

**SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.Civ.P. 1901.3, 1901.4, 1901.6, 1905, and 1930.4, and  
Adoption of Pa.R.Civ.P. 1901.9**

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the amendment of Pennsylvania Rules of Civil Procedure 1901.3, 1901.4, 1901.6, 1905, and 1930.4, and the adoption of Pennsylvania Rule of Civil Procedure 1901.9 concerning actions pursuant to the Protection From Abuse Act, 23 Pa.C.S. §§ 6101 *et seq.*

**Companion Animals**

The Protection From Abuse (PFA) Act was amended by the Act of November 18, 2024, P.L. 1184, No. 146 to permit a court to grant temporary ownership of “companion animals” and to protect “companion animals” from abuse. See 23 Pa.C.S. § 6108(a)(9.1), (a.1)(2), (e)(1)(i), (j); § 6113(a). The current PFA form petition and current PFA form orders in Pa.R.Civ.P. 1905(b)-(c) and (e) provide for “additional relief,” together with a free text field, which are believed able to accommodate companion animals if requested and ordered during the pendency of rulemaking.

The Committee proposes amendment of Pa.R.Civ.P. 1905(b)-(c), and (e) to reflect Act 146. Much of the language to be added to the rule was gleaned from the Act. The identifiers for a companion animal, *e.g.*, species, breed, name, color, sex, were believed necessary for the identification of a protected companion animal among other companion animals. The “notice to sheriff, police, and law enforcement officials” in the form orders would also be amended to include a violation of § 6108(a)(9.1) as a basis for arrest as it relates to companion animals. See 23 Pa.C.S. § 6113(a).

**Temporary Custody**

The PFA Act permits a court to enter a temporary order concerning the custody of the parties’ minor children if the court finds, after an *ex parte* proceeding, the children are in immediate and present danger of abuse. See 23 Pa.C.S. § 6107(b)(1)-(b)(2). The temporary order may also supersede a custody order or agreement if the court finds that the defendant is likely to inflict abuse upon the children or remove the children from the jurisdiction of the court prior to an evidentiary hearing. See *id.* § 6108(a)(4)(iv).

After an evidentiary hearing, the PFA court may enter an order awarding temporary custody to a party and providing for “visitation” to the other party. The extent to which a

defendant may be awarded custody, and any conditions of custody, are subject to the existence of prior or ongoing risk of abuse. See 23 Pa.C.S. § 6108(4).

The Committee received a rulemaking request to amend Pa.R.Civ.P. 1901.1 to preclude PFA filings seeking custody by litigants in a county if there is an existing custody order in another county. Instead, the plaintiff should be required to file the PFA petition in the county where the custody order was entered. Permitting the plaintiff to bring a PFA action in any county was thought to facilitate forum shopping relative to custody.

Pa.R.Civ.P. 1901.1(b) currently limits venue if possession of the residence or household to the exclusion of the defendant is sought. For that relief, the action must be brought in the county where the residence or household is located. Hence, there is a measure of precedent. However, a court may not *sua sponte* raise venue when jurisdiction exists. See, e.g., *Garzone v. Kelly*, 593 A.2d 1292, 1298 (Pa. Super. 1991).

The Committee was not inclined to propose further limiting venue if there is an existing custody order or action. Given the immediate nature of circumstances involving abuse of a party or child, a PFA petition ought to be filed where the abuse occurred regardless of where a custody order may be entered. Yet, the Committee did appreciate that the custody provisions of the PFA Act may result in uncoordinated custody orders between several counties. Further, if a custody order does exist in another county, it may be appropriate in many, but not all, circumstances for longer term custody to be determined in that county. Additionally, the custody awarded under the PFA Act was intended to be temporary until a formal custody action could be initiated or completed. See *also* Pa.R.Civ.P. 1901.7(d).

Accordingly, the Committee proposes amendment of the final PFA form order in Pa.R.Civ.P. 1905(e) to specify, if there is an existing custody order, whether the PFA order supersedes that custody order. If there is no custody order, the form order would contain options for the court to invite or direct either party to initiate a custody proceeding. Finally, the form order would contain the option for the custody provision within the PFA order to lapse after a prescribed period of time.<sup>1</sup> Of course the form would retain the option for the PFA court to set forth additional temporary custody provisions.

The intent of the amendment is to curtail the use of PFA orders as avenues for long-term custody orders. The Committee believes that long-term custody orders should be determined after full consideration of the factors in 23 Pa.C.S. § 5328(a). The Committee specifically invites comments on this topic.

