

Committee on Family Court

May 14, 2026; 10:00 a.m. – 1:00 p.m.

Arizona State Courts Building		
1501 W. Washington St., Conference Rooms 101, Phoenix, AZ 85007		
Zoom Link: Click Here	Toll-free Numbers:	
Webinar ID: 945 4878 9364	(877) 853-5247	(888) 788-0099
Local Phone Number: 602-753-0140,,94548789364#	(833) 548-0276	(833) 548-0282

Time*	Agenda Items	Presenter
10:00 a.m.	Call to Order	JUDGE GREG SAKALL, CHAIR
10:05	Housekeeping	VADA LAYAN, STAFF
10:10	Welcome, Opening Remarks	JUDGE SAKALL, CHAIR
10:20	Good of the Order/Call to the Public •	JUDGE SAKALL, CHAIR
10:40	Approval of the February 19, 2026, Minutes <input type="checkbox"/> <i>Formal Action/Request</i>	JUDGE SAKALL, CHAIR
10:55	Legislative Update	LIANA GARCIA, DIRECTOR AOC Government Affairs Office
11:10	Uniform Child Abduction Prevention Act <input type="checkbox"/> <i>Formal Action/Request</i>	JUDGE SAKALL, CHAIR
11:25	Family/Juvenile Bridge Order Workgroup <input type="checkbox"/> <i>Formal Action/Request</i>	JUDGE ROBERT BROOKS
11:35	Child Support Guidelines Review Update	JUDGE SKLAR
11:45	Pending Rule Petitions R-29-0008 – COFC Petition re: Rules 14, 45, 45.1 & 45.2 <input type="checkbox"/> <i>Formal Action/Request</i> R-26-0009 – COFC Petition re: Rules 47, 47.1, et.al. <input type="checkbox"/> <i>Formal Action/Request</i> Proposed Petition to Mirror R-26-0017 – expedited discovery dispute resolution process <input type="checkbox"/> <i>Formal Action/Request</i> Informational Items Only: R-26-0004 – CIDVC Petition re: Protective Orders	JUDGE SAKALL, CHAIR

R-26-0015 – State Bar Petition to Amend Rule 51
 R-26-0016 – State Bar Petition to Amend Rules 44.1 & 44.2
 R-26-0031 - COFC Emergency Petition to Amend Rule 77
 R-26-0055 – Maricopa County Indigent Petition re: juvenile/family overlap

12:15

Workgroup Updates

- Statutes and Rules
- Research and Innovation Workgroup
- COFC-CIDVC Draft Proposals
- Training
- Forms
- Parenting Time Guide
- DV Mini Summit

JUDGE SAKALL, CHAIR
JUDGE SKLAR
PATRICIA MADSEN
JUDGE PETERSON
STACI MARET
JUDGE BURNETT/JUDGE FISK
JUDGE FISK

12:30

Lunch

2026 Meetings:

Next: September 3

Remaining: September 3, November 5

Deadlines:

Rules Petition – January 10 before 5:00 p.m.
Comment – May 1
Response to Comment – June 1

AJB Legislative Package
Requests for proposal – late May early June
Proposal Submission – 3rd week of August

June Judicial Conference Session Proposal – Throughout the year, but no later than September for the following year.

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	February 19, 2026 Meeting Minutes

PRESENTER(S):

Hon. Greg Sakall

DISCUSSION:

Discussion for approval

RECOMMENDED ACTION OR REQUEST (IF ANY):

Committee on Family Court

Draft Minutes

February 19, 2026

10:00 a.m.

Hybrid Meeting

Present/Telephonic: Judge Greg Sakall (chair), Judge Tina Ainley, Adis Bosnic, Judge Randi Burnett, Kim Chappellear, Kellie DiCarlo, Kandra Durfield, Judge Ronda Fisk, Jennifer Gadow, Judge Jessica Dixon (Poxy for Judge Patrick Gard), James Giacomino, Patricia Madsen, Staci Maret, Tracy McElroy, Judge Michael McGill, David Mercer, Madeline Montoya, Judge Michael Peterson, Erin Richardson, Janet Sell, Judge Jeffrey Sklar, Teresa Vargas, Kristi Wisdom

Absent/Excused: Erin Ballos, Judge Robert Houser Jr. (Ret.), Judge Megan McCoy, Judge Lillian Ortega

Presenters/Guests: Liana Garcia, Professor Barbara Atwood

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Chelsey Kinney, Vada Layan

I. REGULAR BUSINESS

A. Welcome and Opening Remarks – The Committee on Family Court (COFC) meeting was called to order at 10:00 a.m. by Judge Greg Sakall, chair. Theresa Barrett completed the roll call and reviewed housekeeping and meeting etiquette.

B. Good of the Order/Call to the Public – The following individuals from the public addressed the committee:

Dr. Andrea Hogan
Antonio Rodriguez

Jack Moody
Nathan Rogut – Comments in packet

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

C. Approval of November 6, 2025, Minutes.

Motion: To approve November 6, 2025, meeting minutes as presented. **Moved and Seconded.** Motion passed unanimously.

D. Legislative Proposals.

Liana Garcia, Director - AOC Government Affairs Office provided an overview of current legislative activity affecting family law. She reported that the current legislative session includes an unusually high volume of bills, with over 2,000 pieces of legislation introduced—significantly exceeding typical session numbers.

Ms. Garcia noted that numerous bills related to family law are currently under consideration, with several heard in both House and Senate Judiciary Committees. She emphasized that the

discussion focused on the most impactful and actively advancing proposals relating to COFC.

Key Bills Discussed:

1. Service of Orders of Protection (HB 2048)

A bill was introduced prohibiting private process servers from serving orders of protection that grant exclusive possession of a residence, requiring instead that law enforcement perform service. COFC members raised concerns regarding limited law enforcement resources to fulfill this requirement.

2. Child Support for Pre-Born Children (HB 2144)

This bill proposes extending child support obligations to pre-born children. Ms. Garcia indicated that similar legislation has previously been vetoed and is likely to meet the same outcome.

3. Parental Rights Bill (HB 2249)

This bill primarily addresses parental rights in the educational context. Some version of this bill is expected to pass. Ms. Garcia stated it is expected to pass but may ultimately be vetoed.

4. Attorney Fee Cap Proposal (SB 1657)

A proposal to cap attorney fees in family court cases was introduced. While it is being tracked, it is not expected to advance.

