



TO:  
Rule 28 Distribution  
David K Byers  
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mwa

**ATTACHMENT<sup>1</sup>**

**Rule 6. Rules of Procedure for Issuing Protective Orders**

**A. – B. [No change.]**

**C. Order of Protection.** The judicial officer shall conduct a separate hearing with each plaintiff who requests an Order of Protection.

1. – 2. [No change.]

3. Petition Review. A judicial officer shall review the petition, any other pleadings on file, and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether there is reasonable cause to believe that the defendant may commit an act of domestic violence or has committed such an act, and whether the order requested shall be issued *ex parte*. See A.R.S. § 13-3602(E).

a. Reasonable cause determination.

1) In determining reasonable cause, the judicial officer shall consider specific acts of domestic violence alleged within the past year, or within a longer period of time if the court finds good cause. Periods of the defendant's absence from the state or incarceration shall not be included in calculating the one year. See A.R.S. § 13-3602(C)(3), (E)(2) & (F).

2) A separate reasonable cause determination shall be made as to the plaintiff individually, any children with whom the defendant has a legal relationship and any other person listed in the petition. If a reasonable cause determination is made for the plaintiff, a separate reasonable cause determination is not required for the children with whom the defendant has no legal relationship.

b. Relationship Test.

1) The judicial officer must find that a specific relationship exists, either by statute, blood or marriage, between the plaintiff and the defendant. See A.R.S. § 13-3601(A).

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<sup>1</sup> Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

- 2) Statutory relationships include:
  - a) persons who are residing or who have resided in the same household;
  - b) victim and defendant who have a child in common;
  - c) victim or defendant who is pregnant by the other party; or
  - d) victim is a child who resides or has resided in the same household as the defendant, and
    - i) is related by blood to a former spouse of the defendant, or
    - ii) is related by blood to a person who resides, or who has resided in the same household as the defendant; or
  - e) victim and defendant who currently share or previously shared a romantic or sexual relationship. In determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship, the court may consider the following factors:
    - i) the type of relationship.
    - ii) the length of the relationship.
    - iii) the frequency of the interaction between the victim and the defendant.
    - iv) if the relationship has terminated, the length of time since the termination.
- 3) Blood relationships include victim related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister.
- 4) Marriage relationships include:
  - a) victim and defendant who are either married or who have been previously married; and
  - b) victim who is related to the defendant or the defendant's spouse by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law, or sister-in-law. *See* A.R.S. § 13-3601(A).
- 5) The relationship test is also met when a plaintiff acts on behalf of a victim if any of the following apply:

- a) the plaintiff is the parent, legal guardian or person who has legal custody of a minor or incapacitated person who is a victim, unless the court determines otherwise; or
- b) the victim is either temporarily or permanently unable to request an order.  
*See* A.R.S. § 13-3602(A).

4. – 7. [No change.]

**D. – F. [No change.]**