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<sup>1</sup> The Committee notes that support obligations through PFA orders are limited to two weeks. See 23 Pa.C.S. § 6108(a)(5).

## Service of Petition and Orders

The Act of June 30, 2025, P.L. 76, No. 23, in part, amended 23 Pa.C.S. § 6106(d) as to who is to serve PFA petitions and orders. It eliminates “individuals” and requires service by a sheriff or appropriate law enforcement agency. See *also Commonwealth v. Stevenson*, 283 A.3d 196, 215 (Pa. 2022) (Wecht, J., dissenting) (suggesting amendment of PFA Act or rules to require law enforcement to effectuate service). Please note that the service provisions amended by Act 33 do not extend to the protection of victims of sexual violence or intimidation. See 42 Pa.C.S. §§ 62A01 *et seq.*

The Committee proposes amendment of Pa.R.Civ.P. 1901.4 governing the service of hearing notices, petitions, temporary orders, and final orders. In subdivision (a), service would be restricted to a sheriff or law enforcement officer. If service cannot be made within 48 hours, then the court may order an alternative form of service. Although § 6106(d) does not provide for an alternative form of service, the concept has been carried over from Pa.R.Civ.P. 1930.4(a)(3). See *also* 23 Pa.C.S. § 6109(a) (permitting service of orders as ordered by the court or hearing officer). A change contained in the proposed amendment shifts the start time for the 48-hour period from the filing of the petition to the filing of the order. For consistency, Pa.R.Civ.P. 1930.4(a)(3)(ii), governing the 48-hour period for service of protection of victims of sexual violence or intimidation hearing notice and temporary order, is also proposed to commence upon the filing of the order.

Subdivision (b) would expand on the current requirement to include an affidavit of service for the hearing notice and final order, as well as the petition and temporary order. Pa.R.Civ.P. 1905(d) governing the Affidavit of Service form would also be amended to make that form a dual-use form for hearing notices, petitions, temporary orders, and final orders.

The impact of the Act on service of defendants located outside of Pennsylvania is less clear. Pa.R.Civ.P. 1930.4(e)(2)(ii)(A) provides that a “person” may serve original process in the manner provided in subdivision (a) or “by the law in the jurisdiction where the defendant resides or is located.” If personal service cannot be completed within 48 hours, service can be accomplished by other means permitted by subdivision (e)(2). The Committee considered whether 23 Pa.C.S. § 6106(f) extended to service outside of Pennsylvania and concluded that it did not, given an understanding that the Uniform Interstate and International Procedure Act, 42 Pa.C.S. §§ 5321 *et seq.*, would govern service outside of Pennsylvania. See *also* Pa.R.Civ.P. 1930.4, cmt. (citing § 5323 and § 5329(2)). Nor would the “sheriff,” as defined in 23 Pa.C.S. § 6102(a), presumably have jurisdiction in another state to effectuate service. However, the Committee believes that “person,” as used in Pa.R.Civ.P. 1930.4(e)(2)(ii) could be broadly read to include law enforcement in another state.

Ultimately, the Committee proposes to retain Pa.R.Civ.P. 1930.4(e)(2)(ii) to govern service outside of Pennsylvania in PFA proceedings. The Committee seeks comments on whether further clarification is warranted.

### **Copies to Non-Custodial Parents**

The Committee received a rulemaking request to require that a copy of a PFA petition be served on the other parent when a child is named as a protected party and the other parent is not a party to the PFA petition. The Committee agreed that any PFA petition involving a household with minor children should be served on persons having custodial rights. That approach is consistent with “Kayden’s Law,” Act of April 15, 2024, P.L. 24 No. 8, concerning abuse in the household.

Item 8 on the petition in Pa.R.Civ.P. 1905(b) requires the plaintiff to list all the minor children for whom the plaintiff and the defendant are parents. Item 9(b) on the petition requires the plaintiff to list any other persons who are known to have or claim a right to custody of each child listed in Item 8. Item 10 on the petition requires the plaintiff to list any other minor children living with the plaintiff. However, the petition does not require the plaintiff to list any other persons who are known to have or claim a right to custody of each child listed in Item 10.

Accordingly, the Committee proposes amending Item 10 on the petition in Pa.R.Civ.P. 1905(b) to require the plaintiff to list any other persons who are known to have or claim a right to custody of each minor child living with the plaintiff. The Committee further proposes adding subdivision (e) to Pa.R.Civ.P. 1901.4 to require the court to serve via first class mail or electronically the hearing notice, petition, temporary order, and the final order on anyone having or claiming custodial rights of a minor child listed in the petition, which would include Items 8-10. The Committee did not believe that the failure of service should impede or delay the PFA action. The information provided to other custodians is intended to be considered in a subsequent custody action and not to provide standing in the PFA action.