Two significant and competing bills addressing parenting time and domestic violence were also highlighted:

A. House Bill 2995 – Domestic Violence Reform (“Alec and Lydia Act”)

This bill proposes a comprehensive rewrite of Arizona’s domestic violence statute (A.R.S. § 25-403.03). Key provisions include the following:

- Establishes that domestic violence (DV) is contrary to the best interests of the child.
- Requires courts to assign primary importance to the safety and well-being of the child and the victim.
- Mandates detailed, specific findings on the record regarding DV in both temporary and final orders.
- Codifies coercive control as a form of domestic violence.
- Establishes a rebuttable presumption against awarding legal decision-making (LDM) or parenting time (PT) to a parent who has committed DV.
- Sets the burden of proof at preponderance of the evidence.
- Expands admissible evidence, including collateral acts and historical conduct.
- Limits consideration of certain mitigating factors (e.g., child preference, absence during DV incidents).
- Imposes requirements for rehabilitation evidence when rebutting the presumption.
- Authorizes courts to restrict parenting time, including supervised visitation and no overnight contact.
- Prohibits requiring victims to participate in joint treatment with the offending parent.

The bill also introduces detailed statutory definitions for coercive control, collateral acts, and domestic violence.

B. Senate Bill 1720 – Equal Parenting Time Presumption

This bill establishes a presumption that equal parenting time is in the child’s best interests if the following are met:

- Both parents are fit, willing, and able; and

- Both parents reside within 25 miles of the child's school.

Key provisions include the following:

- Defines equal parenting time as at least 45% of annual overnights per parent.
- Allows rebuttal of the presumption by a preponderance of the evidence.
- Requires specific findings when deviating from equal parenting time.
- Includes consideration of factors such as domestic violence, substance abuse, mental health, and parental interference.
- Emphasizes legislative policy supporting frequent and meaningful contact with both parents.

Committee members provided the following feedback:

- **Burden of Proof Consistency:**
Concerns were raised regarding inconsistencies between the two bills' evidentiary standards.
- **Judicial Workload and Practical Impact:**
Judges expressed concern that the extensive required findings—particularly at the temporary orders stage—could significantly delay proceedings and reduce timely access to relief.
- **Complexity of Domestic Violence Statute:**
Members noted that while the intent of HB 2995 is to improve protection, the proposed language substantially increases complexity and may be difficult to implement consistently.
- **Temporary Orders Concerns:**
Requiring detailed findings at the temporary orders phase was identified as potentially burdensome and counterproductive to timely decision-making in urgent cases.
- **Mutual Domestic Violence Definition:**
The bill's narrow definition of "mutual domestic violence" may create challenges where both parties have engaged in abusive conduct.
- **Relitigating Prior Acts:**
Concerns were raised that allowing repeated litigation of past domestic violence incidents could undermine finality and increase litigation time.
- **Training and Implementation:**
The complexity of the proposed statute may present challenges for judicial training, particularly for new judges.
- **Clerical and Administrative Impact:**
Additional workload implications were noted for court staff responsible for processing and issuing rulings.
- **Policy Considerations:**
Members acknowledged the importance of addressing domestic violence concerns and improving court responses, particularly in light of cases involving serious harm to children.
- **Balancing Competing Policies:**
Discussion emphasized the need to reconcile the equal parenting time presumption with domestic violence protections.

Additional Legislative Items:

- Jury trial proposals in family court were discussed. These proposals have been put forward in past sessions and were unsuccessful. Ms. Garcia indicated these are unlikely to advance.
- COFC's proposal for a summary consent decree process for unmarried parties may be incorporated into another active bill as an amendment.

E. COFC Collaboration Workgroup with AZBBHE.

Judge Randi Burnett reported on her recent participation as a panelist at the Arizona Chapter of the Association for Family and Conciliation Courts (AFCC) conference held in Sedona. The panel focused on ethical considerations surrounding evaluations in family law cases, particularly the roles and challenges faced by therapists working within these cases.

Judge Burnett relayed informal discussions with the Executive Director of the Arizona Board of Behavioral Health Examiners regarding the intersection of family law litigation and therapeutic practice.

Key Issues Identified

- There is a significant disconnect between the family law litigation system and the therapeutic community.
- Therapists working with high-conflict families involved in litigation face unique challenges that differ substantially from traditional family therapy.
- Currently, there is:
 - No specialized training system for therapists working in high-conflict, litigation-involved cases, and
 - No adequate framework for reviewing complaints or evaluating therapist performance in this context .
- These gaps are contributing to therapists leaving or avoiding this area of practice.
- The reluctance of therapists to engage in cases involving litigation—due in part to risks such as subpoenas—is reducing available resources for families and children in need of services.

Concerns

- A continued lack of integration between the legal and therapeutic fields may result in the following:
 - A shortage of qualified therapists willing to work with high-conflict families,
 - Limited or nonexistent therapeutic resources within the family court system, and
 - Negative impacts on families, particularly children requiring mental health support.

Proposed Actions

- Initiate cross-disciplinary collaboration between:
 - Judicial officers
 - Experienced family law attorneys
 - Behavioral health professionals
- Explore potential policy, rule, or statutory solutions to address current gaps
- Develop systems for:
 - Specialized training for therapists in litigation-related family work

- More appropriate evaluation and review of the complaint process to help providers avoid unnecessary and costly litigation, while also balancing the parties' right to report legitimate concerns.

Recommendation

Judge Burnett proposed the formation of a workgroup to:

- Further study the intersection of family law and therapeutic practice,
- Identify challenges and potential solutions, and
- Develop recommendations to support and retain qualified therapists in this field.

Motion: To create the COFC collaborative workgroup. **Moved** and **Seconded**. Motion passed unanimously.

F. 2026 Rule Petition Updates and Discussion/Action.

R-26-0016 – Default Decrees (Rules 44.1 & 44.2)

The Committee reviewed the petition addressing notice concerns in default proceedings. Discussion focused on due process issues where petitions are vague, but proposed default decrees include specific or materially different terms. Concerns were raised regarding insufficient notice, service by mail, and the potential for substantive deviations from the petition.

Motion: The Committee voted to oppose as written, citing due process concerns and lack of safeguards to prevent material inconsistencies between the petition and decree. (*Motion carried with one abstention.*)

R-26-0015 – Expert Witness Discovery

The petition proposes aligning family law expert discovery with civil rules regarding expert discovery. The Committee generally supported the petition but identified ambiguity regarding court-appointed experts in the family law context.

