

No. 2014-25

AN ACT

SB 681

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the protection of victims of sexual violence or intimidation, for duties of law enforcement agencies, for procedure and for penalties; and, in juvenile matters, further providing for definitions.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

**CHAPTER 62A
PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR
INTIMIDATION**

Sec.

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§ 62A01. Scope of chapter.

This chapter relates to protection of victims of sexual violence or intimidation.

§ 62A02. Findings and purpose.

The General Assembly finds and declares that:

(1) Sexual violence is the most heinous crime against a person other than murder.

(2) Sexual violence and intimidation can inflict humiliation, degradation and terror on the victim.

(3) According to the Department of Justice, someone is sexually assaulted every two minutes in the United States.

(4) Rape is recognized as one of the most underreported crimes, and studies indicate that only one in three rapes is reported to law enforcement.

(5) Victims of sexual violence and intimidation desire safety and protection from future interactions with their offender, regardless of whether they seek criminal prosecution.

(6) This chapter provides the victim with a civil remedy requiring the offender to stay away from the victim, as well as other appropriate relief.

§ 62A03. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adult." An individual who is 18 years of age or older.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court, regardless of whether or not there is a raised seal on the copy of the order of the issuing court.

"Confidential communications." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Coparticipant." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Court." The court or magisterial district judge having jurisdiction over the matter under and exercised as provided in this title or as otherwise provided or prescribed by law.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, bail commissioner appointed under section 1123 (relating to jurisdiction and venue), master appointed under section 1126 (relating to masters) or master for emergency relief.

"Intimidation." Conduct constituting a crime under either of the following provisions between persons who are not family or household members:

18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 62A09(e) (relating to emergency relief by minor judiciary).

"Minor." *An individual who is not an adult.*

"Plaintiff." *An individual who applies for a protection order, either for the benefit of that individual or on behalf of another individual.*

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

"Rape crisis center." *As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).*

"Sexual assault counselor." *As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).*

"Sexual violence." *Conduct constituting a crime under any of the following provisions between persons who are not family or household members:*

18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

"Sheriff." *The sheriff of a county or, in a city of the first class, the chief or head of the police department.*

"Victim." *A person who is the victim of sexual violence or intimidation.*

§ 62A04. Responsibilities of law enforcement agencies.

(a) *General rule.—The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall ensure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning orders shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies shall adopt a written policy regarding orders issued under this chapter.*

(b) *Notice of arrest.—The police department of each municipal corporation and the Pennsylvania State Police shall make reasonable efforts to notify any person protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.*

(c) *Statewide registry.—*

(1) *A complete and systematic record and index of all valid temporary and final orders issued under this chapter shall be entered and maintained in the database established and maintained by the Pennsylvania State Police pursuant to 23 Pa.C.S. § 6105(e) (relating to responsibilities of law enforcement agencies).*

(2) *With respect to orders issued under this chapter, the Statewide registry shall include, but need not be limited to, the following:*

(i) *The names of the plaintiff and the victim, if the victim is not the same individual as the plaintiff.*

(ii) *The name of other designated persons protected by the order under section 62A07(b) (relating to relief).*

(iii) *The name and address of the defendant.*

(iv) *The date the order was entered.*

(v) *The date the order expires.*

(vi) *The relief granted under sections 62A07 and 62A09 (relating to emergency relief by minor judiciary).*

(vii) *The judicial district in which the order was entered.*

(viii) *Where furnished, the Social Security number and date of birth of the defendant.*

(3) *The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of an order to the Statewide registry so that it is received within 24 hours of the entry of the order. An amendment to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry within eight hours of receipt. Vacated or expired orders shall be purged from the registry.*

(4) *The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid order involving any defendant.*

(5) *Information contained in the Statewide registry relating to orders shall not be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.*

§ 62A05. Commencement of proceedings.

(a) *General rule.—An adult or emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of a minor child, or the guardian of the person of an adult who has been declared incapacitated under 20 Pa.C.S. Ch. 55 (relating to incapacitated persons) may seek relief on behalf of an incapacitated adult, by filing a petition with the court alleging the need for protection from the defendant with respect to sexual violence or intimidation.*

(a.1) *False reports.—A person who knowingly gives false information to a law enforcement officer with intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).*

(b) *No prepayment of fees.—The petition shall be filed and service shall be made without the prepayment of fees.*

(c) *Assessment of fees and costs.—*

(1) (i) *No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee.*

(ii) No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken under this chapter.

