**Rule 205. Certification by Conference Judge that Case is Ready for Trial.**

Following the filing of Stipulations of Fact in Lieu of Trial under C.J.D.R.P. No. 502(D), or following pre-trial conference, and when the Conference Judge believes that a case is ready for trial, the Conference Judge shall certify to the President Judge that a case is ready for disposition. When the Conference Judge certifies a case is ready for disposition or trial, the President Judge shall set a date for trial or deliberation on the stipulations, as required.

**Rule 206. Deliberation Following Trial.**

Unless otherwise decided by the Court, the Court shall convene immediately following the conclusion of trial in order to develop a general consensus as to matters necessary for adjudication.

**Rule 207. Assignment to Judge.**

When the Court reaches a general dispositive conclusion as to issues raised in a trial, the President Judge shall assign the matter to the Conference Judge to develop a draft decision, unless the Conference Judge is not in agreement with the majority vote, in which case, the President Judge shall assign the matter to a Judge whose conclusions are in accord with the majority.

**Rule 208. Distribution of Proposed Decisions and Voting.**

When the assigned Judge has completed the drafting and review process, he or she shall request the Court Administrator to circulate the draft decision for a tentative vote by the other Judges. The draft shall be accompanied by a vote sheet.

**Rule 209. Concurring or Dissenting Statements.**

When a Judge elects to dissent or concur, he or she may provide a concurring or dissenting statement to the Court Administrator who shall circulate the concurring or dissenting statement to the other Judges.

**Rule 210. Disposition of Objections to Findings of Fact and Conclusions of Law.**

Upon receipt of objections to the Court's Findings of Fact and Conclusions of Law, the Court Administrator shall forward such objections to the members of the Court. The President Judge shall obtain responses of the members to the objections as to whether the objections have or lack merit and whether oral argument is warranted. When a majority of the Court concludes that the objections lack merit and that no argument is necessary, the President Judge shall cause to be issued an Order disposing of the objections. If a majority of the Court concludes that the objections have merit or that oral argument is necessary, the President Judge shall set a date for oral argument and thereafter cause to be drafted an order affirming the Court's Findings and Conclusions or addressing the revisions warranted by a majority of the Court, as the case may be.

**SANCTION PHASE OF PROCEEDINGS**

**Rule 301. Scheduling Sanction Hearings.**

When the Court has issued Findings of Fact and Conclusions of Law which have become final under C.J.D.R.P. No. 503(C), and when such Conclusions of Law authorize the Court to impose a sanction upon a judicial officer, the Court shall schedule a hearing on the sanction to be imposed. Orders scheduling sanction hearings shall direct the judicial respondent and the Judicial Conduct Board to submit a list of witnesses they propose to call at the hearing.

**Rule 302. Sanction Hearings.**

The President Judge shall preside at sanction hearings unless he or she is unavailable to participate. The Board shall proceed first with the presentation of testimony, if it elects to present such testimony. The respondent shall follow with the presentation of testimony if he or she elects to present such testimony.

**Rule 303. Deliberation Following Sanction Hearings.**

The Court shall convene following sanction hearings in order to determine the sanction to be imposed upon a judicial officer. A majority of participating Judges must agree upon a particular sanction in order for a sanction to be imposed.

**Rule 304. Formal Sanction Order.**

The Court may enter an order of sanction or discipline in open Court following deliberation, or it may defer the entry of its decision regarding sanctions for written disposition. However, in either case, the Court must reduce its sanction order to written form in accordance with C.J.D.R.P. No. 504(B).

**REQUESTS FOR OTHER RELIEF**

**Rule 401. Initial Procedure.**

When the Judicial Conduct Board files a Petition for Relief under C.J.D.R.P. No. 701, the Court Administrator shall inform the President Judge of the filing, and at his or her request shall immediately mail or fax a copy of the filing to the President Judge. If, upon review of the Petition, the President Judge deems that the matter should be expedited, he or she may convene the Court in

person or by teleconference to determine whether the judicial officer must respond before the normal 14-day response period provided under C.J.D.R.P. No. 703. If the Court concludes that an expedited answer is warranted, the Court shall so notify the respondent by Order.