Motion: The Committee voted to support with modification, recommending clarification that the rule applies to “the party’s expert witness” and requesting further review of court-appointed expert discovery. **Moved** and **Seconded**. Motion passed unanimously.

R-26-0004 – Orders of Protection (CIDVIC Petition)

The Committee discussed amendments addressing firearms procedures and Rule 38 (petition amendments). Key concerns included the following:

- Limiting amendment timing to pre-service events (Rule 38(d)),
- Mandatory consideration of potentially unavailable risk assessment tools,
- Address confidentiality and procedural conflicts, and
- Potential for abuse or inefficiency in repeated filings.

The Committee supported the firearms process but identified multiple concerns with implementation and clarity.

Motion: The Committee voted to oppose as written, while outlining concerns and requesting the Court consider revisions. (*Motion amended and adopted.*)

R-26-0055 – Juvenile Rule 323 (Consolidation)

This petition addresses consolidation of family and juvenile court proceedings. Concerns included inconsistency with Rule 5.1, lack of procedural clarity, and logistical and administrative complications.

Motion: The Committee voted to oppose as written due to inconsistency, drafting issues, and implementation concerns. **Moved and Seconded.** Motion passed unanimously.

Rule 77 – Informal Family Law Trials (Emergency Petition)

The Committee identified potential ambiguity in Rule 77(D)(2) regarding who may request that the family court not conduct direct examination of a self-represented party.

Motion: The Committee voted to file an emergency petition clarifying that only the self-represented party may make such a request, and that it must occur before any testimony begins. **Moved and Seconded.** Motion passed unanimously.

G. UCAPA Final Act 2006, UNCVA Final Act 2018, UCERA Final Act 2021, UJICA Final Act 2025.

Professor Barbara Atwood, Marianne Ritchie Distinguished Professor of Family Law Emeritus, provided an overview of the Uniform Law Commission (ULC) and its role in developing model legislation for state adoption. The Commission’s longstanding history and contributions to family law were highlighted, including uniform acts widely adopted across states.

Several ULC proposals relevant to family law were presented, with a primary focus on the Uniform Child Abduction Prevention Act (UCAPA). The Act provides a statutory framework for courts to identify risk factors for potential child abduction and outlines preventive measures and remedies, including emergency orders and warrants in cases of imminent risk.

It was noted that:

- UCAPA has been adopted in 21 states, including all states bordering Arizona except California
- The Act primarily addresses parental abduction scenarios
- Arizona courts have referenced the Act in case law, despite not having formally adopted it
- The Act provides structured guidance for trial courts, including risk factors (Section 7) and available remedies (Sections 8–9)

Emphasis focused on what adopting UCAPA would provide including clarity, consistency, and due process protections, while supporting judicial decision-making in high-risk cases.

Committee Discussion

- Members discussed the flexibility of the Act, particularly regarding temporary placement of a child in emergency situations, with the expectation that placement would typically be with the other parent if appropriate.
- Questions were raised regarding California’s lack of adoption; and insight was provided regarding how California relies on existing statutory and procedural frameworks addressing similar issues.
- Discussion indicated that appellate courts have used UCAPA as persuasive guidance, reinforcing its credibility as a framework.

Additional Topics

Professor Atwood also briefly discussed the Uniform Cohabitants Economic Remedies Act,

which provides a statutory framework for addressing property and equitable claims between unmarried cohabitants.

She noted the following:

- The Act aims to clarify and standardize remedies that are currently addressed inconsistently through case law;
- It is intended to provide accessible legal guidance without creating marital-equivalent rights; and
- Adoption has been limited to date, though interest continues in other states

Committee members discussed whether such matters would fall under family or civil jurisdiction, with current practice generally treating them as civil matters.

Conclusion / Next Steps

- No formal action was taken
- Committee members were encouraged to review the materials and provide feedback on potential support, concerns, or recommendations related to UCAPA and other ULC proposals
- Future discussion may include consideration of legislative support or suggested modifications

H. Strategic Agenda.

Judge Greg Sakall provided an update since the committee's last meeting in November. He reported that the Chief Justice has issued two new administrative orders establishing pilot programs and tool-based projects previously discussed by the committee.

Pilot Program Updates

- **Self-Represented Litigant Pilot (Maricopa County) AO 2025-191:**
 - Judge Peterson and Judge Fisk reported no new updates at this time.
- **Pathway Tool Pilot Program AO 2026-11:**
 - Developed through Judge Sklar's workgroup
 - Currently being piloted in **Yavapai County** and **Yuma County**
 - No additional updates were provided by county representatives, as the program is newly implemented

Staff noted future updates and formal presentations will be provided to the committee as the pilot programs progress.

I. Workgroup Updates:

- **Statutes and Rules**

Judge Greg Sakall presented several informational updates regarding recent rule activity and pending matters.

The Court adopted two petitions originating from this Committee at its November agenda, including amendments allowing family courts to set initial conferences in post-decree matters and comprehensive revisions to disclosure obligations in post-decree proceedings. These changes, along with additional modifications proposed by the State Bar, establish standalone disclosure requirements within Rule 91, eliminating reliance on Rule 49. The Committee acknowledged the contributions of the Court's staff attorneys in harmonizing these petitions.

Additionally, a petition addressing temporary orders and post-judgment enforcement remains open for public comment and will be considered at the May meeting, and a separate petition regarding a summary consent decree process for unmarried individuals

was filed prior to year-end and will also be discussed in May. The Committee also reviewed a pending civil rules petition proposing a joint discovery dispute process requiring concise joint statements in place of traditional motion practice. Members noted potential benefits, including reduced litigation costs and increased efficiency, but raised concerns regarding feasibility in cases involving self-represented parties, challenges with joint filings, and implications in domestic violence matters. The Committee emphasized the value of consistent statewide procedures and agreed that a draft rule tailored to family law would be prepared for consideration at the May meeting.

- **Juvenile Court Bridge Orders**

An update was provided on the Bridge Orders Workgroup. The initial draft has been completed and is currently undergoing revisions, with additional refinement needed before finalization. The workgroup anticipates holding two additional meetings prior to the May meeting. The goal for those meetings is to develop a more formalized draft and advance the process to the next stage. Participants will share feedback and/or insights with Judge Brooks and Judge Burnett as the work continues. Appreciation was expressed for both judges' efforts.