### **PFA Return of Firearms, Other Weapons, or Ammunition**

The Committee previously proposed rules governing the return of a PFA defendant’s firearms, other weapons, or ammunition upon the dismissal or expiration of a temporary or final protection from abuse order. See 39 Pa.B. 6325 (October 31, 2009). Subsequently, the Act of October 12, 2018, P.L. 519, No. 79 amended 23 Pa.C.S. § 6108.1 to require that the defendant first complete a “weapons return form” seeking the return of firearms, other weapons, or ammunition from the sheriff or other law enforcement after the temporary or final order has expired or been dismissed. See *id.* § 6108.1(a). The sheriff or law enforcement office is to maintain a form for the defendant to fill out and return to the office to re-acquire the relinquished items. See *id.* The plaintiff

in the PFA must be given notice that the defendant is seeking the return of the items. See *id.* § 6108.1(a.2). The statute does not specify who is to give that notice.

Several conditions are then placed on the return of any relinquished firearm, other weapon, or ammunition. See *id.* § 6108.1(a.1)(1)-(a.1)(3) (the conditions are the weapon is not evidence of a crime, the defendant or owner's possession is lawful, and the defendant or owner passes a background check). If the conditions are met, then the firearms, other weapons, or ammunition are returned. The PFA Act does not appear to provide the sheriff or law enforcement with any discretion - if those conditions are not met, then the firearms, other weapons, or ammunition are not returned, and the defendant can file a petition appealing that determination. See *id.* § 6108.1(a.3). The petition must be served on the plaintiff, sheriff, and district attorney. See *id.* The statute does not specify who is to serve the petition.

The PFA Act also provides for the owner of a firearm, other weapon, or ammunition to petition the court to modify its relinquishment order to return the items to the owner prior to the expiration of the PFA order. See *id.* § 6108.1(b). The owner must only serve the plaintiff with the petition. See *id.* Thereafter, the plaintiff is specifically entitled to notice of a hearing and the right to be heard. See *id.*

Finally, the PFA Act provides for the defendant to petition the court to modify its relinquishment order to provide for an alternate means of relinquishing a firearm, other weapon, or ammunition. See *id.* § 6108.1(c). Ostensibly, this would include § 6108.2 (relinquishment for consignment sale) and § 6108.3 (relinquishment to third party for safekeeping). The petition must be served upon the plaintiff. See *id.* Thereafter, the plaintiff is specifically entitled to notice of a hearing and the right to be heard. See *id.*

In the absence of statewide rules governing this process, the Committee observed that some counties have proceeded, through local rulemaking, to adopt procedures governing the return of a PFA defendant's firearms, other weapons, or ammunition. However, local rules have not been adopted throughout Pennsylvania. For the purpose of providing uniform, fair, and efficient procedures, the Committee again proposes statewide procedures.<sup>2</sup>

Currently, the temporary order in Pa.R.Civ.P. 1905(c) (notice to sheriff, police, and law enforcement officials) directs the sheriff or other appropriate law enforcement to

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<sup>2</sup> The Committee paused rulemaking during the pendency of *United States v. Rahimi*, which concerned whether a perpetrator of domestic abuse could have their Second Amendment rights suspended temporarily. The Supreme Court held that the temporary suspension was constitutional. See *United States v. Rahimi*, 144 S. Ct. 1889 (2024).

maintain possession of the firearms, other weapons, or ammunition until further order of the court, unless the weapons are evidence of a crime, in which case the weapons are to remain with the law enforcement agency whose officer or sheriff made the arrest.

The final order in Pa.R.Civ.P. 1905 provides, as an option within the order, the following:

At the termination of the final order for protection, any firearm delivered to the sheriff or the appropriate law enforcement agency or transferred to a licensed firearm dealer or a qualified third party, who satisfies the procedural and substantive requirements to obtain a safekeeping permit issued under 23 Pa.C.S. § 6108.3 pursuant to this order or the temporary order, shall not be returned to Defendant until further order of court *or as otherwise provided by law*.

Pa.R.Civ.P. 1905(e) (item seven of the form order) (emphasis added). Arguably, the phrase, “otherwise provided by law,” operates to bring in § 6108.1.

