

SECTION IV PROTECTION FROM ABUSE

The processing and presentation of Protection from Abuse (PFA) petitions, scheduling of hearings, and other aspects of administering the Protection from Abuse Act in the Family Division are handled through the Court's PFA Unit, located in Room 3030. Questions or problems related to PFA cases can be directed to the PFA Office at (412) 350-4441.

A. Presenting a PFA Petition

1. **Pro se or unrepresented Plaintiffs** - Pro se applicants should report to the Family Division PFA Unit, Room 3030, Family Law Facility, as early as possible, beginning at 8:30 a.m., Applicants will be directed to the PFA Intake Area where they will receive information about completing a Pro Se PFA Petition and Temporary Order (Form IV-1). PFA applications are processed from 8:30 to 11:00 a.m. and from 1:00 to 3:00 p.m. Plaintiffs should expect to remain at Court for several (2-4) hours. Cases are processed in the order in which they arrive. If the Judge issues a Temporary PFA Order, a Final PFA Hearing will be scheduled within ten (10) business days and the Temporary PFA Order will remain in effect until the Final Hearing date. In order to extend the Temporary PFA Order, the Plaintiff must return to Court for the Final Hearing. A Final PFA Order may be issued for up to a 3 year time maximum period.

Non-lawyer legal advocates from the county's four Domestic Violence Programs are available in the PFA intake area in the morning to offer applicants emotional support, safety planning and referrals to other community resources. Pro se Plaintiffs will appear at a brief hearing before a Judge and will be issued copies of the Temporary PFA Order. Pro se Plaintiffs will be given an Affidavit of Service and instructions on serving copies of the PFA Petition and Temporary PFA Order on the police and the Defendant (Form IV-2 & IV-3). Information regarding the availability of free legal representation or other legal assistance will be provided

2. **Attorney filings** - Temporary PFA hearings are held twice daily beginning at approximately 11:30 a.m. and 2:30 p.m. Monday through Friday, before the presiding PFA judge. Attorneys should prepare a Petition and Temporary Order. (Form IV-1) and deliver the original paperwork to the PFA Unit a half hour before the start of the hearing for a case history search and for the assignment of a case number, judge and final hearing date. The Plaintiff **must** be present for the hearing.

3. **Minor Plaintiffs** - A parent, adult household member, or guardian *ad litem* may seek relief on behalf of minor children.

4. **Minor Defendants** - A PFA Petition filed against a minor Defendant will be processed through the PFA Unit following the same procedures as an adult Defendant. The minor Defendant must have a parent or adult household member who can be appointed as a guardian ad litem for purposes of the PFA proceeding. PFA applicants

seeking to file against a minor Defendant may also be referred to file a private dependency action through the Juvenile Section, especially when there is no parent or adult household member who can be appointed as guardian ad litem for the minor Defendant.

5. **Incapacitated Adult Plaintiffs** - A guardian may seek relief on behalf of an adult who has been declared an incapacitated person under 20 Pa.C.S.A. §51, Subch. B (relating to appointment of a guardian).

6. **Venue** – Pennsylvania Rule of Civil Procedure 1901.1 provides that Plaintiffs may bring a PFA action in the county where: a) the Plaintiff either temporarily or permanently resides; OR b) the Plaintiff is employed; OR c) the Defendant may be served; OR d) the abuse occurred. If the relief sought includes the possession of a residence to the exclusion of the Defendant, the action must only be brought in the county in which the residence is located.

7. **Court costs** – There are NO fees or costs assessed to Plaintiffs filing a Protection from Abuse action. If the Plaintiff obtains a Final PFA Order, costs may be assessed on the Defendant. If the Defendant is indigent or for other good cause shown, the Court may also waive costs to the Defendant.

8. **Final hearing dates / Copies / Filing and registration** - If the Judge grants the Temporary PFA Order, the PFA Unit will schedule the final hearing date and issue copies. The PFA Unit will also file all original Petitions and Temporary orders with the Department of Court Records and transmit a copy of all Temporary PFA orders to the PA State Police for immediate entry onto the PFA Registry. All PFA Petitions and orders filed with the Department of Court Records are public record.

9. **Docket numbers and judge suffixes** - The PFA Unit will assign Family Division case numbers and judge suffixes to all Petitions, following the "one judge/one family" rule and the Unified Family Court procedures. For cases where the parties are not married and do not have children, the case may not receive a suffix.

10. **Cross Filings** - Both parties may file separate PFA Petitions and request separate Temporary PFA Orders. Cross petitions must be filed at separate Family Division docket numbers; however, the petitions will share the same judge suffix, where applicable. Where both parties have filed separate petitions, the Court may enter relief to both parties, only if that relief is set forth in two separate orders and is not inconsistent or contradictory.