(2) When an order is granted under this chapter, fees and costs shall be assessed against the defendant. The court shall waive fees and costs upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the fees and costs.

(3) Nothing in this section is intended to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c.1) Surcharge on order.—When an order is granted under section 62A06 (relating to hearings), a surcharge of \$100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) Twenty-five dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).

(2) Fifty dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(i) Twenty-five dollars shall be used by the sheriff.

(ii) Twenty-five dollars shall be used by the court.

(3) Twenty-five dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(4) The surcharge allocated under paragraphs (1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(d) Service.—

(1) The court shall adopt a means of prompt and effective service. If the court so orders, the sheriff or another court-designated agency or individual shall serve the petition and protection order. Under no circumstances shall the plaintiff be obligated to serve the petition or protection order.

(2) The petition and order shall be served upon the defendant.

(3) Within two business days, the order shall be served upon the police department, sheriff and district attorney in the jurisdiction where the order was entered.

(4) A certified copy of the order shall be issued to the plaintiff.

(5) In the case of a minor victim of sexual violence, a copy of the petition and order shall be served upon the county agency and the Department of Public Welfare. For purposes of this subparagraph, the term "county agency" shall be as defined in 23 Pa.C.S. § 6303 (relating to definitions).

(6) *A copy of the order shall be issued as otherwise ordered by the court or hearing officer.*

(7) *Failure to serve the police department, sheriff or district attorney's office shall not stay the effect of a valid order.*

(e) *Assistance and advice to plaintiff.—The courts and hearing officers shall:*

(1) *Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for an order for an individual not represented by counsel.*

(2) *Provide the plaintiff with written and oral referrals, in English and Spanish, to local sexual assault services in the case of sexual violence and to the local legal services office and to the county bar association's lawyer referral service in the case of sexual violence or intimidation.*

(f) *Effect of departure and nonresidence.—The right of the plaintiff to relief under this chapter shall not be affected by the defendant's absence from this Commonwealth or the defendant's nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with section 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).*

§ 62A06. *Hearings.*

(a) *General rule.—Within ten business days of the filing of a petition under this chapter, a hearing shall be held before the court where the plaintiff must:*

(1) *assert that the plaintiff or another individual, as appropriate, is a victim of sexual violence or intimidation committed by the defendant; and*

(2) *prove by preponderance of the evidence that the plaintiff or another individual, as appropriate, is at a continued risk of harm from the defendant.*

(a.1) *Right to counsel.—The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel. The notice shall be printed and delivered in a manner that easily attracts attention to its contents.*

(b) *Temporary orders.—If a plaintiff seeks a temporary order for protection from an immediate and present danger, the court shall conduct an ex parte proceeding. The court may enter a temporary order as it deems necessary to protect the plaintiff or another individual, as appropriate, when it finds the plaintiff or another individual is in immediate and present danger from the defendant. The temporary order shall remain in effect until modified or terminated by the court after notice and hearing.*

(c) *Continued hearings.—If a hearing under subsection (a) is continued and no temporary order is issued, the court may make ex parte temporary orders under subsection (b), as it deems necessary.*

§ 62A07. *Relief.*

(a) *Order or consent agreement.—The court may issue an order or approve a consent agreement to protect the plaintiff or another individual, as appropriate, from the defendant.*

(b) *General rule.—An order or a consent agreement may include:*

(1) *Prohibiting the 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. This may include prohibiting indirect contact through third parties and also prohibiting direct or indirect contact with other designated persons.*

(2) *Granting any other appropriate relief sought by the plaintiff.*

(c) *Duration and amendment of order or agreement.—A protection order or an approved consent agreement shall be for a fixed period of time not to exceed 36 months. The court may amend its order or agreement at any time upon subsequent petition filed by either party.*

(d) *Extension of protection orders.—*

(1) *An extension of an order may be granted:*

(i) *Where the court, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 62A05 (relating to commencement of proceedings) and 62A06 (relating to hearings), finds that the extension is necessary because the defendant engaged in one or more acts or finds some other circumstances that, in the discretion of the court, demonstrate a continued risk of harm to the victim.*

(ii) *When a contempt petition or charge has been filed with the court or, in a county of the first class, a hearing officer, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition.*

