

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1 AND 21]

Proposed Adoption of Pa.R.A.P. 126 and Amendment of Pa.R.A.P. 2119

The Appellate Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of new Pa.R.A.P. 126 (Citation of Authority), and amendment of Pa.R.A.P. 2119 (Argument), for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Dean R. Phillips, Counsel
Appellate Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: (717) 231-9551
appellaterules@pacourts.us

All communications in reference to the proposal should be received by May 30, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Appellate Court
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

(Editor's Note: The following rule is new and printed in regular type to enhance readability.)

Rule 126. Citation of Authority.

A party citing authority that is not readily available shall attach the authority as an appendix to its filing.

When citing authority, a party should direct the court's attention to the specific part of the authority on which the party relies.

Official Note: Pa.R.A.P. 126 is intended to assure that cited authority is readily available to the court and parties. This rule is not intended to supersede any internal operating procedure of an appellate court regarding the citation to memorandum decisions or opinions. See, e.g., Superior Court Internal Operating Procedure § 65.37, 210 Pa. Code § 65.37, Commonwealth Court Internal Operating Procedure § 69.414, 210 Pa. Code § 69.414.

The second sentence of the rule encourages parties to provide pinpoint citations for cases, and section or subsection citations for statutes or rules.

Although the rule does not establish rules for citation, the following guidelines are offered for counsel's benefit regarding the citation of Pennsylvania cases and statutes.

Regarding cases, the rule does not require parallel citation of Pennsylvania appellate cases to the National Reporter System and the official reports of Pennsylvania appellate courts. Parties may cite to the National Reporter System alone.

Regarding statutes, Pennsylvania has officially consolidated only some of its statutes. Parties citing a statute enacted in the *Pennsylvania Consolidated Statutes* may use the format "1 Pa.C.S. § 1928." Parties citing an unconsolidated statute may refer to the Pamphlet Laws or other official collection of the Legislative Reference Bureau, with a parallel citation to *Purdon's Pennsylvania Statutes Annotated*, if available, using the format "Act of February 14, 2008, P. L. 6, 65 P. S. §§ 67.101—67.3104" or "Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7106(a)." Parties are advised that *Purdon's* does not represent an official version of Pennsylvania statutes. *In re appeal of Tenet Health Systems Bucks County, LLC*, 880 A.2d 721 (Pa. Commw. 2005), appeal denied, 897 A.2d 1195 (Pa. 2006).

Prior to Pa.R.A.P. 126, there was no specific citation format applicable to all filings. The format for citing cases and statutes was located previously in Pa.R.A.P. 2119(b). The format is not mandatory and a party does not waive an argument merely by failing to follow the format. That said, the suggestions in this Note provide guidance to parties as to what is generally acceptable to appellate courts.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2119. Argument.

* * * * *

(b) *Citations of authorities.*—[Citations of authorities must set forth the principle for which they are cited. Citations of uncodified statutes shall make reference to the book and page of the Laws of Pennsylvania (Pamphlet Laws) or other official edition, and also to a standard digest, where the statutes may be found. Citations of provisions of the Pennsylvania Consolidated Statutes may be in the form: "1 Pa.C.S. § 1928 (rule of strict and liberal

construction)” and the official codifications of other jurisdictions may be cited similarly. Quotations from authorities or statutes shall also set forth the pages from which they are taken. Opinions of an appellate court of this or another jurisdiction shall be cited from the National Reporter System, if published therein.] Citations of authorities in briefs shall be in accordance with Pa.R.A.P. 126 governing citations of authorities in all legal papers.

* * * * *

[**Official Note:** The 2014 amendment to paragraph (b) eliminated the requirement for parallel citation to the Pennsylvania State Reports, which is the official court reports of the Pennsylvania Supreme Court, the Pennsylvania Superior Court Reports, which had been the official court reports of the Pennsylvania Superior Court, and the Pennsylvania Commonwealth Court Reports, which had been the official court reports of the Commonwealth Court.]

Official Note: Where a challenge is raised to the appropriateness of the discretionary aspects of a sentence, the “petition for allowance of appeal” specified in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11.