11. **PA State Police PFA Registry** - All Original Temporary, Continued, Extended, Vacated, Modified and Final PFA Orders MUST be filed through the PFA Office for entry onto the PA State Police PFA Registry. The parties' addresses, birth dates, SS#s, race and sex, the terms of the PFA Order, and the issuance and expiration dates of the Order are registered with the PA State Police. **Orders are automatically expunged from the PFA Registry upon their expiration dates.**

B. Service of the Temporary PFA Order to Police and Defendant

1. **Police copy** – The Plaintiff should immediately deliver one copy of the PFA Petition and Temporary PFA Order to local police where the Plaintiff will be residing, so the local police are aware of the order and Plaintiff's address. Additional copies may be provided to other police departments (Plaintiff's work, children's school, etc). ANY police department can verify the existence and terms of a PFA Order 24 hours a day and obtain a copy through the PA State Police PFA Registry.

2. **Defendant's copy** – The Defendant MUST be served (handed) a copy of the PFA Petition and Temporary PFA Order. The Plaintiff should never attempt to personally serve the defendant; however, it is the Plaintiff's responsibility to see that the Defendant is served with a copy as soon as possible. Any competent adult over the age of 18 may serve the Defendant, but it is best for service to be made by a law enforcement officer. Police assistance should always be requested when the PFA Order requires the eviction of the defendant from a residence or enforcement of custody and weapons relief.

If the Defendant is not at the Plaintiff's residence, it will be necessary to use the police department in the municipality where defendant is located. The Defendant can be served wherever s/he can be located (at home, at work, in a bar, etc.). It is sufficient service that the Defendant be handed the papers. The Defendant does not need to sign anything. **The Sheriff's Department, Room 111, Courthouse, 436 Grant Street, Pittsburgh, PA will serve all Defendants in the Allegheny County Jail or Defendants located outside of Allegheny County, so long as an address is provided.**

3. **Affidavit of Service** - A completed Affidavit of Service (Form IV-3) is required at the Final PFA hearing as proof that the Defendant was served. This form **MUST** be completed and signed by the person who hands the papers to the Defendant. If a police officer served the Defendant, that officer must fill out the Affidavit and sign it. The police officer may fax the signed Affidavit to the PFA Unit at (412) 350-6489 or return it to the Plaintiff, who would be responsible for bringing the Affidavit to the Final Hearing.

C. Legal Representation for the Final PFA Hearing

It is strongly recommended that PFA Plaintiffs obtain legal representation for the Final PFA Hearing.

1. **Free legal representation** - Information and applications for free legal representation for the Final PFA Hearing through Neighborhood Legal Service Association will be provided to Pro se Plaintiffs following the Temporary PFA hearing.

2. **Private legal representation** - Plaintiffs may retain their private or divorce attorney to represent them at the Final Hearing. If a plaintiff does not have a lawyer, s/he may seek assistance from:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 261-5555

D. Final PFA Procedures – Continuances; Dismissals; Default Cases

1. **Check-in / waiting rooms** - All parties and attorneys should check-in with the PFA receptionist in Room 3030 at the time of the scheduled hearing. Plaintiffs and their witnesses will be directed to the Plaintiff waiting room inside the PFA Unit. Defendants and their witnesses will be directed to the 3rd Floor main lobby waiting area.

All Attorneys MUST check-in with the PFA DRO in the PFA courtroom area.

2. **Attorney workspace** – Workspace for attorneys is located adjacent to the Plaintiff waiting room. This area is provided to allow attorneys to meet privately with the Plaintiffs. Witnesses, third parties and Defendants are NOT permitted in the attorney workspace.

3. Continuances

a) **For lack of service:** A Continuance Order (Form IV-5) may be requested if the Defendant has not been served with a copy of the PFA Petition and Temporary Order. Counsel should complete a Continuance Order and include the date of the Temporary PFA Order, which will be extended until a rescheduled hearing date. A new hearing date will be scheduled when the order is completed and submitted to the PFA DRO in the PFA Courtroom.

Continuance orders should be submitted between 9 - 9:30 a.m.

b) **For other reasons:** A Continuance Order (Form IV-6) may be requested upon the consent of all parties. Continuances may be requested by Defendants to provide them additional time to obtain counsel or if their counsel is unavailable. Continuances may be requested by Plaintiffs for emergency reasons, depending on the prejudice to the Defendant if the Temporary Order is extended. Continuance Orders should be submitted to the PFA DRO in the PFA Courtroom to obtain a new hearing date.