- **Temporary Orders** - No updates at this time.
- **Research and Innovation** - No updates at this time.
- **Joint COFC/CIDVC Rule** - No updates at this time.

- **Training**

Judge Peterson provided an update on judicial training, noting that a recent training on real estate commissioners, facilitated by Judge Fisk, was well received. The next training is scheduled for May 1. Potential topics for the upcoming session include attorney's fees, covering various statutory bases such as needs-based awards, sanctions, and litigation misconduct, as well as distinctions between Rules 78B and 78C and their application. Additional consideration may be given to broader discussion of Rule 78, including fees and costs. Committee members agreed that attorney fees would be a worthwhile topic for a full training session, and Judge Peterson indicated that materials and potential presenters could be coordinated for the session.

- **Forms**

Judge Sakall noted that the Forms Committee is in need of a chair and encouraged members to consider volunteering, emphasizing that committee participation includes involvement in at least one workgroup in addition to regular meetings. It was also announced that Stacy Maret, LP, will serve as chair for the time being.

An update was provided that Maricopa County has invited the AOC to participate in a workgroup focused on revising the parenting time plan form. This collaboration aims to develop a consistent statewide version alongside Maricopa's efforts. The Committee expressed appreciation for the invitation and anticipates future updates as the work progresses.

- **Model Parenting Time Guide**

Judge Ronda Fisk provided an update on the Parenting Time Guide, noting that once the language is finalized, it will be released for public comment, followed by review by the Committee and the Arizona Judicial Council. As the Guide is intended to be a resource rather than a formal rule, it will not require final adoption by administrative order. The Committee clarified that the final product will primarily be web-based for ease of access and updates, though a working document will be used for review and public comment. Draft content has been developed and reorganized into sections, with efforts focused on

removing prescriptive recommendations and maintaining neutral guidance. While substantive revisions are largely complete, the material has not yet been consolidated into a cohesive format. The project is currently in a holding phase pending logistical coordination, and an offline meeting with staff and workgroup leads will be scheduled to determine next steps for preparing the document for public comment without duplicating efforts.

- **Conciliation Court Workgroup** – No updates at this time.

J. OTHER BUSINESS.

Next Meeting. Thursday, May 14, 2026

Adjournment. The meeting adjourned at 3:00 p.m.

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Update

PRESENTER(S):

Liana Garcia, Government Affairs Director

DISCUSSION:

Will be provided an overview of current legislative activity affecting family law.

RECOMMENDED ACTION OR REQUEST (IF ANY):

Information Only

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Whether to recommend inclusion of the Uniform Child Abduction Prevention Act (UCAPA) in the Court's 2027 legislative package

PRESENTER(S):

Hon. Greg Sakall, Chair

DISCUSSION:

Motion to recommend inclusion of the Uniform Child Abduction Prevention Act (UCAPA) in the Court's 2027 Judicial Branch Judicial packet.
(See February packet, pp. 32–60)

RECOMMENDED ACTION OR REQUEST (IF ANY):

CHAPTER X
UNIFORM CHILD ABDUCTION PREVENTION ACT

§ 25-1101. SHORT TITLE. THIS CHAPTER MAY BE CITED AS THE UNIFORM CHILD ABDUCTION PREVENTION ACT.

§ 25-1102. DEFINITIONS.

IN THIS CHAPTER:

(1) “ABDUCTION” MEANS THE WRONGFUL REMOVAL OR WRONGFUL RETENTION OF A CHILD.

(2) “CHILD” MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE.

(3) “CHILD-CUSTODY DETERMINATION” MEANS A JUDGMENT, DECREE, OR OTHER ORDER OF A COURT PROVIDING FOR THE LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD. THE TERM INCLUDES A PERMANENT, TEMPORARY, INITIAL, AND MODIFICATION ORDER.

(4) “CHILD-CUSTODY PROCEEDING” MEANS A PROCEEDING IN WHICH LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD IS AT ISSUE. THE TERM INCLUDES A PROCEEDING FOR DIVORCE, DISSOLUTION OF MARRIAGE, SEPARATION, NEGLECT, ABUSE, DEPENDENCY, GUARDIANSHIP, PATERNITY, TERMINATION OF PARENTAL RIGHTS, OR PROTECTION FROM DOMESTIC VIOLENCE.

(5) “COURT” MEANS AN ENTITY AUTHORIZED UNDER THE LAW OF A STATE TO ESTABLISH, ENFORCE, OR MODIFY A CHILD-CUSTODY DETERMINATION.

(6) “PETITION” INCLUDES A MOTION OR ITS EQUIVALENT.

(7) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(8) “STATE” MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY RECOGNIZED INDIAN TRIBE OR NATION.

(9) “TRAVEL DOCUMENT” MEANS RECORDS RELATING TO A TRAVEL ITINERARY, INCLUDING TRAVEL TICKETS, PASSES, RESERVATIONS FOR TRANSPORTATION, OR ACCOMMODATIONS. THE TERM DOES NOT INCLUDE A PASSPORT OR VISA.

(10) “WRONGFUL REMOVAL” MEANS THE TAKING OF A CHILD THAT BREACHES RIGHTS OF CUSTODY OR VISITATION GIVEN OR RECOGNIZED UNDER THE LAW OF THIS STATE.

(11) “WRONGFUL RETENTION” MEANS THE KEEPING OR CONCEALING OF A CHILD THAT BREACHES RIGHTS OF CUSTODY OR VISITATION GIVEN OR

RECOGNIZED UNDER THE LAW OF THIS STATE.

§ 25-1103. COOPERATION AND COMMUNICATION AMONG COURTS.

SECTIONS 25-1010, 1011, AND 1012 APPLY TO COOPERATION AND COMMUNICATIONS AMONG COURTS IN PROCEEDINGS UNDER THIS CHAPTER.

§ 25-1104. ACTIONS FOR ABDUCTION PREVENTION MEASURES.

(A) A COURT ON ITS OWN MOTION MAY ORDER ABDUCTION PREVENTION MEASURES IN A CHILD- CUSTODY PROCEEDING IF THE COURT FINDS THAT THE EVIDENCE ESTABLISHES A CREDIBLE RISK OF ABDUCTION OF THE CHILD.