**Rule 402. Conference Judge.**

As provided under C.J.D.R.P. No. 705, the President Judge may appoint a Conference Judge or Judges to preside over preliminary motions arising in a matter commenced under Chapter 7. The President Judge, at his or her discretion, may appoint two other members to serve as Co-conference Judges. In such a case, the Conference Judge and co-conference Judges shall serve as a panel in the performance of all duties to be performed by a Conference Judge under the Court's Rules of Procedure and these Internal Operating Procedures. When the Conference Judge or Judges deem that a ruling regarding a preliminary motion should be deferred to the judgment of the full Court, they shall forward to the President Judge a memorandum describing the issue to be resolved by the full Court.

**Rule 403. Preliminary Motions Deferred to the Full Court.**

When a Conference Judge defers to the full Court a preliminary motion under C.J.D.R.P. No. 705, the President Judge shall set a date for hearing or argument before the full Court, if the matter requires the presentation of evidence or warrants oral argument, or may convene the Court by teleconference, if the matter does not require the presentation of evidence or oral argument.

**Rule 404. Hearing and Oral Argument Requested.**

When a Petition for Relief filed by the Judicial Conduct Board under C.J.D.R.P. No. 702 indicates that an evidentiary hearing or oral argument is required, the President Judge shall review the request. If following the filing of a judicial officer's response, the President Judge concludes that the presentation of evidence or oral argument is required, he or she shall set a date for hearing or oral argument.

**Rule 405. Deliberation and Decision.**

Following the receipt of the judicial officer's answer to the Judicial Conduct Board's Petition, or, if the Court has elected to convene for a formal hearing or oral argument under I.O.P. No. 404, following the hearing or oral argument, the Court shall deliberate upon the issues and relief requested. If a formal written decision requiring findings of fact and conclusions of law is warranted, the President Judge shall designate a Judge to draft said findings of fact and conclusions of law. Drafting of such findings and conclusions, circulation, voting and filing, shall be accomplished in the same manner in which such decisions are processed under Chapter 2 of these Internal Operating Procedures, relating to Formal Complaints. If the full Court deems that an Order only is warranted, the President Judge shall direct Counsel to prepare an Order that incorporates the decision of the Court, which shall be approved by the President Judge for circulation and approval by the full Court.

[Pa.B. Doc. No. 98-445. Filed for public inspection March 20, 1998, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

[231 PA. CODE CH. 1900]

### Amendment of the Rules Relating to Protection from Abuse Actions; No. 289; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 9th day of March, 1998, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rule 1901 is amended as follows.
2. Rules 1902, 1903 and 1905 are renumbered and amended as follows.
3. Rule 1904 is renumbered and the Note is amended as follows.
4. Rules 1901.2, 1901.5 and 1905 are added as follows.
5. Rule 1930.4 is amended as follows.

This order shall be processed in accordance with Pennsylvania Rule of Judicial Administration 103(b) and shall be effective July 1, 1998.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

##### Rule 1901. Definitions.

As used in this chapter:

\* \* \* \* \*

*Action*—A proceeding for protection from abuse defined in [ Section 2 ] § 6102 of the Act;

\* \* \* \* \*

*Emergency Order*—An order entered by a hearing officer, who is a person meeting the definition set forth at 23 Pa.C.S. § 6102.

*Temporary Order*—An ex parte order entered by the court pursuant to 23 Pa.C.S. § 6107.

##### Rule 1901.2. Scheduling

Each judicial district shall establish times when the court will hear temporary Protection From Abuse matters.

Rule [ 1902 ] 1901.3. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by **presenting to the court** or filing with the prothonotary a petition setting forth the alleged [ **abuses** ] **abuse** by the defendant. **The petition shall be substantially in the form set forth in Rule 1905(b) and shall have as its first page the Notice of Hearing and Order set forth in Rule 1905(a).**

(b) [ **Filing in the office of the prothonotary of a certified order of a district justice entered pursuant to 23 Pa.C.S. § 6110 shall constitute the commencement of an action in the court of common pleas.** ] An action may be commenced by filing with

the prothonotary a certified copy of an emergency order entered pursuant to 23 P.C.S. § 6110.

[ **Official Note: See 23 Pa.C.S. § 6110 conferring emergency jurisdiction on district justices and requiring immediate certification of its order to the court.** ]

Rule [ 1903 ] 1901.4. Service and Registration of Order [ . Enforcement ].

(a) [ **Rescinded.** ] Service of the petition and temporary order shall be in accordance with Rule 1930.4.