Notwithstanding, the Committee contemplated a procedural rule that would govern the administrative process for a defendant to make a request to the sheriff or law enforcement possessing the items and the judicial process for the review of the sheriff or law enforcement’s decision to deny the item’s return. Ultimately, the Committee rejected codification of pre-filing out-of-court administrative processes as being beyond the scope of procedural rules.

As proposed, Pa.R.Civ.P. 1901.9 only applies after the PFA order has expired or been vacated. See *also* 18 Pa.C.S. § 6105(c)(6) (prohibition from possessing or acquiring a firearm under 18 U.S.C. § 922(g)(8) terminates when the PFA order has expired or been vacated). As noted in the Comment, the rule does not govern procedures for a lawful owner, other than the defendant, to seek the return of firearms, other weapons, and ammunition, or the defendant to seek alternative means of relinquishing firearms, other weapons, and ammunition while the PFA order is active. See 23 Pa.C.S. § 6108(b), (c). For that relief, the statute permits the owner or defendant to directly petition the court to modify its PFA order and to only serve the petition on the PFA plaintiff. See *id.* There is no initial administrative decision by the sheriff or appropriate law enforcement office having custody of the firearms, other weapons, or ammunition. In those matters, the petition seeking modification of an active PFA order can use existing petition procedures and the petition, presumably, would be heard by the PFA court. See Pa.R.Civ.P. 1901.8(c) (a party seeking modification of a final order shall petition the court).

Please note that, while § 6108.1(a) applies to a PFA defendant, an administrative request for the return of firearms, other weapons, or ammunition can be denied if either the defendant or the owner is prohibited by law from possessing same or have not been

given a clearance by the Pennsylvania State Police. See 23 Pa.C.S. § 6108(a.1)(2), (a.1)(3). If the defendant's request is denied, then either the defendant or the owner can file a petition appealing that determination. See *id.* § 6108(a.3). Accordingly, the owner has been included in subdivision (b).

It is important to observe that Pa.R.Civ.P. 1901.9 is not intended to provide a procedure for the removal of a "disability" for the possession, transfer, or control of a firearm. The Uniform Firearms Act (UFA) sets forth the various "disabilities," *i.e.*, disqualifications, for the possession, transfer, or control of a firearm. See 18 Pa.C.S. § 6105.<sup>3</sup> There is an interplay between the conditions for the return of firearms and the disabilities in the UFA. If a person cannot possess a firearm under the UFA, then that person does not meet the conditions for the return of a firearm. For example, if a person was convicted for paramilitary training, see 18 Pa.C.S. § 5515, that conviction would render the person unable to lawfully possess a firearm. See 18 Pa.C.S. § 6105(b).

Notwithstanding the "disabilities" prohibiting the possession of a firearm, the UFA authorizes a court to grant an exemption from the disability under certain circumstances. See 18 Pa.C.S. § 6105(d). The UFA also provides procedures for determining whether to grant an exemption. See *id.* § 6105(e), (f). There could be a situation where a PFA terminates, and the defendant is not able to have a firearm returned because of a disability under the UFA. Pa.R.Civ.P. 1901.9 is not intended to provide a procedure for the court to grant an exemption.

Alternatively, there may be an inaccuracy in a person's criminal history record information that triggers a disability. The procedure for challenging the accuracy of criminal history record information is set forth in 18 Pa.C.S. § 9152 and it does not involve the court of common pleas. Pa.R.Civ.P. 1901.9 is not intended to provide a procedure for challenging an inaccuracy.

While the Committee does not wish to definitively state whether Pa.R.Crim.P. 588 (Motion for Return of Property) is an available remedy for a firearm, other weapon, or ammunition retained as evidence of crime, it may offer another procedure to resolve an unsatisfactory condition preventing administrative return of those items.

Section 6108.1 does not contain a window in which to appeal an administrative denial. Presumably, the lack of a deadline was intended to permit a defendant/owner the opportunity to seek an exemption from a disability or to challenge an inaccuracy. Nor does this rule attempt to establish a time limit during which an appeal of an administrative denial must be taken.

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<sup>3</sup> The Act defines "firearms," which would not include "other weapons or ammunition" subject to 23 Pa.C.S. § 6108.1. See 18 Pa.C.S. § 6105(i).