(B) A PARTY TO A CHILD-CUSTODY DETERMINATION OR ANOTHER INDIVIDUAL OR ENTITY HAVING A RIGHT UNDER THE LAW OF THIS STATE OR ANY OTHER STATE TO SEEK A CHILD-CUSTODY DETERMINATION FOR THE CHILD MAY FILE A PETITION SEEKING ABDUCTION PREVENTION MEASURES TO PROTECT THE CHILD UNDER THIS CHAPTER.

(C) A PROSECUTOR OR PUBLIC AUTHORITY DESIGNATED UNDER SECTION 25-1065 MAY SEEK A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD UNDER SECTION 9 OR OTHER APPROPRIATE PREVENTION MEASURES.

§ 25-1105. JURISDICTION.

(A) A PETITION UNDER THIS CHAPTER MAY BE FILED ONLY IN A COURT THAT HAS JURISDICTION TO MAKE A CHILD-CUSTODY DETERMINATION WITH RESPECT TO THE CHILD AT ISSUE UNDER CHAPTER 8.

(B) A COURT OF THIS STATE HAS TEMPORARY EMERGENCY JURISDICTION UNDER SECTION 25-1034 IF THE COURT FINDS A CREDIBLE RISK OF ABDUCTION.

§ 25-1106. CONTENTS OF PETITION.

A PETITION UNDER THIS CHAPTER MUST BE VERIFIED AND INCLUDE A COPY OF ANY EXISTING CHILD-CUSTODY DETERMINATION, IF AVAILABLE. THE PETITION MUST SPECIFY THE RISK FACTORS FOR ABDUCTION, INCLUDING THE RELEVANT FACTORS DESCRIBED IN SECTION 25-1107. SUBJECT TO SECTION 25-1039(E), IF REASONABLY ASCERTAINABLE, THE PETITION MUST CONTAIN:

- (1) THE NAME, DATE OF BIRTH, AND GENDER OF THE CHILD;
- (2) THE CUSTOMARY ADDRESS AND CURRENT PHYSICAL LOCATION OF THE CHILD;
- (3) THE IDENTITY, CUSTOMARY ADDRESS, AND CURRENT PHYSICAL LOCATION OF THE RESPONDENT;
- (4) A STATEMENT OF WHETHER A PRIOR ACTION TO PREVENT ABDUCTION OR DOMESTIC VIOLENCE HAS BEEN FILED BY A PARTY OR OTHER INDIVIDUAL OR ENTITY HAVING CUSTODY OF THE CHILD, AND THE DATE, LOCATION, AND DISPOSITION OF THE ACTION;
- (5) A STATEMENT OF WHETHER A PARTY TO THE PROCEEDING HAS BEEN

ARRESTED FOR A CRIME RELATED TO DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT, AND THE DATE, LOCATION, AND DISPOSITION OF THE CASE;

(6) INFORMATION REGARDING ANY PROTECTION ORDER PREVIOUSLY ENTERED INVOLVING EITHER PARTY OR THE CHILD; AND

(6) A STATEMENT OF WHETHER A PARTY OR OTHER INDIVIDUAL HAVING CUSTODY OF THE CHILD HAS SOUGHT THE ASSISTANCE OF A DOMESTIC VIOLENCE SHELTER AND, IF KNOWN, THE APPROXIMATE DATE AND NAME OF THE PERSON SEEKING THE ASSISTANCE OF THE SHELTER; AND

(7) ANY OTHER INFORMATION REQUIRED TO BE SUBMITTED TO THE COURT FOR A CHILD-CUSTODY DETERMINATION UNDER SECTION 25-1039.

§ 25-1107. FACTORS TO DETERMINE RISK OF ABDUCTION.

(A) IN DETERMINING WHETHER THERE IS A CREDIBLE RISK OF ABDUCTION OF A CHILD, THE COURT SHALL CONSIDER ANY EVIDENCE THAT THE PETITIONER OR RESPONDENT:

(1) HAS PREVIOUSLY ABDUCTED OR ATTEMPTED TO ABDUCT THE CHILD;

(2) HAS THREATENED TO ABDUCT THE CHILD;

(3) **EXCEPT FOR PLANNING ACTIVITIES RELATED TO PROVIDING FOR THE SAFETY OF A PARTY OR THE CHILD WHILE AVOIDING OR ATTEMPTING TO AVOID DOMESTIC VIOLENCE**, HAS RECENTLY ENGAGED IN ACTIVITIES THAT MAY INDICATE A PLANNED ABDUCTION, INCLUDING:

(A) ABANDONING EMPLOYMENT;

(B) SELLING A PRIMARY RESIDENCE;

(C) TERMINATING A LEASE;

(D) CLOSING BANK OR OTHER FINANCIAL MANAGEMENT ACCOUNTS, LIQUIDATING ASSETS, HIDING OR DESTROYING FINANCIAL DOCUMENTS, OR CONDUCTING ANY UNUSUAL FINANCIAL ACTIVITIES;

(E) APPLYING FOR A PASSPORT OR VISA OR OBTAINING TRAVEL DOCUMENTS FOR THE RESPONDENT, A FAMILY MEMBER, OR THE CHILD; OR

(F) SEEKING TO OBTAIN THE CHILD'S BIRTH CERTIFICATE OR SCHOOL OR MEDICAL RECORDS;

(4) HAS ENGAGED IN DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT;

(5) HAS REFUSED TO FOLLOW A CHILD-CUSTODY DETERMINATION;

(6) LACKS STRONG FAMILIAL, FINANCIAL, EMOTIONAL, OR CULTURAL TIES TO THE STATE OR THE UNITED STATES;

(7) HAS STRONG FAMILIAL, FINANCIAL, EMOTIONAL, OR CULTURAL

TIES TO ANOTHER STATE OR COUNTRY;

(8) IS LIKELY TO TAKE THE CHILD TO A COUNTRY THAT:

(A) IS NOT A PARTY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION AND DOES NOT PROVIDE FOR THE EXTRADITION OF AN ABDUCTING PARENT OR FOR THE RETURN OF AN ABDUCTED CHILD;

(B) IS A PARTY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION BUT:

(I) THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION IS NOT IN FORCE BETWEEN THE UNITED STATES AND THAT COUNTRY;