EXPLANATORY COMMENT

The only provisions currently governing citations and citation form are found in Pa.R.A.P. 2119(b). There are no appellate rules governing citations and citation forms in legal papers other than the one directed to appellate briefs. On April 14, 2014 the Supreme Court amended Pa.R.A.P. 2119 to delete the requirement of parallel citations.

The Committee has reviewed the rules governing citations and has determined that: (a) there should be a general rule applicable to all legal papers filed in appellate courts; (b) the appropriate location of the general rule should be in Chapter One (General Provisions); (c) the rule ought not impose mandatory requirements that can create a basis for waiver. In keeping with these principles, the Committee proposes a new Rule 126 that requires a party citing authority not readily available through a recognized reporter system or online to attach that authority. In addition, the rule and note together suggest (but do not require) as best practices first, a party citing authority that is paginated, such as a legal opinion, ought to identify the specific page of that authority on which the party relies; and, second, parties should properly cite cases and statutes. Compliance with Pa.R.A.P. 126 will benefit the appellate courts and adverse parties by enabling them to more easily locate cited authority and the relevant portion of cited authority.

New Pa.R.A.P. 126 is not intended to supersede any internal operating procedure of an appellate court regarding citation to memorandum decisions or opinions. *See, e.g.,* Superior Court Internal Operating Procedure § 65.37, 210 Pa. Code § 65.37, Commonwealth Court Internal Operating Procedure § 69.414, 210 Pa. Code § 69.414.

The Committee also determined that it is common sense that a party citing authority should give the reason the authority was cited. This principle is sufficiently obvious that it need not be embodied expressly in the rules.

To implement the concepts set forth above, the Committee proposes the adoption of a new Pa.R.A.P. 126 and amendments to Pa.R.A.P. 2119. The proposed Note to Pa.R.A.P. 126 provides guidance previously found in Pa.R.A.P. 2119 as to best citation practices and what is commonly acceptable to appellate courts.

[Pa.B. Doc. No. 15-594. Filed for public inspection April 3, 2015, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendment of Pa.R.C.P. No. 1915.4-4

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 1915.4-4 governing pre-trial procedures in custody cases, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by May 18, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

MARIA P. COGNETTI, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.4-4. Pre-Trial Procedures.

A pre-trial conference in an initial custody or modification proceeding shall be scheduled before a judge at the request of a party or sua sponte by the court and the procedure shall be as set forth in this rule. If a party wishes to request a pre-trial conference, the praecipe set forth in subdivision (g) below shall be filed. The scheduling of a pre-trial conference shall not stay any previously scheduled proceeding unless otherwise ordered by the court.

(a) The praecipe may be filed at any time after a custody conciliation or conference with a conference officer unless a pre-trial conference has already been scheduled or held. The pre-trial conference may be scheduled at any time, but must be scheduled at least 30 days prior to trial.

(b) Not later than five days prior to the pre-trial conference, each party shall serve a pre-trial statement upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) the name and address of each expert whom the party intends to call at trial as a witness;

(2) the name and address of each witness the party intends to call at trial[,] **and** the relationship of that witness to the party [**and a statement by the party or the party's counsel that he or she has communicated with each listed witness**]. **Inclusion of a witness on the pre-trial statement constitutes an affirmation that the party's counsel or the self-represented party has communicated with the witness prior to the filing of the pre-trial statement;** and

* * * * *

(g) The praecipe for pre-trial conference shall be substantially in the following form:

(Caption)

PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:

Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa.R.C.P. No. 1915.4-4.

* * * * *

PUBLICATION REPORT

The Committee is proposing the amendment to Pa.R.C.P. No. 1915.4-4, Pre-Trial Procedures, as the rule relates to the preparation and filing of a pre-trial statement. The Committee received input from members of the bar that the current rule is being misinterpreted, specifically subdivision (b)(2) relating to witnesses a party identifies on the pre-trial statement, which has hindered the ability to have meaningful pre-trial conferences with the goal of reaching settlement. The proposed amendment is intended to clarify the rule.

The current rule states under (b)(2) “. . . and a statement by the party or the party's counsel that he or she has communicated with each listed witness. . . .” The information received by the Committee suggested some parties or their counsel were merely indicating in the pre-trial statement whether or not they had communicated with the witness. The intent of the rule is for the party or their counsel to *actually* communicate with the witness prior to including the name of the witness on the pre-trial statement.

