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10 **IN THE SUPREME COURT**  
11 **STATE OF ARIZONA**

12 In the Matter of:

Supreme Court No. R-16-0026

13 **PETITION TO AMEND RULE 31,**  
14 **ARIZONA RULES OF**  
15 **PROTECTIVE ORDER**  
16 **PROCEDURE**

**COMMENT OF**  
**THE STATE BAR OF ARIZONA**

17 **I. BACKGROUND OF PETITION**

18 The Administrative Director of the Administrative Office of the Courts has  
19 proposed an amendment to Rule 31, *Arizona Rules of Protective Order Procedure*,  
20 which would add a new section (c) allowing a court to electronically transmit to  
21 law enforcement agencies or private process servers certain protective orders that  
22 have been issued by the court. The Arizona State Bar has considered the proposed  
23 change to Rule 31 and supports its adoption. The new rule would improve the  
24 functioning of the justice system by expediting the service of protective orders on  
25 a defendant and enhancing the safety of persons seeking such orders.

## II. DISCUSSION/ANALYSIS

When an order of protection is granted, a copy of the order and the petition supporting it must be served on a defendant within one year. A.R.S. § 13-3602.K. A plaintiff is left to serve the order by contacting a private process server or requesting a law enforcement agency to serve it. The rule varies as to which law enforcement agency serves the order depending on the issuing court. For example, for just a *municipal* court order, service shall be effected by the local police if the defendant is located in the city, by the local police in another city if the defendant is located in another city, or by the sheriff if the defendant is not located in any city. See A.R.S. § 13-3602.D. These same service requirements exist for injunctions prohibiting harassment (A.R.S. § 12-1809.D), and similar provisions exist for justice court and superior court protective orders. This sometimes confusing procedure puts the burden on a plaintiff to try to locate the defendant and then get the order to the correct law enforcement agency for service. In the case of an order of protection, a person is most at risk in a violent relationship when they make the decision to leave. Arizona Coalition to End Sexual & Domestic Violence, Safety Planning, 2/08/16 (“[B]atterers often escalate their violence during times of separation”); Center for Relationship Abuse Awareness, 2015 (“[T]he most dangerous time for a survivor/victim is when she leaves the abusive partner; 75% of domestic violence related homicides occur upon separation.”) In addition, a

1 plaintiff could incur costly expenses in ensuring that the order is received by the  
2 correct law enforcement agency if a defendant is not located within the plaintiff's  
3 jurisdiction.  
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5         Once an order is served, any affidavit of service, acceptance of service, or  
6 return of service must be filed with the clerk of the issuing court no later than seven  
7 (7) court business days after the date of service. A.R.S. § 13-3602.M; § 12-1809.L.  
8         Once that filing is complete, the issuing court has twenty-four hours, excluding  
9 weekends and holidays, to forward the order to the county sheriff, who must  
10 register and maintain the order. *Id.* In total, under even the best circumstances it  
11 could easily be a week to ten days before a properly served protective order finds  
12 its way into the sheriff's registry.  
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15         The intent of R-16-0026 is to expedite initial delivery by the court of a  
16 protective order by allowing electronic transmission of the order to a cooperating  
17 law enforcement agency or private process server under contract with the court.  
18         This could greatly reduce the expense and confusion that a plaintiff currently  
19 experiences when attempting to get an order served on a defendant. And it could  
20 greatly reduce the time it takes to have a protective order properly served, thereby  
21 offering greater protection and safety to a plaintiff, particularly one who is leaving  
22 a violent relationship. The functioning of the justice system is improved by adding  
23 the ability of a court to electronically transmit protective orders.  
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