

Honorable Wendy Million  
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Chair, Committee on the Impact  
of Domestic Violence and the Courts

**IN THE SUPREME COURT  
STATE OF ARIZONA**

|                                    |   |                                    |
|------------------------------------|---|------------------------------------|
| In the Matter of:                  | ) |                                    |
|                                    | ) |                                    |
| PETITION FOR ADOPTION              | ) | Supreme Court No. R-15-0010        |
| OF AMENDMENTS TO THE               | ) |                                    |
| <i>ARIZONA RULES OF PROTECTIVE</i> | ) | <b>Reply in Support of Comment</b> |
| <i>ORDER PROCEDURE AND THE</i>     | ) | <b>Filed by Barbara LaWall,</b>    |
| <i>ARIZONA RULES OF FAMILY LAW</i> | ) | <b>Pima County Attorney</b>        |
| <i>PROCEDURE</i>                   | ) |                                    |
| _____                              | ) |                                    |

The Committee on the Impact of Domestic Violence and the Courts (CIDVC), by a consensus of its members, has authorized the Honorable Wendy A. Million, CIDVC chair, to file this reply to a comment to CIDVC’s Petition No. R-15-0010.

**DISCUSSION**

CIDVC supports the recommendations in Barbara LaWall’s comment and proposes an additional revision (Appendix A) to CIDVC’s petition to amend the Arizona Rules of Protective Order Procedure, if the Court will allow it. Ms.

LaWall's recommendations would greatly enhance access to justice for domestic violence victims, in keeping with the *Advancing Justice Together* strategic agenda.

**Victim Advocates.** CIDVC favors a rule that would allow an identified advocate—either a victim advocate from a prosecutor's office or an advocate from a non-profit domestic violence shelter or program—to accompany a self-represented plaintiff who is requesting an *ex parte* protective order into the courtroom. The advocate should be allowed to sit with the plaintiff at counsel table to offer emotional support during the *ex parte* process. Of course, the advocate would not be permitted to give legal advice to the plaintiff or interfere with court proceedings.

The Arizona Commission on Access to Justice has been asked by Judge Peter Cahill to explore the idea of a DV Lay Legal Advocates. A lay legal advocate would be able to assist a plaintiff with paperwork, accompany a self-represented plaintiff to court, sit at counsel table, and provide legal information. Inspiration comes from the New York State Unified Court System, which recently launched a Court Navigator Program to assist unrepresented litigants in nonpayment proceedings in the Housing Court and in the consumer debt part of the Civil Court.

A lay legal advocate would have a more expansive role than CIDVC is proposing here, but the concept has merit and is worthy of consideration. CIDVC looks forward to learning more about it. But at present, CIDVC is simply

requesting that an advocate be permitted to sit at counsel table to support the plaintiff through an *ex parte* hearing.

**Children in the Courtroom.** CIDVC also supports a rule that would allow a plaintiff's child into the court while the plaintiff is requesting an *ex parte* protective order. While the presence of children in court is generally discouraged, there may be situations where a victim has limited choices—either bring the child along to the court and hope that the child will not have to be left unattended or forego a protective order and remain in an abusive, possibly dangerous situation. If the court turns away a plaintiff who is asking for a protective order simply because a child is with the plaintiff, then the plaintiff is denied access to justice.

### **CONCLUSION**

For the reasons stated above, CIDVC respectfully asks the Court to grant CIDVC's Petition R-15-0010 and to consider including the additional amendment proposed in Appendix A.

Respectfully submitted this 24<sup>th</sup> day of June, 2015.

/s/ \_\_\_\_\_  
Honorable Wendy A. Million  
Magistrate, Tucson City Court

## APPENDIX A

### Rules of Protective Order Procedure

#### Proposed Rules 1-5 [no change]

#### Part IV. Access to Courts

##### 6. Court availability for protective orders

(a) **Court Hours.** All municipal, justice, and superior courts must be available during normal operating hours to issue and enforce protective orders. For an Emergency Order of Protection after normal operating hours, see Rule 24.

(b) **Access to the Court for *Ex Parte* Hearing.**

(1) A judicial officer must allow a victim advocate, if identified as such, to accompany the plaintiff during the *ex parte* hearing.

(2) The presence of a minor child or children does not constitute grounds to deny a plaintiff access to the court for purposes of requesting an *ex parte* protective order.

~~(b)~~ (c) **Where to File a Petition.** A plaintiff may file a petition for a protective order with any municipal, justice, or superior court judicial officer, regardless of the parties' residence. All limited and general jurisdiction courts must accept a person's request to file a petition for a protective order even if that particular court does not normally issue protective orders.

~~(e)~~ **(d) Designated Court.** Courts located within a one-mile proximity may agree to designate a court for issuance of protective orders. If courts enter into such an agreement, the referring court must provide written or verbal information and directions regarding the designated court and, prior to referral, must ensure that the designated court is open to issue an order that day. If the designated court is not available to issue orders, the referring court must conduct the individual hearing with the plaintiff.

~~(d)~~ **(e) Courts with Part-time Judicial Officers.** A court having only a part-time judicial officer must provide coverage for the court, or court staff must direct a person requesting a protective order to the appropriate court location after ensuring a judicial officer is available.

**Proposed Rules 7-42** [no change]