The Committee believes the proposed language clarifies the intent of the rule requiring a party or their counsel to communicate with the witness as a prerequisite to inclusion of the witness on the pre-trial statement. Rule 1915.4-4(c) authorizes the court to impose sanctions for failure to comply with the requirements of subdivision (b).

[Pa.B. Doc. No. 15-595. Filed for public inspection April 3, 2015, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1950]

Proposed Adoption of Chapter 1950 Regarding Actions Pursuant to the Protection of Victims of Sexual Violence or Intimidation Act

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of a new chapter of rules governing actions pursuant to Act 25 of 2014, Protection of Victims of Sexual Violence or Intimidation, codified at 42 Pa.C.S. §§ 62A01—62A20 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by May 18, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

MARIA P. COGNETTI, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1950. ACTIONS PURSUANT TO THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ACT

Rule	
1951.	Definitions.
1952.	Venue.
1953.	Commencement of Action.
1954.	Service of Original Process and Registration of Order.
1955.	Enforcement.
1956.	No responsive pleading required.
1957.	Decision. Post-trial relief.
1958.	Modification or Discontinuance.
1959.	Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

Rule 1951. Definitions.

As used in this chapter:

Act—The Protection of Victims of Sexual Violence or Intimidation Act. Act No. 25 approved March 21, 2014, 42 Pa.C.S. § 62A01 et seq.

Action—A proceeding for protection from sexual violence or intimidation as defined in § 62A03 of the Act.

Court—The court of common pleas.

Emergency Order—An order entered by a hearing officer, who is a person meeting the definition set forth at 42 Pa.C.S. § 62A03.

Fees—means any costs associated with the filing, issuance, registration, service or appeal of a protection action under the Act, including any foreign protection order.

Temporary Order—An ex parte order entered by the court pursuant to 42 Pa.C.S. § 62A06(b).

Protection order or order—An order issued under this chapter designed to protect a victim of sexual violence or intimidation.

Rule 1952. Venue.

(a) Except as provided in subdivision (b), an action for protection of victims of sexual violence or intimidation may be brought in a county in which

- (1) the plaintiff resides, either temporarily or permanently, or is employed, or
- (2) the defendant may be served, or
- (3) the sexual violence or intimidation occurred.

(b) An action for indirect criminal contempt may be filed in, and heard by, the court in the county in which the order was issued or where the violation occurred.

Rule 1953. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary a petition alleging the need for protection from the defendant with respect to sexual violence or intimidation. The petition shall be substantially in the form set forth in Rule 1959(b) and shall have as its first page the Notice of Hearing and Order set forth in Rule 1959(a).

(b) An action may be commenced by filing with the prothonotary a certified copy of an emergency order entered pursuant to 42 Pa.C.S. § 62A09, including orders issued by masters for emergency relief.

(c) Any fees associated with this action shall not be charged to the plaintiff.

Rule 1954. Service of Original Process and Registration of Order.

(a) *Persons Who May Serve.* Original process in Protection of Victims of Sexual Violence or Intimidation matters may be served by the sheriff or a competent adult:

- (1) by handing a copy to the defendant;
- (2) by handing a copy;

(i) at the residence of the defendant to an adult member of the family with whom the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or

(ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides; or

(iii) at any office or usual place of business of the defendant to the defendant's agent or to the person for the time being in charge thereof.

- (3) or pursuant to special order of court.

(b) If personal service cannot be completed within forty-eight (48) hours after a Protection of Victims of Sexual Violence or Intimidation petition is filed, the court may, by special order as set forth in (a)(3) above, authorize service by another means including, but not limited to, service by mail. Pursuant to 42 Pa.C.S. § 62A05(d), under no circumstances shall the plaintiff be obligated to serve the petition or protection order.

(c) An Affidavit of Service substantially in the form set forth in Rule 1959(d) shall be filed with the prothonotary.

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

(e) No fee shall be charged to the plaintiff or petitioner for service of any protection order or pleading or for the registration, filing or service of any foreign protection order.

Rule 1955. Enforcement.

A plaintiff may file a private criminal complaint against a defendant alleging indirect criminal contempt for a violation of any provision of a protection order or agreement with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred. However, in a county of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

Rule 1956. No responsive pleading required.

