



## McIntosh Lawyers, PC

Joe McIntosh, Esquire  
Attorneys & Counselors at Law

23 West Second Street  
Media, PA 19063  
Tel. 610-566-1700  
Fax 610-565-7944

E-mail [Joe@McIntoshLawyers.com](mailto:Joe@McIntoshLawyers.com)

[www.McIntoshLawyers.com](http://www.McIntoshLawyers.com)

LL.M. in Taxation  
Master of Laws

LL.M. in Trial Advocacy  
Master of Laws

M.B.A.

Laura Vickers  
Legal Assistant

Admitted to:  
Pennsylvania  
U.S. Tax Court  
U.S. Court of Federal Claims  
U.S. Court of International Trade  
U.S. Court of Appeals Federal Circuit  
U.S. District Court  
U.S. Court of Appeals  
U.S. Supreme Court

### **OBTAINING PROTECTION FROM ABUSE (PFA) ORDER IN PENNSYLVANIA**

In Pennsylvania, the Protection From Abuse (PFA) Act provides options for victims of domestic violence to seek safety and protection from abusers. All PFA orders state that the defendant/abuser can not abuse, harass, threaten, or stalk the victim/plaintiff. Other forms of relief are also available depending on the specifics of the case.

Pursuant to Section 6106(h)(2) of the PFA Act (23 Pa.C.S. § 6106 (h)(2)), "[t]he courts and hearing officers shall provide the plaintiff with written and oral referrals, in English and Spanish, to the local domestic violence program, the local legal services office, and to the county bar association's lawyer referral service."

### **I HAVE BEEN ABUSED — HOW DO I GET PROTECTION?**

Violent behavior, threats, harassment and stalking are crimes. If you have been threatened or assaulted, contact your local police department. You can also seek protection in civil court under the PFA Act by obtaining a PFA order. A PFA is the only civil order in Pennsylvania where violating it results in a criminal charge.

### **WHAT IS ABUSE?**

Under the PFA Act, abuse is defined as any of the following:

1. Attempting to, or intentionally or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault, or involuntary deviate sexual intercourse with or without a deadly weapon;
2. Placing another in reasonable fear of imminent serious bodily injury;
3. False imprisonment, as defined under the crimes code;
4. Physically or sexually abusing minor children; and/or
5. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, under circumstances which place the person in reasonable fear of bodily injury.

The PFA Act does not cover emotional abuse.

## **WHO CAN FILE FOR PROTECTION UNDER THE ACT?**

You can file for protection if the person who has harmed, threatened, or is trying to harm you:

1. is or was your spouse;
2. is or was living with you in a common-law marriage or as your boyfriend/girlfriend;
3. is the parent of your child;
4. is your child;
5. is or was a sexual or intimate partner (including dating relationships);
6. is your parent; or
7. is related to you by blood or marriage.

If the abuser is a neighbor, unrelated caregiver, or roommate, this relationship is not covered under the PFA Act. However, threatening and violent behavior IS A CRIME no matter who the perpetrator is, and the police should be contacted.

## **IS THE PFA ACT ONLY FOR ADULTS?**

An adult or emancipated minor can file for a PFA order. If the abused person is a minor, then a parent, adult household member, or guardian ad litem can file on behalf of the child.

## **HOW MUCH DOES IT COST TO REQUEST A PFA ORDER?**

Filing a PFA petition to request a PFA order does not require a fee. If a judge grants the PFA, fees will be charged to the abuser/defendant.

## **WHAT HAPPENS AFTER I FILE A PFA PETITION?**

After filing a PFA petition, a judge will review the case to determine if a temporary PFA should be granted. The judge's decision at the temporary PFA order proceeding is based on only the plaintiff's statement. The judge may make one of the following decisions: (1) s/he will issue a temporary PFA and schedule a final order hearing to be held within 10 business days; (2) s/he will deny the temporary PFA, but still schedule a final order hearing to be held within 10 days; or (3) s/he will deny the temporary PFA, and NOT schedule a final order hearing.

A temporary PFA states restrictions against the abuser meant to immediately protect the person(s) filing for protection. These restrictions continue until the final order hearing has taken place. The abuser must be served with notice of the temporary PFA and the final order hearing date. Generally, the Sheriff's Department or a local law enforcement agency will serve the PFA order on the abuser. Once the abuser knows about the PFA order, he/she can be arrested for violating it. However, the PFA is enforceable IMMEDIATELY, and police should be contacted if the abuser violates any terms of the order. If the abuser was not yet served the PFA, s/he will not be charged with violating it, but the local law enforcement will then either serve the PFA to the abuser and/or consider the abuser now aware of it and will charge him/her if s/he violates it again.

## **HOW DO I GET A FINAL PFA ORDER?**

A final PFA can be granted in two ways –either after a final order hearing or by an agreement between both parties. At a final order hearing, both the plaintiff and the defendant are given a chance to tell the judge their side of the case and provide evidence. The judge can either grant the final PFA or deny it and dismiss the PFA case. If the defendant has been served but fails to show up, the judge will usually grant the final order.

In addition, the plaintiff and defendant can have a final PFA entered by agreement. Prior to the hearing, the parties' attorneys can discuss an agreement and present on to the judge before or at the time of their final order hearing. The parties can also appear before the judge at the scheduled time of the hearing and tell the judge the terms of their agreement on the record.