[ **Official Note: For service of the petition or certified order of the district justice, see Rule 1930.4.** ]

(b) [ **An order entered under 23 Pa.C.S. §§ 6107 and 6108 shall be served and enforced by such persons and in such manner as the court shall direct in the order.** ] An Affidavit of Service substantially in the form set forth in Rule 1905(d) shall be filed with the prothonotary.

(c) Upon the filing of a protection order with the prothonotary, the prothonotary shall transmit a copy of the order to the State Police PFA Registry in the manner prescribed by the Pennsylvania State Police.

**Official Note: This provision also applies to an order denying plaintiff's request for a final protection order.**

#### Explanatory Comment—1997

Subdivision (c) reflects the prothonotary's role in ensuring that all protection orders reach the new statewide PFA Registry. Pursuant to the 1994 amendments to the Protection From Abuse Act, the Pennsylvania State Police Department is mandated to establish this registry for all protection orders issued or registered in the Commonwealth. Once it becomes fully operational, it will be available at all times to inform law enforcement officers, dispatchers and courts of the existence and terms of protection orders. The Registry represents a major improvement in the manner in which protection orders are registered and verified by not only eliminating the need to register the order in every county where the victim believes enforcement is necessary, but also enabling the police to immediately verify the order for purposes of enforcement. In order to ensure that the information in the Registry remains current, subdivision (c) requires the prothonotary to transmit all protection orders issued or registered in the Commonwealth, including temporary, final, modified and consent orders as well as any orders withdrawing, extending or denying plaintiff's request for a protection order.

#### RULE 1901.5. Enforcement.

(a) When an arrest is made for violation of an order, a complaint for indirect criminal contempt shall be completed and signed by either a police officer or the plaintiff. When the complaint is filed by a police officer, neither plaintiff's presence nor signature is required.

(b) If an arrest is not effected, a complaint for indirect criminal contempt may be completed and signed by the plaintiff pursuant to 23 Pa.C.S. § 6113.1.

Rule [ 1904 ] 1901.6. No responsive pleading required.

No pleading is required in response to the petition or the certified order and all averments not admitted shall be deemed denied.

**Official Note:** For procedures as to the time and manner of hearings and issuance of orders [ **ex parte or after hearing** ], see 23 Pa.C.S. § 6107. For provisions as to the scope of relief **available**, see 23 Pa.C.S. § 6108. For provisions as to contempt for violation of an order, see 23 Pa.C.S. § 6114.

Rule [ 1905 ] 1901.7. Decision. No Post-Trial Relief.

(a) The decision of the court [ **shall be governed by Rule 1038(b) and (c)** ] may consist of only general findings of abuse but shall dispose of all claims for relief. The court's order shall be rendered substantially in the form set forth in Rule 1905(e).

(b) No motions for post-trial relief may be filed to the final order.

**Official Note:** The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

**Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.**

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)

**NOTICE OF HEARING AND ORDER**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL Order may be entered against you granting the relief requested in the

(Caption)

**PETITION FOR PROTECTION FROM ABUSE**

1. Plaintiff's name is: \_\_\_\_\_

2. I am filing this Petition on behalf of:  Myself and/or  Another Person.

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff, and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)       applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor       court appointed guardian of incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse: \_\_\_\_\_

4.  Plaintiff's address is confidential or  
 Plaintiff's address is: \_\_\_\_\_

5. Defendant is believed to live at the following address: \_\_\_\_\_

Defendant's Social Security Number (if known) is: \_\_\_\_\_

Defendant's date of birth is: \_\_\_\_\_

Defendant's place of employment is: \_\_\_\_\_

Check here if Defendant is 17 years old or younger.

**Petition.** In particular, you may be evicted from your residence and lose other important rights.

A hearing on the matter is scheduled for the \_\_\_\_\_, day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_m., in Courtroom \_\_\_\_\_ at \_\_\_\_\_ Courthouse, \_\_\_\_\_, Pennsylvania.