(II) IS NONCOMPLIANT ACCORDING TO THE MOST RECENT COMPLIANCE REPORT ISSUED BY THE UNITED STATES DEPARTMENT OF STATE; OR

(III) LACKS LEGAL MECHANISMS FOR IMMEDIATELY AND EFFECTIVELY ENFORCING A RETURN ORDER UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION;

(C) POSES A RISK THAT THE CHILD'S PHYSICAL OR EMOTIONAL HEALTH OR SAFETY WOULD BE ENDANGERED IN THE COUNTRY BECAUSE OF SPECIFIC CIRCUMSTANCES RELATING TO THE CHILD OR BECAUSE OF HUMAN RIGHTS VIOLATIONS COMMITTED AGAINST CHILDREN;

(D) HAS LAWS OR PRACTICES THAT WOULD:

(I) ENABLE THE RESPONDENT, WITHOUT DUE CAUSE, TO PREVENT THE PETITIONER FROM CONTACTING THE CHILD;

(II) RESTRICT THE PETITIONER FROM FREELY TRAVELING TO OR EXITING FROM THE COUNTRY BECAUSE OF THE PETITIONER'S GENDER, NATIONALITY, MARITAL STATUS, OR RELIGION; OR

(III) RESTRICT THE CHILD'S ABILITY LEGALLY TO LEAVE THE COUNTRY AFTER THE CHILD REACHES THE AGE OF MAJORITY BECAUSE OF A CHILD'S GENDER, NATIONALITY, OR RELIGION;

(E) IS INCLUDED BY THE UNITED STATES DEPARTMENT OF STATE ON A CURRENT LIST OF STATE SPONSORS OF TERRORISM;

(F) DOES NOT HAVE AN OFFICIAL UNITED STATES DIPLOMATIC PRESENCE IN THE COUNTRY; OR

(G) IS ENGAGED IN ACTIVE MILITARY ACTION OR WAR, INCLUDING A CIVIL WAR, TO WHICH THE CHILD MAY BE EXPOSED;

(9) IS UNDERGOING A CHANGE IN IMMIGRATION OR CITIZENSHIP STATUS THAT WOULD ADVERSELY AFFECT THE RESPONDENT'S ABILITY TO REMAIN IN THE UNITED STATES LEGALLY;

(10) HAS HAD AN APPLICATION FOR UNITED STATES CITIZENSHIP DENIED;

(11) HAS FORGED OR PRESENTED MISLEADING OR FALSE EVIDENCE

ON GOVERNMENT FORMS OR SUPPORTING DOCUMENTS TO OBTAIN OR ATTEMPT TO OBTAIN A PASSPORT, A VISA, TRAVEL DOCUMENTS, A SOCIAL SECURITY CARD, A DRIVER'S LICENSE, OR OTHER GOVERNMENT-ISSUED IDENTIFICATION CARD OR HAS MADE A MISREPRESENTATION TO THE UNITED STATES GOVERNMENT;

(12) HAS USED MULTIPLE NAMES TO ATTEMPT TO MISLEAD OR DEFRAUD; OR

(13) HAS ENGAGED IN ANY OTHER CONDUCT THE COURT CONSIDERS RELEVANT TO THE RISK OF ABDUCTION.

(B) IN THE HEARING ON A PETITION UNDER THIS CHAPTER, THE COURT SHALL CONSIDER ANY EVIDENCE THAT THE RESPONDENT BELIEVED IN GOOD FAITH THAT THE RESPONDENT'S CONDUCT WAS NECESSARY TO AVOID IMMINENT HARM TO THE CHILD OR RESPONDENT AND ANY OTHER EVIDENCE THAT MAY BE RELEVANT TO WHETHER THE RESPONDENT MAY BE PERMITTED TO REMOVE OR RETAIN THE CHILD.

(B) IF THE COURT FINDS DURING A HEARING ON A PETITION UNDER THIS ACT THAT THE RESPONDENT'S CONDUCT WAS INTENDED TO AVOID DOMESTIC VIOLENCE OR IMMINENT HARM TO THE CHILD OR THE RESPONDENT, THE COURT SHALL NOT ISSUE AN ABDUCTION PREVENTION ORDER.

(C) IN APPLYING THE PROVISIONS OF THE UNIFORM CHILD ABDUCTION PREVENTION ACT, A COURT SHALL CONSIDER THAT PARENTS ABDUCT THEIR CHILDREN BEFORE AS WELL AS DURING AND AFTER CUSTODY LITIGATION. THE COURT SHALL ALSO CONSIDER THAT SOME OF THE RISK FACTORS SET FORTH IN SUBSECTION (A) OF THIS SECTION INVOLVE THE SAME ACTIVITIES THAT MIGHT BE UNDERTAKEN BY A VICTIM OF DOMESTIC VIOLENCE WHO IS TRYING TO RELOCATE OR FLEE TO ESCAPE VIOLENCE. IF THE EVIDENCE SHOWS THAT THE PARENT PREPARING TO LEAVE IS FLEEING DOMESTIC VIOLENCE, THE COURT SHALL CONSIDER THAT ANY ORDER RESTRICTING DEPARTURE OR TRANSFERRING CUSTODY MAY POSE SAFETY ISSUES FOR THE VICTIM AND THE CHILD.

(C) IF THE COURT FINDS DURING THE HEARING ON THE PETITION THAT THE RESPONDENT'S CONDUCT IS INTENDED TO AVOID IMMINENT HARM TO THE CHILD OR THE RESPONDENT, THE COURT SHALL NOT ISSUE AN ABDUCTION PREVENTION ORDER.

§ 25-1108. PROVISIONS AND MEASURES TO PREVENT ABDUCTION.

(A) IF A PETITION IS FILED UNDER THIS CHAPTER, THE COURT MAY ENTER AN ORDER THAT MUST INCLUDE:

- (1) THE BASIS FOR THE COURT'S EXERCISE OF JURISDICTION;
- (2) THE MANNER IN WHICH NOTICE AND OPPORTUNITY TO BE HEARD WERE GIVEN TO THE PERSONS ENTITLED TO NOTICE OF THE PROCEEDING;
- (3) A DETAILED DESCRIPTION OF EACH PARTY'S CUSTODY AND VISITATION RIGHTS AND RESIDENTIAL ARRANGEMENTS FOR THE CHILD;
- (4) A PROVISION STATING THAT A VIOLATION OF THE ORDER MAY SUBJECT THE PARTY IN VIOLATION TO CIVIL AND CRIMINAL PENALTIES; AND
- (5) IDENTIFICATION OF THE CHILD'S COUNTRY OF HABITUAL RESIDENCE AT THE TIME OF THE ISSUANCE OF THE ORDER.

