

RULE L1901.5. ENFORCEMENT.

(1) Enforcement Methods.

Generally, the Protection From Abuse Act, Act 1994-85, 23 Pa.C.S.A.6102 et seq., provides three methods for the enforcement of protection from abuse orders to-wit: arrest (23 Pa.C.S.A.6113); private criminal complaint (23 Pa.C.S.A.6113.1); and civil contempt (23 Pa.C.S.A.6114.1). Except as hereinafter provided, the procedure with respect to enforcement by arrest and private criminal complaint shall be similar.

(2) Probable Cause Arrest.

A police officer may arrest a defendant for violation of a protection order (except for economic matters) upon probable cause, which shall be supplied by the victim, officer, witnesses or combination thereof. A complaint for indirect criminal contempt shall be completed, signed and filed by the arresting officer or the victim, along with a probable cause affidavit, on forms that are available in the Prothonotary's office or Court Administrator's office.

(3) Private Criminal Complaint.

A plaintiff may file a private criminal complaint against the defendant alleging indirect criminal contempt for non-economic violations of any provision of an order issued under the Protection From Abuse Act by the Court or a Magisterial District Judge. The private criminal complaint may be filed with the Prothonotary, the District Attorney, the Magisterial District Judge who entered the Protection From Abuse order or the Magisterial District Judge in the jurisdiction where the violation occurred.

(a) If the private criminal complaint is filed with the District Attorney, the District Attorney's office shall file the same with the Prothonotary as soon as practicable. The Prothonotary shall forward the complaint to the Court Administrator who shall arrange to have it reviewed by a Judge as soon as practicable. If the Judge finds that probable cause exists, the Judge shall issue a warrant or summons. If the Court issues a summons, the summons shall indicate the time, date and place for hearing. If the Court issues a warrant, the warrant shall be served by the Sheriff of Crawford County or a municipal or state police officer. Upon arrest, the defendant shall be taken to the Court or the appropriate Magisterial District Judge, as the case may be, for a preliminary arraignment as provided for in Cra.R.C.P.1901.5(4)

hereinafter.

(b) If the private criminal complaint is filed with the Magisterial District Judge, upon review and determination of probable cause, the Magisterial District Judge shall issue a warrant or summons. If the Magisterial District Judge issues a summons, the summons shall indicate the date, time and place for the hearing which the Magisterial District Judge shall obtain from the Court Administrator, unless the Magisterial District Judge is unable to contact the Court Administrator. In the latter event, the defendant shall be informed by the Court Administrator of the time, date and place for the hearing. If the Magisterial District Judge issues a warrant, the Magisterial District Judge shall cause a warrant to be forwarded to the appropriate police agency for service. Upon arrest, the defendant shall be taken without unnecessary delay to the Court or the Magisterial District Judge, as the case may be, for a preliminary arraignment. The Magisterial District Judge shall cause the complaint to be filed with the Prothonotary as soon as practicable. The Prothonotary shall docket the complaint and forward it to the Court Administrator, who shall schedule a hearing.

(c) In any case where a summons or warrant was issued by a Magisterial District Judge a copy of the final disposition in Common Pleas Court shall be sent by the Prothonotary to the Magisterial District Judge.

(d) If the private criminal complaint is filed with the Prothonotary, the Prothonotary shall docket the complaint and forward it to the Court Administrator, who shall deliver the complaint to a Judge, and the procedure set forth above with respect to filings from the District Attorney shall apply.

(e) The Sheriff shall not require a deposit for service, however, the cost of service may be assessed to one or both of the parties when the hearing is held.

(4) Preliminary Arraignment.

(a) When a defendant is arrested by a police officer upon probable cause or pursuant to a private criminal complaint for violation of a Protection From Abuse order issued by a Judge or an emergency order issued by a Magisterial District Judge, the defendant shall be preliminarily arraigned forthwith before the Court, or if the Court is unavailable, before a Magisterial District Judge.

(b) If the arraignment occurs during the Court's business hours, the Magisterial District Judge shall contact the Court Administrator to

obtain a time and date for the hearing. The Magisterial District Judge shall then inform the plaintiff and defendant of the date and time for the hearing in writing in the form attached to this rule.

If the Magisterial District Judge is unable to contact the Court Administrator at the preliminary arraignment, the Magisterial District Judge shall contact the Court Administrator as soon thereafter as possible. The Magisterial District Judge shall advise the defendant and (if present) the plaintiff in the form attached to this rule that each will be receiving a notice from the Court Administrator setting forth the date, time and place of the hearing in a writing sent to their last known addresses shown on the documents filed before the Magisterial District Judge in this action.

(c) The Court or the Magisterial District Judge shall set bail to insure the defendant's presence at the contempt hearing in accordance with Pennsylvania Rules of Criminal Procedure 525, 526, 527, or 528 with conditions including, without limitation, a condition that the defendant not contact the plaintiff or members of the plaintiff's household, directly or indirectly, until further order of Court.

(d) At the preliminary arraignment, the defendant shall be served with a copy of the contempt complaint if the defendant has not already received the same, and the defendant shall be notified:

(i) That the defendant is charged with criminal contempt for violation of the Protection From Abuse Order;

(ii) That a hearing will be held in the Court of Common Pleas of Crawford County when scheduled by the Court Administrator; and

(iii) That the defendant is entitled to be represented by counsel, and if unable to afford counsel, free counsel may be appointed. The defendant should immediately contact the office of the Public Defender of Crawford County.

(e) Defendants who fail to post bail shall be committed to the Crawford County Correctional Facility pending the hearing.

(f) The hearing shall be scheduled within ten (10) days.

(5) Contempt - Delivery of Magisterial District Judge File to Court.

The Magisterial District Judge shall cause the following completed forms and bail, if entered, to be delivered immediately to the Prothonotary: (1) criminal complaint; (2) probable cause affidavit, if any; (3) certificate of bail, if any was required, and discharge or commitment; and (4) receipts or copies of notice of the hearing. The Prothonotary shall docket the papers and forward them to the Court

Administrator.

(6) Civil Contempt.

A petition for civil contempt shall be filed by the plaintiff with the Prothonotary and then transmitted by the Prothonotary to the Court Administrator. The Court Administrator will set a time for hearing. Unless the court orders service in a particular manner, the plaintiff shall arrange to have the petition and order setting the hearing served upon the defendant in any manner by which service of original process may be made in a domestic relations matter (Pa.R.C.P. 1930.4) or by certified or registered mail to the last known address of the respondent. (Pa.R.C.P. 403, 1930.4).