**You MUST obey the Order that is attached until it is modified or terminated by the court after notice and hearing. If you disobey this Order, the police may arrest you. Violation of this Order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail under 23 Pa.C.S. § 6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18 U.S.C. § 2265, this Order is enforceable anywhere in the United States, tribal lands, U. S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this Order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. §§ 2261—2262.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.**

County Lawyer Referral Service  
[insert Street Address]  
[insert City, State, and ZIP]  
[insert Phone Number]

(b) The Petition in an action filed pursuant to the Act shall be substantially in the following form:

6. Indicate the relationship between Plaintiff and Defendant.

- Spouse
- Current or former sexual/intimate partner
- Other relationship by blood or marriage:
- Ex-spouse
- Parent/Child
- Persons who live or have lived like spouses
- Parents of the same children
- Brother/Sister

7. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce
- Custody
- Support
- Protection from Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the court number, if known: \_\_\_\_\_

8. Has the Defendant been involved in any criminal court action? \_\_\_\_\_

If you answered Yes, is the Defendant currently on probation? \_\_\_\_\_

9. Plaintiff and Defendant are the parents of the following minor child/ren:

Name(s)	Age(s)	who reside at (list address unless confidential)
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_____	_____	_____
_____	_____	_____

10. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court Order regarding their custody? \_\_\_\_\_

If you answered Yes, describe the terms of the Order (e.g., primary, shared, legal and/or physical custody): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you answered Yes, in what county and state was the order issued? \_\_\_\_\_

If you are now seeking an Order of child custody as part of this petition, list the following information:

(a) Where has each child resided during the past five years?

Child's name	Person(s) child lived with	Address, unless confidential	When
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(b) List any other persons who are known to have or claim a right to custody of each child listed above.

Name	Address	Basis of Claim
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_____	_____	_____
_____	_____	_____
_____	_____	_____

11. The following other minor child/ren presently live with Plaintiff:

Name(s)	Age(s)	Plaintiff's relationship to child/ren
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_____	_____	_____
_____	_____	_____
_____	_____	_____

12. The facts of the most recent incident of abuse are as follows:

Approximate Date: \_\_\_\_\_ Approximate Time: \_\_\_\_\_ Place: \_\_\_\_\_

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of

stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. If the Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. List the weapon(s) that Defendant has used or threatened to use against Plaintiff or the minor child/ren:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Identify the police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

\_\_\_\_\_  
\_\_\_\_\_

16. There is an immediate and present danger of further abuse from the Defendant.

CHECK THE FOLLOWING BOXES ONLY IF THEY APPLY TO YOUR CASE AND PROVIDE THE REQUESTED INFORMATION

- Plaintiff is asking the court to evict and exclude the Defendant from the following residence: \_\_\_\_\_  
\_\_\_\_\_
- owned by (list owners, if known): \_\_\_\_\_
- rented by (list all names, if known): \_\_\_\_\_
- Defendant owes a duty of support to Plaintiff and/or the minor child/ren.
- Plaintiff has suffered out-of-pocket financial losses as a result of the abuse described above. Those losses are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING (CHECK ALL FORMS OF RELIEF REQUESTED):

- A. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or minor child/ren in any place where Plaintiff may be found.
- B. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of the Plaintiff.
- C. Require Defendant to provide Plaintiff and/or minor child/ren with other suitable housing.
- D. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and child/ren: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- E. Prohibit Defendant from having any contact with Plaintiff and/or minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.
- F. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this Petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

- G. Order Defendant to temporarily turn over weapons to the Sheriff of this County and prohibit Defendant from transferring, acquiring or possessing any such weapons for the duration of the Order.
- H. Order Defendant to pay temporary support for Plaintiff and/or the minor child/ren, including medical support and  payment of the rent or mortgage on the residence.
- I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.
- J. Order Defendant to pay the costs of this action, including filing and service fees.
- K. Order Defendant to pay Plaintiff's reasonable attorney's fees.
- L. Order the following additional relief, not listed above:

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- M. Grant such other relief as the court deems appropriate.
- N. Order the police or other law enforcement agency to serve the Defendant with a copy of this Petition, any Order issued, and the Order for Hearing. The petitioner will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above Petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:  
(Caption)

TEMPORARY PROTECTION FROM ABUSE ORDER

Defendant's Name: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

Defendant's Social Security Number: \_\_\_\_\_

Names of All Protected Persons, including Plaintiff and minor child/ren: \_\_\_\_\_

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AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_, upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

- 1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
- 2. Defendant is evicted and excluded from the residence at [NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other permanent or temporary residence where Plaintiff may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises.
- 3. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this Order, Defendant is prohibited from having ANY CONTACT with Plaintiff at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this Order:

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- 4. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this Order, Defendant shall not contact Plaintiff by telephone or by any other means, including through third persons.



5. Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren: \_\_\_\_\_

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following: \_\_\_\_\_

The local law enforcement agency in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of the Plaintiff in accordance with the terms of this Order.

6. Defendant shall immediately relinquish the following weapons to the the Sheriff's Office or a designated local law enforcement agency for delivery to the Sheriff's office: \_\_\_\_\_

Defendant is prohibited from possessing, transferring or acquiring any other weapons for the duration of this order.

7. The following additional relief is granted: \_\_\_\_\_

8. A certified copy of this Order shall be provided to the police department where Plaintiff resides and any other agency specified hereafter: [insert name of agency]

9. THIS ORDER SUPERSEDES  ANY PRIOR PFA ORDER AND  ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

10. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this Order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail. 23 Pa.C.S. § 6114. Consent of the Plaintiff to Defendant's return to the residence shall not invalidate this Order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S. § 6113. Defendant is further notified that violation of this Order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261—2262.

NOTICE TO LAW ENFORCEMENT OFFICIALS

This Order shall be enforced by the police who have jurisdiction over the plaintiff's residence OR any location where a violation of this order occurs OR where the defendant may be located. If defendant violates Paragraphs 1 through 6 of this Order, defendant may be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this Order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of law enforcement.

Subsequent to an arrest, the law enforcement officer shall seize all weapons used or threatened to be used during the violation of this Order OR during prior incidents of abuse. Weapons must forthwith be delivered to the Sheriff's office of the county which issued this Order, which office shall maintain possession of the weapons until further Order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer made the arrest.

BY THE COURT:

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I, \_\_\_\_\_, the undersigned, hereby state that I served a copy of the Petition and Temporary Order in the above-captioned action upon the Defendant by handing the papers to

\_\_\_\_\_ at the following address: \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at approximately \_\_\_o'clock \_\_.m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

(Signature)

(Title)

(Address)

(Date)

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

**FINAL ORDER OF COURT**

Defendant's Name: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

Defendant's Social Security Number: \_\_\_\_\_

Names of All Protected Persons, including Plaintiff and minor children:  
\_\_\_\_\_  
\_\_\_\_\_

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED and DECREED as follows:

Note: Space is provided to allow for 1) the court's general findings of abuse; 2) inclusion of the terms under which the order was entered (e.g., that the order was entered with the consent of the parties, or that the defendant, though properly served, failed to appear for the hearing, or the reasons why plaintiff's request for a final PFA order was denied); and/or 3) information that may be helpful to law enforcement (e.g., whether a weapon was involved in the incident of abuse and/or whether the defendant is believed to be armed and dangerous).

- Plaintiff's request for a final protection order is denied. OR
- Plaintiff's request for a final protection order is granted.
- 1. Defendant shall not abuse, stalk, harass, threaten the Plaintiff or any other protected person in any place where they might be found.
- 2. Defendant is completely evicted and excluded from the residence at [ NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED ] or any other residence where Plaintiff may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises.
- On [insert date and time], Defendant may enter the residence to retrieve his/her clothing and other personal effects, provided that Defendant is in the company of a law enforcement officer when such retrieval is made.
- 3. Except as provided in Paragraph 5 of this Order, Defendant is prohibited from having ANY CONTACT with the Plaintiff at any location, including but not limited to any contact at the Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this Order: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4. Except as provided in Paragraph 5 of this Order, Defendant shall not contact the Plaintiff by telephone or by any other means, including through third persons.
- 5. Custody of the minor children, [names of the children subject to the provision of this paragraph] shall be as follows: [state to whom primary physical custody awarded; state terms of partial custody or visitation, if any.]
- 6. Defendant shall immediately turn over to the Sheriff's Office, or to a local law enforcement agency for delivery to the Sheriff's Office, the following weapons used or threatened to be used by Defendant in an act of abuse against Plaintiff and/or the minor child/ren:  
\_\_\_\_\_  
\_\_\_\_\_

7. Defendant is prohibited from possessing, transferring or acquiring any other weapons for the duration of this order. Any weapons delivered to the sheriff under Paragraph 6 of this Order or under Paragraph 6 of the Temporary Order shall not be returned until further order of court.