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

Rule 1957. Decision. Post-trial relief.

(a) The decision of the court may consist of only general findings of sexual violence and/or intimidation but shall dispose of all claims for relief. The court's final order shall be rendered substantially in the form set forth in Rule 1959(e).

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

Rule 1958. Modification or Discontinuance.

(a) In cases in which a temporary protection order has not yet been granted or has been denied, a plaintiff in a protection of victims of sexual violence or intimidation action who wishes to discontinue the action may file a praecipe to discontinue, pursuant to Pa.R.C.P. No. 229, prior to the final order hearing. The party also may request the discontinuance by oral motion at a hearing.

(b) In cases in which a temporary protection order has been granted, a plaintiff who wishes to vacate the temporary order and discontinue the action shall either file a petition with the court prior to the final order

hearing or make the request by oral motion at the final order hearing.

(c) If either party seeks a modification after a final protection order has been entered, the party shall petition the court to modify the final order. Modification may be ordered after the filing and service of the petition and a hearing on the petition pursuant to 42 Pa.C.S. § 62A17.

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Rule 1953 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 petition.

A hearing on the matter is scheduled for the _____ day of _____, 20__ at _____ .m in Courtroom _____ at _____ Courthouse, _____, Pennsylvania.

If an order of protection has been entered, you MUST obey the order until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff 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 and/or up to six months in jail under 42 Pa.C.S. § 62A14. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code.

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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. 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]

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

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

(Caption)
Petition for Protection of Victim of Sexual Violence or Intimidation

1. Plaintiff

First Name Middle Name Last Name Plaintiff's Date of Birth

Plaintiff's Address _____

Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11

V.

2. Defendant

First Name Middle Name Last Name Defendant's Date of Birth

Defendant's Address _____

Defendant's Social Security Number _____

Defendant's Date of Birth _____

3. 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 ONLY checked "another person," please answer all questions referring to that person as the "plaintiff," and provide your name and address here, as filer.

Filer's Name _____

Filer's Address _____

If you checked "another person," indicate your relationship to the plaintiff:

4. Names of all persons who seek protection: _____

5. Is there a relationship between Plaintiff and Defendant? _____. If yes, what is the relationship? _____

6. Have Plaintiff and Defendant been involved in any other court actions? If so, state when and where the case was filed and the court number, if known: _____

7. Has Defendant been involved in any criminal court action? _____

If you answered Yes, is Defendant currently on probation? _____

8. (a.) The facts of the most recent incident of sexual violence 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): _____

(b.) The facts of the most recent incident of intimidation are as follows:

How old is the person seeking protection: _____

How old is the defendant: _____

Approximate Date: _____

Approximate Time: _____

Place: _____

Describe in detail what happened, including medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary): _____

9. If Defendant has committed prior acts of sexual violence or intimidation against Plaintiff, describe these prior incidents, and indicate approximately when such acts occurred (attach additional sheets of paper if necessary): _____

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

11. Is there an immediate and present danger of further sexual violence or intimidation from Defendant? If, so, please describe _____

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 having any contact with the victim, including, but not limited to, restraining the defendant from entering the victim’s residence, place of employment, business or school.
- B. Prohibiting indirect contact through third parties.
- C. Prohibiting direct or indirect contact with other designated persons.
- D. Order Defendant to pay the costs of this action, including filing and service fees.
- E. Order the following additional relief, not listed above:

- F. Grant such other relief as Plaintiff requests and/or the court deems appropriate.
- G. Order the police, sheriff or other law enforcement agency to serve the Defendant with a copy of this petition, any order issued, and the order for hearing. Plaintiff 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, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form:

(Caption)

TEMPORARY PROTECTION OF VICTIM OF SEXUAL VIOLENCE OR INTIMIDATION ORDER

Plaintiff is _____

Plaintiff’s address _____

Plaintiff’s address is confidential pursuant to 42 Pa.C.S. § 62A11

Defendant is _____

Defendant’s address _____

Defendant’s Social Security Number _____

Defendant’s Date of Birth _____

AND NOW, this _____ day of _____, 20 ____, upon consideration of the attached Petition for Protection of Victim of Sexual Violence or Intimidation, the court hereby enters the following Temporary Order:

- Plaintiff’s request for a Temporary Protection Order is denied.
- Plaintiff’s request for a Temporary Protection Order is granted.

