

# Protection from Abuse Orders

## What is a PFA?

A Protection from Abuse (PFA) Order is a civil order that is issued to protect a victim from his or her abuser. These orders are issued by Family Court judges. Although they are civil orders, some violations can carry criminal consequences. In Pennsylvania there are three types of PFA Orders:

1. Emergency PFA Order: orders of protection that are issued in times of emergency (e.g., when the courthouse is closed on weekends and there is no one available to issue a Temporary PFA Order.) These orders will expire the day you are able to go to court for an ex parte hearing and ask for a Temporary PFA Order.
2. Temporary PFA Order: temporary orders of protection that are issued by a judge in an ex parte hearing after the victim files a petition. These orders generally expire on the date of the final PFA hearing.
3. Final PFA Order: orders of protection that are issued after a hearing with the defendant. These orders can remain in effect for up to three years unless they are extended.

For purposes of filing for a protective order against someone, abuse is defined as any of the following: (1) causing or attempting to cause bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon; (2) putting someone in reasonable fear of imminent serious bodily injury; (3) false imprisonment; (4) physical or sexual abuse of minor children; and (5) engaging in a course of conduct or repeatedly committing acts that place someone in reasonable fear of bodily injury (e.g., stalking). If you or your children have experienced any of the above, you may want to consider filing a PFA order against the person who committed these acts. Domestic violence and abuse are serious and can be extremely dangerous. If you are a victim— YOU ARE NOT ALONE. Speak to experienced professionals who can guide you through this difficult process and help you decide if filing for a PFA is the right choice for you.

## Who can get a PFA?

PFA orders are available to protect victims of abuse, regardless of their age or capacity. However, not all victims can initiate the process themselves. In Pennsylvania, the following people can file for a PFA order:

- Adults
- Emancipated minors
- If the person who has been abused is an unemancipated minor, a parent, guardian or guardian ad litem (GAL) must file the petition for a PFA order on the minor's behalf
- If the person who has been abused is an adult that was been declared incompetent, a guardian can file the petition on their behalf

A common misconception is that you can get a protective order against any person that has been abusing you. However, this is not the case in Pennsylvania. The law states that you can only file for a PFA against an intimate partner or family member. This includes:

- Spouses (past and present)
- Sexual partners (past and present)
- Dating partners (past and present)
- Family members related by blood or marriage

So, if you are seeking to file a PFA against someone who is not an intimate partner or family member (e.g., a friend or neighbor), you will be unable to do so. In contrast, if you are trying to file a PFA against your spouse, you can do so even if you have not filed a complaint in divorce.

## How do I get a PFA?

### Step 1: file a petition

In Pennsylvania, the first step to getting a PFA order is to go to the Family Courthouse and fill out a (free) petition. You will also complete a Temporary Order to give to the judge at your hearing (see Step 2). Which family courthouse, you ask? Well, that depends on the person. You can file for a PFA in the county that you live in, the county where the defendant will be served, or in the county where the abuse occurred. The only caveat is if you live with the defendant and you are going to ask the court to order him or her to leave the home. In these cases where you are asking for exclusive possession of a shared residence, you would have to file for the PFA in the county where the residence is located. Whichever county you choose to file your petition in, be sure to check and make sure you followed all their rules, because the rules can depend on which county you file in.

If you plan on filing for a PFA in Allegheny County, here are some procedural pointers that you might find helpful. If you do not have an attorney, you should arrive at the Family Courthouse (the Court of Common Pleas in Downtown Pittsburgh) between 8:30 and 10:30 a.m. The applications are available until 11:00 a.m., but you should shoot to get there as early as you can. Unfortunately, you should also be prepared to spend most of your day there. Once you arrive you will go to the PFA Department, where someone will explain to you how to fill out the petition and Temporary Order. You can also speak to domestic violence advocates who will be there to help you in the mornings.

During this process you will be asked to disclose information about yourself, the defendant (the person against whom you are seeking the PFA), and specific instances of the defendant's abuse. This may require the victim to list their address and phone number, which can be troublesome for those in abusive situations. If the release of this information puts you in danger you can ask the court to keep it confidential, in which case the defendant cannot find out where you live or how to contact you. You can also ask for other things in your petition, such as to order the defendant stop contacting, threatening, abusing, harassing or stalking you and/or your children.

Because you can only file a PFA against intimate partners and family members, on many occasions the person filing the PFA and the abuser live in the same residence. In those cases, you can ask the court to make the defendant leave the home. It does not matter if both parties own the home or are on the lease. Similarly, if the parties share a child together, the petition can also request temporary custody. Finally, the petition can request that the court force the defendant to

turn over any weapons. If you have any questions about what relief you can request in your PFA petition, please contact experienced attorney Bethany Notaro, Esq.