8. The following additional relief is granted as authorized by § 6108 of the Act:

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9. Defendant is directed to pay temporary support for: [insert the names of the persons for whom support is to be paid] as follows: [insert amount, frequency and other terms and conditions of the support order]. This order for support shall remain in effect until a final support order is entered by this Court. However, this order shall lapse automatically if the Plaintiff does not file a complaint for support with the court within fifteen days of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

10. The costs of this action are waived as to the Plaintiff and imposed on Defendant. 11.

11.  Defendant shall pay \$\_\_\_\_\_ to Plaintiff as compensation for Plaintiff's out-of-pocket losses, which are as follows: \_\_\_\_\_ OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [insert the name of the judge or court to which the petition should be presented] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the Prothonotary's office for the filing of this petition.

12. BRADY INDICATOR.

1.  The Plaintiff or protected person(s) is a spouse, former spouse, a person who cohabitates or has cohabited with the Defendant, a parent of a common child, a child of that person, or a child of the Defendant.

2.  This order is being entered after a hearing of which the Defendant received actual notice and had an opportunity to be heard.

3.  Paragraph 1 of this Order has been checked to restrain the Defendant from harassing, stalking, or threatening Plaintiff or protected person(s).

4.  Defendant represents a credible threat to the physical safety of the Plaintiff or other protected person(s) OR

The terms of this order prohibit Defendant from using, attempting to use, or threatening to use physical force against the Plaintiff or protected person that would reasonably be expected to cause bodily injury.

13. THIS ORDER SUPERCEDES  ANY PRIOR PFA ORDER AND  ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

14. All provisions of this order shall expire in one year, on [insert expiration date].

**NOTICE TO THE DEFENDANT**

**VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 PA.C.S. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT. 18 U.S.C. §§ 2261—2262. IF PARAGRAPH 12 OF THIS ORDER HAS BEEN CHECKED, YOU MAY BE SUBJECT TO FEDERAL PROSECUTION AND PENALTIES UNDER THE "BRADY" PROVISIONS OF THE GUN CONTROL ACT, 18 U.S.C. §§ 922(G), FOR POSSESSION, TRANSPORT OR RECEIPT OF FIREARMS OR AMMUNITION.**

**NOTICE TO LAW ENFORCEMENT OFFICIALS**

The police who have jurisdiction over the plaintiff's residence OR any location where a violation of this order occurs OR where the defendant may be located, shall enforce this order. An arrest for violation of Paragraphs 1 through 7 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police. 23 Pa.C.S. § 6113.

Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The [insert the appropriate name or title] shall maintain possession of the weapons until further order of this Court. When the defendant is

placed under arrest for violation of the order, the defendant shall be taken to the appropriate authority or authorities before whom defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer OR the plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, the defendant shall be arraigned, bond set and both parties given notice of the date of the hearing.

BY THE COURT:

\_\_\_\_\_  
 Judge  
 \_\_\_\_\_  
 Date

If entered pursuant to the consent of plaintiff and defendant:

\_\_\_\_\_  
 (Plaintiff's signature) \_\_\_\_\_  
 (Defendant's signature)

**Explanatory Comment—Rule 1905 Forms—1997**

The use of standardized forms provides uniformity and is also critical to the enforcement of protection orders both inside and outside of the Commonwealth. These forms are substantially based on those proposed by members of the Pennsylvania Coalition Against Domestic Violence and have been further refined to accommodate the litigant's need for simplicity, the court's need for flexibility and law enforcement's need for certain identifying information necessary to enforce the protection order.

The forms must be used so that all protection orders can be properly registered with the statewide PFA Registry and the federal Protection Order File (POF) established by the National Crime Information Center (NCIC) for the collection of information that is necessary for nationwide enforcement of protection orders. Entering a protection order into the Registry and NCIC file enables law enforcement to immediately verify the existence and terms of the order. It is important, therefore, that all protection orders be registered with these two files. To this end, the forms capture all of the information that is required for data entry and the form orders are further structured to present that information in the order and sequence that is most helpful to the various law enforcement agencies responsible for entering the information into the files. Once the information reaches the Registry and is accepted by the NCIC file, it becomes immediately accessible to law enforcement agencies, dispatchers and courts throughout the country.