(2) *Service of an extended order shall be made in accordance with section 62A05(d).*

(3) *There shall be no limitation on the number of extensions that may be granted.*

(e) *Notice.—Notice shall be given to the defendant stating that violations of the order will subject the defendant to arrest under section 62A12 (relating to arrest for violation of order) or contempt of court under section 62A14 (relating to contempt for violation of order).*

(f) *Incarceration.—When the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days, a plaintiff does not need to show that the defendant engaged in one or more acts that indicate a continued risk of harm to the victim in order to obtain an extension or a subsequent protection order under this chapter.*

(g) *Identifying information.—Any order issued under this chapter shall, when furnished by either party, specify the Social Security number and date of birth of the defendant.*

§ 62A08. (Reserved).

§ 62A09. *Emergency relief by minor judiciary.*

(a) *General rule.—When:*

(1) *in counties with fewer than four judges, the court is unavailable:*

(i) *from the close of business at the end of each day to the resumption of business the next morning;*

(ii) *from the end of the business week to the beginning of the business week; and*

(iii) *during the business day by reason of duties outside the county, illness or vacation; or*¹

(2) *in counties with at least four judges, the court is unavailable:*

(i) *from the close of business at the end of each day to the resumption of business the next morning; and*

(ii) *from the end of the business week to the beginning of the business week;*

a petition may be filed before a hearing officer who may grant relief in accordance with section 62A07 (relating to relief) if the hearing officer deems it necessary to protect the victim upon good cause shown in an ex parte proceeding. Immediate and present danger posed by the defendant to the victim shall constitute good cause for the purposes of this subsection.

(b) *Expiration of order.—An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on orders entered by hearing officers under subsection (a) and shall review and continue in effect orders that are necessary to protect the plaintiff or another individual, as appropriate, until the hearing, at which time the plaintiff may seek a temporary order from the court.*

(c) *Certification of order to court.—An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 62A05 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the reasons for the need for protection at least five days prior to the hearing. Service of the verified statement shall be made subject to section 62A05(d).*

(d) *Instructions regarding the commencement of proceedings.—Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of rape crisis centers in the county or in nearby counties in the case of sexual violence and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them in the case of sexual violence or intimidation.*

(e) *Master of emergency relief.—The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the president judge with the approval of the Administrative Office of*

¹"illness or vacation;" in enrolled bill.

Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.

§ 62A10. Sexual assault counselor.

A sexual assault counselor may accompany and provide assistance to a plaintiff in any legal proceeding or hearing under this chapter which relates to sexual violence.

§ 62A11. Disclosure of addresses.

(a) General rule.—During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or victim, as appropriate, is endangered by disclosure of the permanent or temporary address of the plaintiff or victim. The court shall consider the wishes of the plaintiff regarding the disclosure of the address. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a rape crisis center or the plaintiff or victim, as appropriate.

(b) Order.—Where the court concludes that the defendant poses a continued risk of harm to the victim and where the plaintiff requests that the address, telephone number and information about the victim's whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts shall not disclose the presence of the victim in the jurisdiction or district or furnish any address, telephone number or any other demographic information about the victim except by further order of the court.

§ 62A12. Arrest for violation of order.

(a) General rule.—An arrest for a violation of an order issued under this chapter may be without warrant upon probable cause, whether or not the violation is committed in the presence of the police officer or sheriff, in circumstances where the defendant has violated a provision of an order consistent with section 62A07 (relating to relief). The police officer or sheriff may verify the existence of an order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry or issuing authority. A police officer or sheriff shall arrest a defendant for violating an order by a court within the judicial district or issued by a court in another judicial district within this Commonwealth.

(b) Procedure following arrest.—

(1) Subsequent to an arrest, the defendant shall be taken by the police officer or sheriff without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred.

(2) When that court is unavailable, the police officer or sheriff shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in counties of the first class, to the appropriate hearing officer.

(c) Preliminary arraignment.—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(d) Other emergency powers unaffected.—This section shall not be construed to in any way limit any of the other powers for emergency relief provided under this chapter.

(e) Hearing.—A hearing shall be scheduled within ten business days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

§ 62A13. Private criminal complaints for violation of order or agreement.

(a) General rule.—A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a violation of any provision of an order or court-approved consent agreement issued under this chapter, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that 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 district attorney.