### **Step 2: Temporary PFA Hearing**

After filling out the petition you will appear before a judge for an ex parte hearing. Ex parte just means that you are the only party there (the defendant is not present and cannot present his side of the story). In Allegheny County, Temporary PFA Hearings begin at 11:30 a.m., so if you plan on showing up early to fill out the petition, bring something to pass the time! Even if you have an attorney representing you, you must still attend the ex parte hearing.

At the Temporary PFA Hearing, the judge will read your petition and ask you a few questions. If the judge finds that you are in immediate and present danger of abuse, a Temporary PFA Order may be issued. The judge can grant all or some of the requests you made in your petition. For example, the court may grant you temporary custody of the children, or order that the defendant move out of the home you share. This order will remain in effect until the date of the Final PFA Hearing, which the judge will schedule within 10 days. This means that if you want that order to last longer, you must actually show up to the final hearing.

Since the defendant was not there, he (or she) would have no idea that an order has been issued against him, or that he has to show up for a Final PFA Hearing. Thus, the defendant must be served with the order and given notice of the final hearing. This is usually done by law enforcement officers. Once the defendant is served several things are expected of him. First, he is expected to show up at the hearing. Second, he is expected to follow the order and as such, can be arrested for violating it. At this point, both parties should start looking for an attorney to represent them at the final hearing (unless they opt to represent themselves). For more information about legal representation, please contact experienced PFA Attorney Bethany Notaro.

### **Step 3: Final PFA Hearing**

Pennsylvania law requires that the judge schedule a Final PFA Hearing within ten business days of the Temporary PFA Hearing. A Final PFA Hearing is usually only scheduled if a temporary order was granted, but in some cases a judge will schedule a Final PFA Hearing without issuing a temporary order. On the date of the final hearing the temporary order expires. This means that the restrictions in the Temporary PFA Order (e.g., preventing the defendant from contacting you, removing the defendant from the home, granting the victim temporary custody, etc.) will remain in effect up until this hearing.

Unlike the first hearing, the Final PFA Hearing will not be ex parte, meaning that the defendant is permitted to be there. The defendant can either consent to the Final PFA Order or he can fight it and state his defenses. Both parties can testify, bring witnesses, and provide other evidence. The judge will then decide whether to issue a Final PFA Order, and if so, how long that order should last. In Pennsylvania the maximum duration is three years. Just like the temporary order, a final order will also set forth restrictions meant to prevent the defendant from abusing you. If the judge declines to grant a Final PFA Order, the protection from abuse case will be dismissed.

The defendant can also consent to the Final PFA Order, in which case the terms of the order will be negotiated between the parties without the judge's involvement. To obtain a Final PFA Order this way, both parties need to give their written consent as to the terms of the PFA, including how long the order will last. As noted above, the order cannot exceed the maximum duration of three years.

Even though the defendant is required to be at this hearing, it doesn't mean he or she will show up. If the defendant has received notice but does not appear, the judge can issue a Final PFA Order by default. This means that the Final PFA Order will be granted, despite the defendant not coming to defend himself. So, if you are a defendant who has received notice to appear at a Final PFA Hearing, it would be in your best interest to go and tell the judge your side of the story. If on the other hand, the victim does not show up, the Temporary PFA Order will be dismissed (e.g., no longer effective).

### **Enforcement & Consequences of Violation**

Once a PFA order (emergency, temporary, or final) has been issued, the parties are expected to follow it. However, even though it is a court ordered document, some abusive individuals simply do not care that the court ordered them to stop harassing you or to stop contacting you. For this reason, you should *always* make sure to be careful and take precautionary measures to protect yourself and/or your children from the abuser, *even after a PFA order has been issued*. If the defendant violates any of the terms in your order you should call the police right away. All Pennsylvania police officers will enforce a PFA order, even if it was issued in another county or state. As a general note it is a good idea to carry a copy of the order with you at all times. That being said, don't panic if you don't have the order on you at the time of the violation. The police can verify the existence of the PFA by calling the appropriate police department or by looking on a registry that keeps track of all active PFA orders in Pennsylvania.

Several things can happen when a PFA is violated. If the police come to the scene the defendant can be arrested and charged with indirect criminal contempt, other criminal charges (if other laws were broken during the violation), or all of the above. The victim can also file his or her own private complaint for indirect criminal contempt. In either case, if the defendant is convicted he or she can potentially be sent to jail (for up to six months) and/or fined up to \$1000. The victim can also request that the court extend the order at this time. Additionally, if the defendant violates a provision of the PFA that, for example, involves the defendant paying the victim, the victim can file a complaint for civil contempt. If the defendant is found guilty of civil contempt he or she can be sent to jail for up to six months or until the defendant complies with the order (e.g., paying the victim) or demonstrates the intent to do so.

