


# THE PFA ACT AND FIREARMS

The Protection from Abuse Act, Act 79, and Firearms.



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## Objectives

By the end of this presentation, you will be able to:



- Understand the PFA Act's firearm relinquishment provisions under Act 79.
- Identify the changes to PFA process and procedure under Act 79.
- Recognize state and federal firearm prohibitions for domestic abusers.



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## *The Protection From Abuse Act*

A brief review

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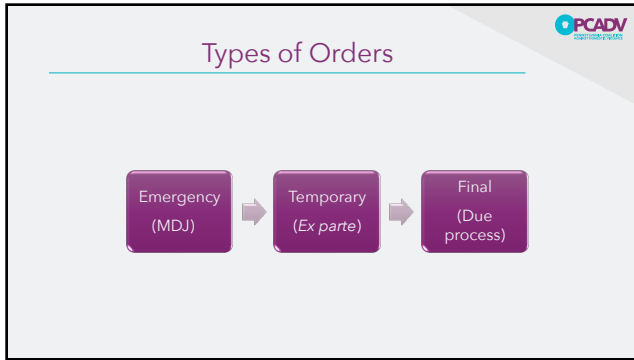
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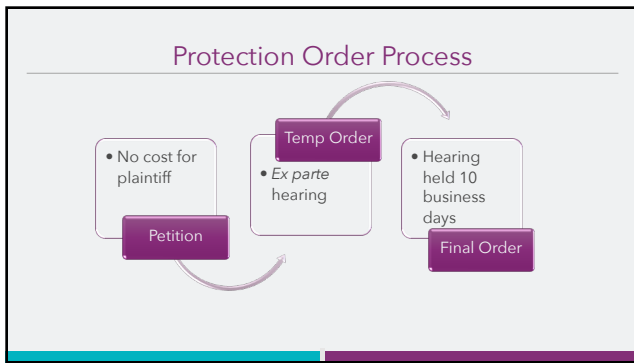
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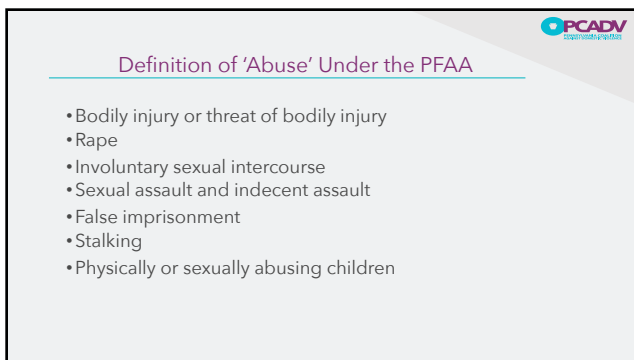
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## Protection from Abuse Relief

☐ No abuse

☐ No contact

☐ Custody

☐ Exclusive possession of the household

☐ Firearms relinquishment

☐ Pay reasonable losses suffered as a result of abuse

☐ Any other appropriate relief

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## Firearms Relinquishment Under Protection from Abuse Act

Including Act 79 Changes to Firearms Relinquishment

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## PFA Act Relinquishment Provisions

Allows for:

- Prohibition of either **acquiring** or **possessing** a firearms license.
- Relinquishment of **firearm(s)** or **firearms license** in the current possession and control of the defendant.

Can also request relinquishment of:

- **Other weapons**
- **Ammunition**

IF they have **been used** or **been threatened to be used** in an incident of abuse against the plaintiff or the minor children.

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### When Does a Court Order Relinquishment?

Final Order after a Hearing

Final Order pursuant to Consent Agreement

Temporary Orders

- Court **MUST** Order the relinquishment of firearms, firearms licenses, other weapons, and ammunition.
- Court **MAY** order the relinquishment of firearms, firearms licenses, other weapons, and ammunition.
- Court **MAY** order the relinquishment of firearms, etc., **IF**
  - Abuse involving firearm; OR
  - Immediate and Present Danger of Abuse

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### To Whom Can Firearms be Relinquished?

Sheriff or "Appropriate Law Enforcement Agency"

Licensed Firearms Dealer (Final Orders Only)

"Third Party Safekeeping"

- Municipal Law Enforcement Agency
- PA State Police
- Commercial Armory
- Attorney with whom the defendant shares an attorney-client relationship

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Defendants who must relinquish have

24 HOURS

For Protection from Abuse Orders (temporary and final.)

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### Affidavit of Safekeeping

If a defendant chooses to relinquish to a third-party (licensed dealer or attorney) they shall execute an affidavit. The third-party taking possession of the firearms, etc. shall also execute an affidavit. The statute outlines what is required in the forms, but the forms are also available on the Protection from Abuse Database (PFAD.)