1. The following person(s) are protected under this order:

2. Defendant is:

- A. Restrained from having any contact with the victim, including, but not limited to, restrained from entering the victim’s residence, place of employment, business or school.
- B. Prohibited from indirect contact with the victim through third parties.
- C. Prohibited from direct or indirect contact with the following designated persons:

3. Additional relief:

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

5. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION OF VICTIM OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

6. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL [insert expiration date] OR UNTIL OTHERWISE 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 and/or up to six months in jail. 42 Pa.C.S. § 62A14. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located. If Defendant violates Paragraphs 2 or 3 of this order, Defendant shall 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 a police officer or sheriff.

BY THE COURT:

Judge

Date

(d) The form of the Affidavit of Service in a proceeding under the Act shall be substantially in the following form:

(Caption)
AFFIDAVIT OF SERVICE

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

_____ at the following address:

_____ on the ____ day of _____, 20 __, 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)

THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

(e) The Final Order of Court, or any amended, modified or extended Final Order of Court, entered pursuant to the Act shall be substantially in the following form:

(Caption)
FINAL PROTECTION OF VICTIM OF SEXUAL VIOLENCE OR INTIMIDATION ORDER

Plaintiff is _____

Plaintiff's address _____

Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11

Defendant is _____

Defendant's address _____

Defendant's Social Security Number _____

Defendant's Date of Birth _____

The court hereby finds that it has jurisdiction over the parties and subject matter and Defendant has been provided with reasonable notice and opportunity to be heard.

Defendant was served in accordance with Pa.R.C.P. No. 1954(a) and provided notice of the time, date and location of the hearing scheduled in this matter.

Order Effective Date _____ Order Expiration Date _____

AND NOW, this _____ day of _____, 20 __, upon consideration of the attached Petition for Protection of Victim of Sexual Violence or Intimidation, the court hereby enters the following Final Order:

It is ORDERED, ADJUDGED AND DECREED as follows:

This order is entered (check one) by agreement by agreement without an admission after a hearing and decision by the court after a hearing at which Defendant was not present, despite proper service being made by default. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection of Victims of Sexual Violence or Intimidation Act.

Plaintiff's request for a final protection order is denied.

OR

Plaintiff's request for a final protection order is granted.

1. The following person(s) are protected under this order:

2. Defendant is:

A. Restrained from having any contact with the victim, including, but not limited to, restrained from entering the victim's residence, place of employment, business or school.

B. Prohibited from indirect contact with the victim through third parties.

C. Prohibited from direct or indirect contact with the following designated persons:

D. Ordered to pay the costs of this action, including filing and service fees.

3. Additional relief:

4. Because this order followed a contested proceeding, or a hearing at which Defendant was not present, despite being served with a copy of the petition, temporary order and notice of the date, time and place of the hearing, Defendant is ordered to pay an additional \$100 surcharge to the court, which shall be distributed in the manner set forth in 42 Pa.C.S. § 62A05.

5. THIS ORDER SUPERCEDES ANY PRIOR PROTECTION FOR VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

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 and/or up to six months in jail. 42 Pa.C.S. § 62A14. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police and sheriff who have jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 2 and 3 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 or any sheriff. 42 Pa.C.S. § 62A12.

When Defendant is placed under arrest for violation of the order, 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, sheriff OR Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

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

BY THE COURT:

Judge

Date

If entered pursuant to the consent of the plaintiff and the defendant:

(Plaintiff's signature)

(Defendant's signature)

PUBLICATION REPORT

The Committee is proposing the addition of Chapter 1950—Actions Pursuant to the Protection of Victims of Sexual Violence or Intimidation Act to the Pennsylvania Rules of Civil Procedure. The General Assembly of the Commonwealth of Pennsylvania enacted into law Act 25 of 2014, which has been codified at 42 Pa.C.S. §§ 62A01—62A20 and known as Protection of Victims of Sexual Violence or Intimidation Act. The proposed rules provide procedures and forms to facilitate application of the new statute, which is effective July 1, 2015.

[Pa.B. Doc. No. 15-596. Filed for public inspection April 3, 2015, 9:00 a.m.]