### **What if I reconcile with the other party in my PFA case?**

In some cases, the parties to a PFA order will reconcile. If this happens while the order is still in effect, some of the parties' behavior might technically be in violation of the order. As we discussed above, violating a PFA order can result in civil or criminal consequences. Because of this, the parties may decide together that they want to modify the terms of their PFA. However, only a judge (not the parties) can make changes to the order. So, if the parties have reconciled, they may want to file a petition to modify the PFA. Upon filing the petition, the parties will be granted a hearing where they can ask the judge to remove certain terms of the order. For example, if a PFA states that the defendant cannot abuse, harass,

or contact you, you may ask to have the contact provision removed while keeping the provisions that prevent the defendant from abusing and harassing you.

If you are the plaintiff in the PFA case, it is important that you make the decision that is right for you. Abuse is a very serious matter, and if you don't feel you are safe you should consider leaving the terms of your order as they are. If you are the defendant in the PFA case you can face serious consequences for violating the order, even if the plaintiff has expressed his or her desire to reconcile. So, even if the plaintiff reaches out to you first, you should always be careful and make sure that the way in which you respond is not in violation of the order. If this is the case, you should ask the plaintiff to consider modifying the terms of the order, so that you do not violate it and put yourself at risk of criminal and civil consequences. If you are a plaintiff or defendant in a PFA case and are considering modifying the terms of your order, please contact experienced PFA attorney Bethany Notaro, Esq. for questions.

### **What happens when my Final PFA Order expires?**

As we discussed above, the longest amount of time that a Final PFA Order can last is three years. If at the end of the three years (or the amount of time specified on your PFA) you are still in fear of your abuser, you can ask the court to extend the order. To get an extension, you would need to file a petition *before* the original order expires. Next, you would need to show the court that the defendant continued the abuse even after the Final PFA Order was entered or that the defendant's behavior indicates a continued risk of harm. If you can show one of those two things, the judge may extend your Final PFA Order. If the order is extended it will continue to protect you from your abuser and impose consequences upon the abuser if he or she acts in violation. There is no limit on the amount of extensions a judge can grant on an order. If you have any questions about extending your Final PFA Order, or about what happens if the order is not extended, please contact experienced PFA attorney Bethany Notaro, Esq.

### **I am a defendant who has been falsely accused of abuse, what do I do?**

Because abusive behavior is so disturbing, all allegations should be taken seriously. Unfortunately, however, some people make these allegations in bad faith, meaning that are completely false and unfounded. Not only do these false allegations take resources away from those that are truly victims of abuse, it can also have tremendous consequences for the defendant. First, there is the possibility of facing both criminal and civil consequences if any part of the order is violated. Second, (and more unexpectedly), having a PFA ordered against you can negatively affect child custody and support matters, employment, housing, financial aid, and any other matter that involves a background check.

Some readers might be thinking, BACKGROUND CHECK? Yes. A PFA order will show up on your record, regardless of whether it has been dismissed or withdrawn. For example, if the court issues a Temporary PFA Order but later dismisses the case at the Final PFA Hearing, there will still be a record of the petition and Temporary PFA Order. Even if the plaintiff withdraws the petition, there will still be a record of the petition and any orders issued as a result. You may have also noticed that we mentioned a state-wide database that keeps a record of *all active* PFA orders in the state of Pennsylvania. This database isn't necessarily the easiest to access, but in addition to finding the PFA in your court records, certain individuals may be able to find it on the database if the order is still active.

One of the most common questions that defendants in PFA cases have is whether or not this can be erased ("expunged") from their record. Well, the answer depends upon where in the process you are.

If (1) there has only been a petition filed or (2) if there was a Temporary PFA Order issued but the judge dismissed the action at a final hearing, someone falsely accused of abuse in bad faith can ask the court to expunge the PFA matter from their record. The key word is *ask*. If you do not ask, the court records will remain accessible. Unfortunately, if a Final PFA Order has been issued against you, it is unlikely that a Pennsylvania court will expunge it from your record.

So, what do you do if you are a defendant in a PFA matter that has been falsely accused of abuse? If you have just received notice that a Temporary PFA Order has been issued and you are told to appear for a Final PFA Hearing, the first thing you should do is contact an experienced attorney who can help you prepare your evidence and defenses. Because of the many consequences associated with being a defendant in a PFA case, it is very important to take this seriously. If you are a defendant in a PFA matter who has been falsely accused of abuse or domestic violence, please contact experienced PFA attorney Bethany Notaro, Esq.

*(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit [www.Pittsburgh-Divorce-Lawyer.com](http://www.Pittsburgh-Divorce-Lawyer.com) or contact **Notaro & Associates, PC** at **412-281-1988** for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)*