**I. General Use of Forms**

The provisions in the form petition and orders reflect the most common forms of relief available under the Protection from Abuse Act. Plenty of space, however, is provided for plaintiff to request additional relief, and for courts to fashion appropriate relief, based on the individual circumstances of the litigants. Since all of the provisions will not necessarily apply in every case, the forms adopt a checkbox method that requires the user to affirmatively check only those provisions which are applicable to his or her situation.

In cases where a provision is generally applicable but its terms do not correspond precisely to the

relief being requested or granted, the user should not check the standard provision but instead should use the blank spaces provided in the forms to specify the relief. For example, while the final order contains a standard provision permitting the defendant to retrieve personal belongings only in the company of a police officer, there may be more suitable methods of retrieval available in some cases. If so, then the plaintiff or court should use the blank spaces provided in the form petition or order (rather than the standard provision) to specify the alternative manner of retrieval.

**II. The Brady Law**

Paragraph 12 of the final protection order reflects what are known as the "Brady" provisions of the federal Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), codified at 18 U.S.C. § 922(g). These provisions amend the Gun Control Act of 1968 to extend the prohibitions relating to the possession, receipt and purchase of firearms and ammunition to persons who are subject to a final protection order, if the order meets the following four criteria: 1) the order must have been entered after a hearing of which the defendant received actual notice and had the opportunity to participate; 2) the plaintiff or protected person is an "intimate partner" within the meaning of 18 U.S.C. § 921(a)(32), or a child of an intimate partner, or a child of the defendant; 3) the terms of the order restrain defendant from harassing, stalking, or threatening the plaintiff or protected person; and 4) the order includes a finding that the defendant represents a credible threat to the physical safety of the intimate partner or child or by its terms explicitly prohibits the use, attempted use or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" is defined as a spouse, former spouse, a person who cohabitates or has cohabited with the defendant, or a parent of a child who is protected under the order. 18 U.S.C. § 921(a)(32).

The Brady Indicator is a mandatory field for entry of a protection order into the national NCIC file, i.e., federal data entry agencies are required to indicate by a "Yes" or "No" response whether a final protection order meets these criteria for disqualifying a defendant from possessing or purchasing firearms or ammunition. Thus, if all four provisions

of Paragraph 12 are affirmatively checked, the order will be entered into the statewide Registry and the NCIC file as a "Yes" response indicating that the defendant may be subject to prosecution by the appropriate authorities under federal law if he or she possesses, receives or purchases firearms at any time while the order is in effect. If all four provisions have not been checked, then the order is entered as a "No" response indicating that the order is not Brady-eligible.

It is important to distinguish the Brady disqualifier in Paragraph 12 of the final order from the scope of relief contemplated by Paragraphs 6 and 7 of the temporary and final orders. Under the Protection from Abuse Act, 23 Pa.C.S. § 6108(a)(7), a court may order the defendant to relinquish to the sheriff any weapons which were used or threatened to be used in an incident of abuse and to prohibit the defendant from acquiring or possessing any other weapons for the duration of the order. The "weapon" used in an incident of abuse may or may not be a firearm. If the weapon used is not a firearm, the defendant may still be disqualified from possessing or purchasing a firearm under Brady if the order otherwise meets the criteria under federal law.

**Rule 1930.4. Service of Original Process in Domestic Relations Matters.**

\* \* \* \* \*

(f) Service Outside of the Commonwealth. Original

process shall be served outside the Commonwealth within ninety days of the filing of the complaint:

- (1) by any means authorized by this rule; or
- (2) in the manner provided by the law of the jurisdiction in which defendant will be served; or
- (3) in the manner provided by treaty; or
- (4) as directed by the foreign authority in response to a letter rogatory or request.

**In Protection from Abuse matters, the defendant must be personally served with original process outside of the Commonwealth. Such service may be made either in accordance with subdivisions (a) and (b) of this Rule governing personal service or as provided for by law in the jurisdiction where the defendant resides. If personal service cannot be completed within 48 hours after entry of the protection order, service outside of the Commonwealth may be made by any other means authorized by this rule.**

**Official Note:** Sections 5323 and 5329(2) of the Judicial Code, 42 Pa.C.S. §§ 5323 and 5329(2), provide additional alternative procedures for service outside the Commonwealth. **For Protection from Abuse matters, personal service outside of the Commonwealth must first be attempted before service can be made by certified and regular mail or by any of the other means prescribed in subsection (f) of this Rule for out-of-state service.**

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