

Rule 1901A. Enforcement of Protection From Abuse (23 Pa.C.S.A. §6101, et seq.) and Protection of Victims of Sexual Violence or Intimidation (42 Pa.C.S.A. §62A01, et seq.). Orders by Indirect Criminal Contempt – Arrest.

(a) Upon an arrest without warrant of a defendant for violating an emergency order issued by a magisterial district judge, a temporary or final order issued by a judge of the court of common pleas of this Commonwealth, or a duly registered foreign protection order, it shall be presumed that the Court of Common Pleas is unavailable and the arresting police officer or Sheriff shall take the defendant before either the magisterial district judge of the district where the contempt is alleged to have occurred or the magisterial district judge on-call, as applicable.

(b) The arresting officer shall promptly complete and file with the magisterial district court a complaint for indirect criminal contempt in accordance with 23 Pa.C.S.A. §§6113, 6114 or 42 Pa.C.S.A. §§62A12, 62A14, as applicable. The form of this complaint shall be that attached to this Rule.

(c) The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(d) At the preliminary arraignment, the magisterial district judge shall inform the defendant of the following:

(1) that the defendant is charged with criminal contempt for violation of a protective order;

(2) that a hearing will be held in the Court of Common Pleas within the next ten business days and advise the defendant of the date, time and location of the hearing. Written notice of the time and place of this hearing shall be hand-delivered to the defendant, with defendant to sign a receipt for same;

(3) that the defendant is entitled to be represented by counsel, and if defendant is unable to afford private counsel and desires to have counsel, defendant should immediately complete and submit an application for a public defender to the Carbon County Public Defender's office. Defendant shall be provided the address and telephone number of the Carbon County Public Defender's Office; and

(4) that if the defendant fails to appear at the hearing, a bench warrant will be issued for defendant's arrest.

At the preliminary arraignment before the magisterial district judge, the defendant shall be provided a true and correct copy of the completed indirect criminal complaint.

(e) Bail shall be set by the magisterial district judge to ensure defendant's presence at the contempt hearing in accordance with Pa.R.Crim.P. No. 523 including, without limitation, the condition that the defendant not contact the alleged victim or members of the alleged victim's household, directly or indirectly, pending further hearing. If the defendant is unable to post bail as set by the magisterial district judge, the defendant shall be taken to the Carbon County Correctional Facility.

(f) 42 Pa.C.S. Ch. 63 (relating to juvenile matters) shall apply to a child as defined in the Juvenile Act who has been charged with indirect criminal contempt of a protection from abuse order shall be transferred to the Juvenile Court for disposition thereunder.