(b) Procedure service.—

(1) Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule.

(2) Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c) Fees and costs.—

(1) No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal.

(2) (i) After a finding of indirect criminal contempt, fees and costs may be assigned against the defendant.

(ii) The court shall waive fees and costs imposed under this chapter upon a showing of good cause or if the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action.

(3) Nothing in this subsection shall be construed to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1.

§ 62A14. Contempt for violation of order.

(a) General rule.—Where the police department, sheriff or the plaintiff has filed charges of indirect criminal contempt against a defendant for violation of an order or court-approved consent agreement entered into under this chapter, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(b) Jurisdiction.—A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order in the county where the violation occurred and in the county where the order was granted.

(c) Minor defendant.—Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection order related to sexual violence shall be considered to have committed an alleged delinquent act as that term is defined in section 6302

(relating to definitions) and shall be treated as provided in Chapter 63 (relating to juvenile matters).

(d) Trial and punishment.—

(1) Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have the right to a jury trial on the charge of indirect criminal contempt; however, the defendant shall be entitled to counsel.

(2) A sentence for indirect criminal contempt under this chapter may include:

(i) A fine of not less than \$300 nor more than \$1,000 and imprisonment for a period not exceeding six months.

(ii) A fine of not less than \$300 nor more than \$1,000 and supervised probation for a period not exceeding six months.

(iii) An order for any other relief provided for under this chapter.

(3) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.

(4) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.

(5) All moneys received under this section shall be distributed in the following order of priority:

(i) One hundred dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).

(ii) One hundred dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(A) Fifty dollars shall be used by the sheriff.

(B) Fifty dollars shall be used by the court.

(iii) One hundred dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iv) Any additional money shall be distributed in the manner under subparagraph (i).

(e) Notification upon release.—

(1) The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (d). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.

(2) The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information;

failure to do so will constitute waiver of any right to notification under this section.

(f) Multiple remedies.—Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

§ 62A15. Civil contempt or modification for violation of order or agreement.

(a) General rule.—A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-approved consent agreement entered into under this chapter.

(b) Civil contempt order.—Upon finding of a violation of a protection order or court-approved consent agreement issued under this chapter, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain the defendant in accordance with law.

(c) Sentencing.—A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions of the order or court-approved consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.—Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

§ 62A16. Confidentiality.

(a) Nature of privilege.—

(1) Unless a victim of sexual violence who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance waives the privilege in a signed writing prior to testimony or disclosure, a sexual assault counselor or a coparticipant who is present during sexual assault counseling or advocacy shall not be competent nor permitted to testify, release the records of or to otherwise disclose confidential communications made to or by the counselor by or to the victim. The privilege shall terminate upon the death of the victim.

(2) Neither the sexual assault counselor nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual violence under 23 Pa.C.S. Ch. 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

(b) Scope.—The provisions of this section applicable to the victim of sexual violence shall also apply to a person who seeks advice, counseling or assistance from a sexual assault counselor regarding the victim.

§ 62A17. Procedure and other remedies.

(a) General rule.—Unless otherwise indicated under this chapter, a proceeding under this chapter shall be in accordance with applicable

general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of a protection order issued under section 62A07 (relating to relief) at any time during the pendency of the order. Except as otherwise provided in this chapter, modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

(b) Remedies for bad faith.—Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of continued risk of harm by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.

§ 62A18. Applicability.

The provisions of the following acts relating to victims who are protected by an order issued under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) shall apply also to victims who are protected by an order issued under this chapter:

(1) The act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(2) 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality).

§ 62A19. Inability to pay.

(a) Order for installment payments.—Upon plea and proof that a person is without the financial means to pay a fine, a fee or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.

(b) Electronic payment.—The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.

§ 62A20. Construction.

Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process in accordance with Subchapter E of Chapter 83 (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

Section 2. The definition of "delinquent act" in section 6302 of Title 42 is amended to read:

§ 6302. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Delinquent act."

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under *Chapter 62A (relating to protection of*

victims of sexual violence or intimidation) with respect to sexual violence or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(2) The term shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. § 2901 (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.

(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Kidnapping as defined in 18 Pa.C.S. § 2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.

(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

* * *

Section 3. This act shall take effect July 1, 2015.

APPROVED—The 21st day of March, A.D. 2014

TOM CORBETT