The judge may issue a final PFA to be in effect for up to 36 (thirty-six) months.

## **WHAT PROTECTION CAN THE COURT ORDER?**

All PFA orders direct the abuser not to abuse, threaten, harass, or stalk the victim(s). A PFA may also include some or all of the following reliefs:

- direct the abuser to stay away from the house or apartment where you live, even if that is also the abuser's home;
- direct the abuser to stay away from your school or workplace;
- direct the abuser to refrain from harassing you, your friends, or your relatives;
- prohibit the abuser from having any guns or gun permits;
- award you temporary custody of your children, and depending on the degree of abuse, award visitation or supervised visitation or deny visitation to the abuser (in Schuylkill County, the victim must file for custody within 60 days for this stipulation to continue until a formal custody decision has been made);
- grant you temporary support for yourself and for the abuser's children (included in final order only);
- direct the abuser to pay you for losses resulting from the abuse, such as medical bills, lost wages, relocation expenses, and attorney's fees (included in final order only);
- grant any other relief or terms necessary to end the abuse, such as requiring the abuser to return keys, driver's license, or personal papers, etc.

## **I AM AFRAID OF MY ABUSER AND AM IN HIDING. CAN I FILE FOR A PFA ORDER AND KEEP MY ADDRESS A SECRET?**

Addresses of domestic violence agencies/shelters are protected by law and are not listed on a PFA if the victim/plaintiff is staying in a domestic violence shelter. In addition, if you request address confidentiality, and a judge decides that you are in danger, the judge can direct police, social service agencies, and school districts to keep your address and telephone number confidential.

## **IS MY PFA ENFORCEABLE IN ANOTHER COUNTY?**

Yes. The Pennsylvania State Police maintains a registry of all PFA orders issued throughout the Commonwealth. A court will enforce a valid PFA that is issued in another county and recorded in the Pennsylvania State Police Registry.

## **IS ANOTHER STATE'S FINAL PFA ORDER ENFORCEABLE IN PENNSYLVANIA? IS A PENNSYLVANIA PFA ORDER ENFORCEABLE IN ANOTHER STATE?**

Yes, all final orders issued in any state after the abuser received notice of the hearing and had the opportunity to be involved in that hearing – even if the abuser failed to appear or the order was entered based on an agreement – are enforceable in any other state.

## **WHAT IF THE ABUSER VIOLATES THE PFA ORDER?**

A PFA is the only civil order in which violating it is a criminal offense. If the abuser violates any terms of the order (“provisions”) designed primarily for your safety – such as provisions that keep the abuser away from your home, provisions regarding child custody – you should immediately call the police and report the violation. A police officer can arrest the abuser, even if he/she does not witness the abuse. When an abuser is arrested, all of his/her firearms are to be seized by the police or sheriff.

An abuser can be charged with "indirect criminal contempt of a PFA Order" for violating the PFA. After a hearing, the court can find the abuser in contempt and sentence him/her to jail for up to six months and/or fine of not less than \$300 or more than \$1,000. The abuser may also face other criminal charges.

If the abuser violates support provisions of the order, such as child or spousal support, contact the local domestic relations office. If the abuser fails to comply with provisions that require that your losses be repaid, or certain other provisions, you may file a civil contempt complaint.

## **WHAT IF I WANT TO CHANGE THE PFA ORDER?**

Because the order is a legal document, only a judge can change restrictions or terms in the order; the parties themselves cannot make different arrangements. If you want to change the order, you must file a petition with the court asking that the order be changed or "modified" in the same office and in a process similar to how you first filed the PFA petition.

## **WHAT IF I WANT TO LIVE WITH THE ABUSER AFTER RECEIVING A FINAL PFA?**

Not all PFA orders exclude the abuser from the victim’s home, although such PFA orders may not afford all the protections the victim seeks. We recommend you call SWiC for more

information about staying safe if you are considering living with someone you have a PFA against. Any provision that an abuser must not abuse the victim(s) remains in effect even if the parties are or resume living together. However, if you decide you would like to live with the abuser after receiving an order that excludes the abuser from your home, you may file papers with the court asking the court to change the PFA to read that the abuser may live with you, but still must not abuse you and/or other people named in the order.

### **CAN THE FINAL PFA ORDER BE EXTENDED?**

A judge may choose to extend a final PFA order for two reasons:

1. If you can show that, after the final PFA order, the abuser continued the abuse, or, if the abuser engaged in a pattern that indicates continued risk of harm, the judge may extend the final PFA order. You must file the petition for an extension before the end of the original PFA order.
2. The judge may also extend the final PFA as part of an indirect criminal contempt hearing, held when an abuser has violated the PFA.

### **CAN I FILE FOR A PFA WHEN THE COURTHOUSE IS CLOSED?**

Yes, an emergency PFA is a greatly abbreviated version of a regular PFA and states only that the abuser/defendant cannot abuse, harass, threaten, or stalk the victim/plaintiff. In addition, if granted, an emergency PFA is only in effect until close of business on the next day the courthouse is open. In order for the protection to continue and to request additional protections, the victim must go to the PFA Office in the courthouse the next business day it is open to file for the full temporary PFA.