4. **Dismissals for failure of plaintiff to appear** (Form IV-7) - All parties are given until 10:00 a.m. to check-in for hearings scheduled for 9:00 a.m. If a Plaintiff fails to appear, the case may be dismissed upon the motion of the Defendant or the Court after

10:00 a.m. Counsel should attempt to contact the Plaintiff by phone before 10:00 a.m. if s/he has not appeared.

5. **Withdrawals**

a) If a Plaintiff does not want to seek relief beyond the Temporary Order, a **Withdrawal Order** (Form IV-8) may be prepared, signed by the Plaintiff and/or counsel and submitted to the PFA DRO. A Withdrawal Order permits the Plaintiff to place on the record the reason for not wanting to pursue the action.

b) If the Plaintiff wants to vacate the Temporary PFA Order and the parties want to enter a separate (non-PFA) consent agreement a “**Consent Agreement and Order To Vacate Temporary PFA Order**” (Form IV-4) may be used. The parties may use this Order to enter consent custody, exclusive possession, property, counseling, or “no contact” agreements. The Order should be prepared, signed and submitted to the PFA DRO.

6. **Final PFA Order**

a) **By default or failure of defendant to appear:** All parties are given until 10:00 a.m. to check-in for hearings scheduled for 9:00 a.m. If the Defendant fails to appear for the Final Hearing AND the Plaintiff has a valid Affidavit of Service indicating the Defendant was served with notice of the Final Hearing, a Final PFA Order (Form IV-9) may be entered for a maximum duration of three (3) years. A Final Order entered by default may include all of the relief requested in the Petition EXCEPT for most economic issues. Relief involving support, economic and property losses, and counsel fees may require a subsequent, specified pleading or motion.

A Final PFA Order (Form IV-9) should be prepared, signed and submitted, along with the Affidavit of Service to the PFA DRO.

b) **By consent:** The parties may consent to the entry of a Final PFA. A Consent Final PFA Order (Form IV-9) should be prepared, signed and submitted, to the PFA DRO.

E. **Final PFA Hearing Procedures - Contested Cases**

1. **Negotiations** - All parties and attorneys are required to appear at 9:00 a.m. on the morning of the initial Final Hearing. All attorneys must check-in with the PFA DRO. Time is specifically set aside in the morning so that reasonable efforts may be made to negotiate a settlement of the issues before requesting a judicial hearing. Requests to the PFA DRO for judicial hearings will usually be addressed AFTER the processing of continuance, dismissal, consent and default orders between 9:00 a.m. to 10:30 a.m.

2. **DRO conciliations** - Cases requesting a judicial hearing must notify the PFA DRO by 10:30 a.m. Attorneys should be prepared to explain their positions and provide a general idea of the number of witnesses and time needed for a judicial hearing. The PFA DRO may make recommendations for a settlement, which should be proposed to the parties.

3. **Judicial conciliations** - Cases requesting a judicial hearing after the DRO screening will proceed to conciliation with the assigned Family Division judge between 11:00 a.m. – 12:00 p.m.

4. **Judicial hearings** - If a hearing is still required following the judicial conciliation, the time and date for that hearing will be scheduled by the assigned judge's office. Every attempt is made to hear cases on a same-day basis, subject to case volume and scheduling issues.

F. Temporary Support and Recovery of Economic Losses

Claims for temporary support and reasonable economic losses suffered as a result of the abuse may be requested in the PFA Petition. Payment of support or economic losses may be included in the Final PFA Order by consent OR awarded through the Final PFA Order, after a hearing before a judge. Temporary support and economic losses generally will not be awarded in a Final PFA Order entered by default.

a.) **Temporary support:** Paragraph 9 of the Final PFA Order provides that a temporary order for support will remain in effect until a final support order is entered by the Court. The temporary support order contained in the Final PFA Order will automatically lapse if the Plaintiff does not file a Support Complaint (see Section III. A.) within 2 weeks of the date of the Final PFA Order. A final support order will be entered in accordance with Family Division procedures and the Pennsylvania support guidelines, and any adjustments in the amount paid pursuant to the temporary support order will be addressed at that time.

b.) **Economic Losses:** Paragraph 11 of the Final PFA Order provides a “check-off” option, which would grant the Plaintiff leave to present a petition through motions court, at a later date, to request recovery of economic losses through the scheduling of a Family Division arbitration hearing. The petition should include exhibits itemizing all losses, copies of bills, estimates of repairs, and an order scheduling a hearing before a Family Division arbitration panel. Arbitration hearing dates are scheduled through the PFA Unit in Room 3030.

