

Rule 1901B. 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 - Private Criminal Complaint.

(a) A complaint for indirect criminal contempt may be completed and signed by a complainant pursuant to 23 Pa.C.S.A. §6113.1 or 42 Pa.C.S.A. §62A13, as applicable, when a person accused of 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 protective order, has not been arrested by a police officer or the sheriff pursuant to 23 Pa.C.S.A. §6113(a) or 42 Pa.C.S.A. §62A12, as applicable. The form of the private criminal complaint shall be that attached to this Rule.

(b) After completing and signing the complaint, complainant shall appear in the office of the District Attorney with the complaint at which time, or as soon thereafter as practical, the District Attorney shall either approve or disapprove the complaint as provided for in Pa.R.Crim.P.506 without unreasonable delay. If the complaint is approved, the District Attorney's Office shall indicate this decision on the complaint form and transmit it to the magisterial district judge within whose district the contempt is alleged to have occurred, who shall act as the issuing authority. If the complaint is disapproved by the District Attorney's Office, the District Attorney's Office shall state the reasons for disapproval on the complaint form and return it to the complainant, who may thereafter petition the Court of Common Pleas for review of the District Attorney's decision in accordance with Pa.R.Crim.P. 506(B)(2).

(c) Upon receipt of a private complaint for indirect criminal contempt, the magisterial district judge shall issue a warrant or summons.

(1) If the magisterial district judge issues a summons, the summons shall advise the defendant of the time, date and place of the hearing to be held before the Court of Common Pleas on the indirect criminal contempt allegations, which hearing shall be scheduled within ten business days of the filing of the complaint for indirect criminal contempt with the magisterial district court, and that if the defendant fails to appear for this hearing, a warrant will be issued for his/her arrest. The summons shall advise the defendant of his/her right to counsel and of his/her right to appointed counsel by application to the Carbon County Public Defender's Office – with the address and telephone number of the Carbon County Public Defender's Office included - in the event the defendant cannot afford private counsel, and shall be accompanied by a true and correct copy of the completed private criminal complaint and a fingerprint order.

(2) If the magisterial district judge issues a warrant, the magisterial district judge shall cause the warrant to be forwarded to the appropriate police agency for service. Upon arrest, the defendant shall be taken to the magisterial district judge without unnecessary delay and shall be afforded a preliminary arraignment pursuant to 23 Pa.C.S.A. §6113(d), or 42 Pa.C.S.A. §62A12(c), as applicable, at which time defendant shall be advised of those matters set forth in Local Rule 1901A, and bail shall be set. At

this arraignment, the defendant shall be provided a true and correct copy of the completed private criminal complaint- and a fingerprint order.

(d) 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.