(B) IF, AT A HEARING ON A PETITION UNDER THIS CHAPTER OR ON THE COURT'S OWN MOTION, THE COURT AFTER REVIEWING THE EVIDENCE FINDS A CREDIBLE RISK OF ABDUCTION OF THE CHILD, THE COURT SHALL ENTER AN ABDUCTION PREVENTION ORDER. THE ORDER MUST INCLUDE THE PROVISIONS REQUIRED BY SUBSECTION (A) AND MEASURES AND CONDITIONS, INCLUDING THOSE IN SUBSECTIONS (C), (D), AND (E), THAT ARE REASONABLY CALCULATED TO PREVENT ABDUCTION OF THE CHILD, GIVING DUE CONSIDERATION TO THE CUSTODY AND VISITATION RIGHTS OF THE PARTIES. THE COURT SHALL CONSIDER THE AGE OF THE CHILD, THE POTENTIAL HARM TO THE CHILD FROM AN ABDUCTION, THE LEGAL AND PRACTICAL DIFFICULTIES OF RETURNING THE CHILD TO THE JURISDICTION IF ABDUCTED, AND THE REASONS FOR THE POTENTIAL ABDUCTION, INCLUDING EVIDENCE OF DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT.

(C) AN ABDUCTION PREVENTION ORDER MAY INCLUDE ONE OR MORE OF THE FOLLOWING:

(1) AN IMPOSITION OF TRAVEL RESTRICTIONS THAT REQUIRE THAT A PARTY TRAVELING WITH THE CHILD OUTSIDE A DESIGNATED GEOGRAPHICAL AREA PROVIDE THE OTHER PARTY WITH THE FOLLOWING:

- (A) THE TRAVEL ITINERARY OF THE CHILD;
- (B) A LIST OF PHYSICAL ADDRESSES AND TELEPHONE NUMBERS AT WHICH THE CHILD CAN BE REACHED AT SPECIFIED TIMES; AND
- (C) COPIES OF ALL TRAVEL DOCUMENTS;

(2) A PROHIBITION OF THE RESPONDENT DIRECTLY OR INDIRECTLY:

(A) REMOVING THE CHILD FROM THIS STATE, THE UNITED STATES, OR ANOTHER GEOGRAPHIC AREA WITHOUT PERMISSION OF THE COURT OR THE PETITIONER'S WRITTEN CONSENT;

(B) REMOVING OR RETAINING THE CHILD IN VIOLATION OF A CHILD-CUSTODY DETERMINATION;

(C) REMOVING THE CHILD FROM SCHOOL OR A CHILD-CARE OR SIMILAR FACILITY; OR

(D) APPROACHING THE CHILD AT ANY LOCATION OTHER THAN A SITE DESIGNATED FOR SUPERVISED VISITATION;

(3) A REQUIREMENT THAT A PARTY REGISTER THE ORDER IN ANOTHER STATE AS A PREREQUISITE TO ALLOWING THE CHILD TO TRAVEL TO THAT STATE;

(4) WITH REGARD TO THE CHILD'S PASSPORT:

(A) A DIRECTION THAT THE PETITIONER PLACE THE CHILD'S NAME IN THE UNITED STATES DEPARTMENT OF STATE'S CHILD PASSPORT ISSUANCE ALERT PROGRAM;

(B) A REQUIREMENT THAT THE RESPONDENT SURRENDER TO THE COURT OR THE PETITIONER'S ATTORNEY ANY UNITED STATES OR FOREIGN PASSPORT ISSUED IN THE CHILD'S NAME, INCLUDING A PASSPORT ISSUED IN THE NAME OF BOTH THE PARENT AND THE CHILD; AND

(C) A PROHIBITION UPON THE RESPONDENT FROM APPLYING ON BEHALF OF THE CHILD FOR A NEW OR REPLACEMENT PASSPORT OR VISA;

(5) AS A PREREQUISITE TO EXERCISING CUSTODY OR VISITATION, A REQUIREMENT THAT THE RESPONDENT PROVIDE:

(A) TO THE UNITED STATES DEPARTMENT OF STATE OFFICE OF CHILDREN'S ISSUES AND THE RELEVANT FOREIGN CONSULATE OR EMBASSY, AN AUTHENTICATED COPY OF THE ORDER DETAILING PASSPORT AND TRAVEL RESTRICTIONS FOR THE CHILD;

(B) TO THE COURT:

(I) PROOF THAT THE RESPONDENT HAS PROVIDED THE INFORMATION IN SUBPARAGRAPH (A); AND

(II) AN ACKNOWLEDGMENT IN A RECORD FROM THE RELEVANT FOREIGN CONSULATE OR EMBASSY THAT NO PASSPORT APPLICATION HAS BEEN MADE, OR PASSPORT ISSUED, ON BEHALF OF THE CHILD;

(C) TO THE PETITIONER, PROOF OF REGISTRATION WITH THE UNITED STATES EMBASSY OR OTHER UNITED STATES DIPLOMATIC PRESENCE IN THE DESTINATION COUNTRY AND WITH THE CENTRAL AUTHORITY FOR THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, IF THAT CONVENTION IS IN EFFECT BETWEEN THE UNITED STATES AND THE DESTINATION COUNTRY, UNLESS ONE OF THE PARTIES OBJECTS; AND

(D) A WRITTEN WAIVER UNDER THE PRIVACY ACT, 5 U.S.C. SECTION 552A [AS AMENDED], WITH RESPECT TO ANY DOCUMENT, APPLICATION, OR OTHER INFORMATION PERTAINING TO THE CHILD AUTHORIZING ITS DISCLOSURE TO THE COURT AND THE PETITIONER; AND

(6) UPON THE PETITIONER'S REQUEST, A REQUIREMENT THAT THE RESPONDENT OBTAIN AN ORDER FROM THE RELEVANT FOREIGN COUNTRY CONTAINING TERMS IDENTICAL TO THE CHILD-CUSTODY DETERMINATION ISSUED IN THE UNITED STATES.