G. PFA Violations - Indirect Criminal Contempt (ICC)

1. **Arrests / Filing an ICC complaint / Issuance of ICC warrants** - The police may arrest a defendant without a warrant for violation of a PFA Order based on probable

cause. Probable cause may consist of the verification of a valid PFA Order and the credible statement of the victim. Other corroborating evidence may be used in addition to establish probable cause.

The police may also arrest a Defendant pursuant to an arrest warrant. A warrant may be obtained during business hours from the Magisterial District Judge who has jurisdiction, or from Allegheny County Arraignment Court during evening, weekends and court holidays. To obtain the warrant, either the victim or a police officer must complete a "Complaint for Indirect Criminal Contempt". If probable cause is found, the Magisterial District Judge will execute an arrest warrant.

Arraignment Court is located at: Municipal Courts Building
660 First Avenue
Pittsburgh, PA 15219

The police in the municipality where the Defendant is located should arrest the Defendant pursuant to a warrant and proceed to the appropriate authority for an arraignment.

2. **ICC arraignments / Bond / Hearing dates** - When a Defendant is arrested, s/he will be arraigned on the charge of Indirect Criminal Contempt by the Magisterial District Judge who has jurisdiction, or at Arraignment Court. The Defendant will be arraigned on the charge(s), and bond and/or conditions will be set. A hearing will be scheduled for the next available Wednesday at 9:00 a.m. in Family Division.

3. **Notice of hearing date** - The Plaintiff should receive notice of the ICC hearing date by mail, or the police officer may notify the Plaintiff of the hearing date and time. If the Plaintiff has not received notice soon after the Defendant's arrest, the Plaintiff should call the PFA Unit at (412) 350-4441 to confirm the hearing date. If the Plaintiff does not appear for the hearing and notice cannot be verified, the Court will reschedule the hearing and mail notice of the new hearing date to the Plaintiff.

4. **ICC hearings** - ICC hearings are scheduled on Wednesdays at 9:00 a.m. in Family Division. An Assistant District Attorney ("ADA") is present to review the ICC complaint and determine whether the District Attorney's office will prosecute the case. Plaintiffs may choose to be represented by private counsel. For cases not prosecuted by the District Attorney's office, Plaintiffs may request a continuance to apply for free representation through Neighborhood Legal Services or they may proceed pro se. Cases prosecuted by the District Attorney's office will be scheduled for a hearing before a judge in the Criminal Division. Cases not prosecuted by the District Attorney's office will be scheduled for a hearing before a judge in Family Division. Indigent Defendants may apply to the Public Defender's Office to request free legal representation.

It is advisable for Plaintiffs to bring any relevant evidence or witnesses with them. The arresting officer is not required to appear at the hearing unless subpoenaed to do so.

The burden of proof required in an ICC hearing is "proof beyond a reasonable doubt". Punishment for violation of the PFA Order is a maximum of six months in jail or a \$1000 fine. PFA Orders may also be extended and/or modified through an ICC hearing.

H. Modifying/Vacating Final PFA Orders

Plaintiffs may petition the Court to vacate or modify a Final PFA Order by reporting to the PFA Unit, Room 3030, between 8:30 - 11:00 a.m. If the Plaintiff is represented, counsel may prepare and present a petition for modification. However, the Plaintiff MUST be present in motions court with counsel.

I. Emergency PFA Procedures for Nights, Weekends and Holidays

Magisterial District Judges may issue emergency PFA orders when the Family Division Court is unavailable. An emergency PFA Order may be obtained from the Magisterial District Judge with jurisdiction on weekdays after 3:00 p.m. After 3:00 p.m., and on weekends and court holidays, an emergency PFA Order may be obtained from a Magisterial District Judge at the Municipal Courts Building, 660 First Avenue, Pittsburgh, PA 15219

J. Domestic Violence Programs and Hotlines

For further assistance or immediate safe shelter, help is available through one of the following Hotlines or Domestic Violence programs which service Allegheny County (primary service areas listed).

Women's Center and Shelter of Pittsburgh) (412) 687-8005
(City of Pittsburgh) www.wcspittsburgh.org

Alle-Kiski Hope Center..... 1-(888)-299-4673
(Alle-Kiski Valley) www.akhopecenter.org

Crisis Center North (412) 364-5556
(Northern Suburbs of Allegheny County) www.crisiscenternorth.org

Center for Victims (412) 678-4616
(Mon-Yough area) www.centerforvictims.org

(For additional information on emergency PFAs, see Form IV-10.)