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### Returning Firearms

#### To a Third Party

- Individuals whose firearms, etc. were ordered relinquished by the defendant.
- The Third-Party must provide proof of ownership and an affidavit.

#### To the Defendant

- Defendant has the right to be returned their firearms, etc. when the PFA expires, or is dismissed.
- Needs to provide notice to petitioner of this request.
- Defendant must satisfy certain **conditions for return.**
- Request denied: File a Petition to Return.



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### Act 79

Additional Changes to PFAA Process and Procedure



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### Extensions



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### PFA Extensions



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### PFA Extensions



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### Additional Act 79 Changes

- Notification of Need to Protect Plaintiff
- Notification of Child Abuse Investigation
- Continued Hearings
- Order to Seal Record from Public View

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### Act 79 Updates Title 18

The Uniform Firearms Act

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### Federal Firearm Prohibitions

Protection from Abuse Order	Crimes
<b>"Qualifying" Final Order</b> <ul style="list-style-type: none"> <li>Specific Relationship</li> <li>Opportunity to be heard</li> <li>Finding of abuse or no abuse</li> <li>PA Law: 18 Pa.C.S. §6105(a)(2)(iv)</li> <li>The federal prohibition may still apply even if relinquishment is not ordered under the PFAA</li> </ul>	<b>Misdemeanor Crime of Domestic Violence</b> <ul style="list-style-type: none"> <li>Specific Relationship</li> <li>State misdemeanor conviction                             <ul style="list-style-type: none"> <li>use or threat of physical force or</li> <li>use or threat with deadly weapon</li> </ul> </li> <li>PA Law: 18 Pa. C.S. §6105(a)(2)(iii)</li> <li>No specific list of crimes in PA</li> </ul>

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## The Uniform Firearms Act

Who Gets the Guns	Other Information
<ul style="list-style-type: none"> <li>Sheriff</li> <li>Appropriate Law Enforcement Agency or</li> <li>Licensed Firearm Dealer</li> </ul>	<ul style="list-style-type: none"> <li>24 Hours to Relinquish for both Misdemeanor Crimes of DV <b>AND</b> Qualifying Protection Orders</li> <li>Affidavit of Relinquishment only required if defendant is relinquishing to a licensed dealer</li> </ul>

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## Failure to Relinquish

Misdemeanor of the 2<sup>nd</sup> Degree  
Both PFA and Misdemeanor Crimes of Domestic Violence



If convicted of M2 Failure to Relinquish:  
Prohibited from owning or possessing firearms for **5 years** from the date of conviction, final release from confinement, or final release from supervision, **whichever is later**

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## Length of the Federal Prohibition

Misdemeanor Crime of Domestic Violence Conviction	PFA or Protective Order
<b>Lifetime Ban</b>	<b>For the Duration of the Order</b>

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## Lautenberg Amendment

Misdemeanor Crimes of Domestic Violence	PFA/Qualifying Protection Order
<ul style="list-style-type: none"> <li>• There is no exception for those who possess a firearm while on duty.</li> <li>• Examples:                             <ul style="list-style-type: none"> <li>• Military</li> <li>• State and Local Law Enforcement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Exception for those who possess a firearm only while they are on duty.</li> </ul>

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## Abandonment

Deemed Abandoned	Limitation
<ul style="list-style-type: none"> <li>• No written request made by owner within one year of the order's expiration.</li> <li>• Found, discovered or otherwise passed onto criminal justice system actors and no owner can be determined.</li> </ul>	<ul style="list-style-type: none"> <li>• Cannot dispose of abandoned weapons without notifying the person who relinquished them and giving them 20 days to respond.</li> <li>• Notice by certified mail to:                             <ul style="list-style-type: none"> <li>• Current address</li> <li>• Last known address</li> <li>• Address listed on relinquishment form</li> <li>• Address listed in PA databases</li> </ul> </li> </ul>

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# Questions?



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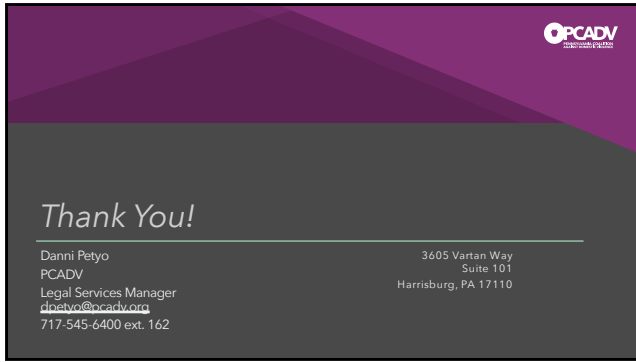
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