Subdivision (b) of Pa.R.Civ.P. 1901.9 introduces the form petition found in subdivision (k). Subdivision (c) is intended to permit an answer, but it does not require an answer. The lack of such a requirement dispenses with a notice to plead. The reason for not requiring an answer is discussed in the Comment and is primarily due to the statutorily expedited hearing of ten business days, as set forth in subdivision (f).<sup>4</sup> See 23 Pa.C.S. § 6108.1(d) (hearing to be held within ten business days of the petition's filing date). As a matter of due diligence, the Committee contemplated a rule to show cause procedure, see Pa.R.Civ.P. 206.6-206.7, but that approach was not sufficiently expeditious to meet the hearing deadline.

Subdivision (d) requires the petition to be filed on the same docket as the PFA and not on a miscellaneous docket. This approach will cause fewer complications involving obtaining personal jurisdiction and waiving filing fees. However, the Comment indicates that the court may assign the petition to another division, *e.g.*, criminal, for adjudication.

Subdivision (e) is self-explanatory. Subdivision (e)(4) prompts for documentation that may form the basis for the court to order the return of firearms after the sheriff or law enforcement office has denied the initial application.

Subdivision (g) requires the court to serve the petition and hearing notice pursuant to Pa.R.Civ.P. 440.<sup>5</sup> This is intended to eliminate problems with the petitioner/defendant attempting to serve the PFA plaintiff when the PFA plaintiff's address is confidential. See *also* Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa.C.S. §§ 6701 *et seq.* It also eliminates the problem of the sheriff being served original process by the coroner. See Pa.R.Civ.P. 400(c). Further, because the petition is filed on the PFA petition/order docket, there would be no need for original process. Additionally, court service was believed necessary to meet the ten-business day hearing deadline.

Subdivision (h) addresses the participation of the PFA plaintiff. The Committee observes that § 6108.1(a.3) only requires that a copy of the petition be served on the PFA plaintiff. Unlike § 6108.1(b)-(c), the statutory provision for service is silent as to whether the PFA plaintiff is provided an opportunity to be heard. The Committee believed that the PFA plaintiff should have such an opportunity notwithstanding that the PFA order would no longer be active. Comments are specifically invited with regard to this matter.

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<sup>4</sup> The rule does not specifically mention the availability of a continuance of the hearing for good cause because that remedy is available for any hearing.

<sup>5</sup> The Committee considered and rejected a requirement that the sheriff or law enforcement serve the petition on the PFA plaintiff.



Subdivision (i) is self-explanatory, and subdivision (j) prohibits the imposition of filing fees for the petition. See 23 Pa.C.S. § 6108.1(a). Subdivision (k) sets forth a form petition intended to bring consistency to the statewide practice, ensure that an appeal is ripe, and frame the issues.

### **Criminal Record/Abuse History Verification**

Pa.R.Civ.P. 1915.3-2 was amended effective July 1, 2025. See 55 Pa.B. 3342 (May 17, 2025). The amendment added to the Comment: “As used in subdivision (a), a ‘child custody action’ is intended to include any action where custody is sought to be awarded, including a protection from abuse action. An *[sic]* Criminal Record/Abuse History Verification form is not required in a protection from abuse action if custody is not sought.” Since this amendment, the Committee received feedback that the requirement to provide a Criminal Record/Abuse History Verification in PFA actions seeking custody was not readily apparent in the rules governing PFA proceedings.

To make this requirement clearer, the Committee proposes amending Pa.R.Civ.P. 1901.3 to include subdivision (e) as a specific requirement for the plaintiff to file a Criminal Record/Abuse History Verification. The form petition at Pa.R.Civ.P. 1905(b) would also be amended to reference the Criminal Record/Abuse History Verification if custody is sought.

Pa.R.Civ.P. 1901.4(a) would require the plaintiff’s Criminal Record/Abuse History Verification to be served on the defendant with the hearing notice, petition and temporary order, and final order. Please note, a blank form is not required to also be served on the defendant. It is anticipated that the defendant would be able to complete the form at the time of the defendant’s initial appearance. Pa.R.Civ.P. 1901.6 would relieve the defendant of filing a completed Criminal Record/Abuse History Verification prior to the initial appearance.

The Committee did not favor a procedure requiring a defendant to contact a plaintiff even if only for service of a Criminal Record/Abuse History Verification prior to the final order. Aside from the obvious reason for further risk to the plaintiff, there may be circumstances when the plaintiff’s current address is confidential and unknown to the defendant. See 23 Pa.C.S. § 6112. Given the relatively short timeframe between a temporary order and hearing, a procedure requiring a filing by the defendant and subsequent service by the court on the plaintiff did not appear to ensure timely service.

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All comments, concerns, and suggestions concerning this rule proposal are welcome.