(D) IN AN ABDUCTION PREVENTION ORDER, THE COURT MAY IMPOSE CONDITIONS ON THE EXERCISE OF CUSTODY OR VISITATION THAT:

(1) LIMIT VISITATION OR REQUIRE THAT VISITATION WITH THE CHILD

BY THE RESPONDENT BE SUPERVISED UNTIL THE COURT FINDS THAT SUPERVISION IS NO LONGER NECESSARY AND ORDER THE RESPONDENT TO PAY THE COSTS OF SUPERVISION;

(2) REQUIRE THE RESPONDENT TO POST A BOND OR PROVIDE OTHER SECURITY IN AN AMOUNT SUFFICIENT TO SERVE AS A FINANCIAL DETERRENT TO ABDUCTION, THE PROCEEDS OF WHICH MAY BE USED TO PAY FOR THE REASONABLE EXPENSES OF RECOVERY OF THE CHILD, INCLUDING REASONABLE ATTORNEYS FEES AND COSTS IF THERE IS AN ABDUCTION; AND

(3) REQUIRE THE RESPONDENT TO OBTAIN EDUCATION ON THE POTENTIALLY HARMFUL EFFECTS TO THE CHILD FROM ABDUCTION.

(E) TO PREVENT IMMINENT ABDUCTION OF A CHILD, A COURT MAY:

(1) ISSUE A WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD UNDER SECTION 9 OR THE LAW OF THIS STATE OTHER THAN THIS CHAPTER;

(2) DIRECT THE USE OF LAW ENFORCEMENT TO TAKE ANY ACTION REASONABLY NECESSARY TO LOCATE THE CHILD, OBTAIN RETURN OF THE CHILD, OR ENFORCE A CUSTODY DETERMINATION UNDER THIS CHAPTER OR THE LAW OF THIS STATE OTHER THAN THIS CHAPTER; OR

(3) GRANT ANY OTHER RELIEF ALLOWED UNDER THE LAW OF THIS STATE OTHER THAN THIS CHAPTER.

(F) THE REMEDIES PROVIDED IN THIS CHAPTER ARE CUMULATIVE AND DO NOT AFFECT THE AVAILABILITY OF OTHER REMEDIES TO PREVENT ABDUCTION.

(G) A COURT SHALL NOT REQUIRE THE DISCLOSURE OF A CONFIDENTIAL COMMUNICATION THAT IS PROTECTED BY THE VICTIM COUNSELOR CONFIDENTIALITY ACT, THE PHYSICIAN-PATIENT PRIVILEGE, OR THE PSYCHOTHERAPIST-PATIENT PRIVILEGE.

§ 25-1109. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

(A) IF A PETITION UNDER THIS CHAPTER CONTAINS ALLEGATIONS, AND THE COURT FINDS THAT THERE IS A CREDIBLE RISK THAT THE CHILD IS IMMINENTLY LIKELY TO BE WRONGFULLY REMOVED, THE COURT MAY ISSUE AN EX PARTE WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD.

(B) THE RESPONDENT ON A PETITION UNDER SUBSECTION (A) MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD AT THE EARLIEST POSSIBLE TIME AFTER THE EX PARTE WARRANT IS EXECUTED, BUT NOT LATER THAN THE NEXT JUDICIAL DAY UNLESS A HEARING ON THAT DATE IS IMPOSSIBLE. IN THAT EVENT, THE COURT SHALL HOLD THE HEARING ON THE FIRST JUDICIAL DAY POSSIBLE.

(C) AN EX PARTE WARRANT UNDER SUBSECTION (A) TO TAKE PHYSICAL CUSTODY OF A CHILD MUST:

(1) RECITE THE FACTS UPON WHICH A DETERMINATION OF A CREDIBLE RISK OF IMMINENT WRONGFUL REMOVAL OF THE CHILD IS BASED;

(2) DIRECT LAW ENFORCEMENT OFFICERS TO TAKE PHYSICAL CUSTODY OF THE CHILD IMMEDIATELY;

(3) STATE THE DATE AND TIME FOR THE HEARING ON THE PETITION;

AND

(4) PROVIDE FOR THE SAFE INTERIM PLACEMENT OF THE CHILD PENDING FURTHER ORDER OF THE COURT.

(D) IF FEASIBLE, BEFORE ISSUING A WARRANT AND BEFORE DETERMINING THE PLACEMENT OF THE CHILD AFTER THE WARRANT IS EXECUTED, THE COURT MAY ORDER A SEARCH OF THE RELEVANT DATABASES OF THE NATIONAL CRIME INFORMATION CENTER SYSTEM AND SIMILAR STATE DATABASES TO DETERMINE IF EITHER THE PETITIONER OR RESPONDENT HAS A HISTORY OF DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT.

(E) THE PETITION AND WARRANT MUST BE SERVED ON THE RESPONDENT WHEN OR IMMEDIATELY AFTER THE CHILD IS TAKEN INTO PHYSICAL CUSTODY.

(F) A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD, ISSUED BY THIS STATE OR ANOTHER STATE, IS ENFORCEABLE THROUGHOUT THIS STATE. IF THE COURT FINDS THAT A LESS INTRUSIVE REMEDY WILL NOT BE EFFECTIVE, IT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO ENTER PRIVATE PROPERTY TO TAKE PHYSICAL CUSTODY OF THE CHILD. IF REQUIRED BY EXIGENT CIRCUMSTANCES, THE COURT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO MAKE A FORCIBLE ENTRY AT ANY HOUR.

(G) IF THE COURT FINDS, AFTER A HEARING, THAT A PETITIONER SOUGHT AN EX PARTE WARRANT UNDER SUBSECTION (A) FOR THE PURPOSE OF HARASSMENT OR IN BAD FAITH, THE COURT MAY AWARD THE RESPONDENT REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES.

(H) THIS CHAPTER DOES NOT AFFECT THE AVAILABILITY OF RELIEF ALLOWED UNDER THE LAW OF THIS STATE OTHER THAN THIS CHAPTER.

§ 25-1110. DURATION OF ABDUCTION PREVENTION ORDER.

AN ABDUCTION PREVENTION ORDER REMAINS IN EFFECT UNTIL THE EARLIEST OF:

(1) THE TIME STATED IN THE ORDER;

(2) THE EMANCIPATION OF THE CHILD;

(3) THE CHILD'S ATTAINING 18 YEARS OF AGE; OR

(4) THE TIME THE ORDER IS MODIFIED, REVOKED, VACATED, OR SUPERSEDED BY A COURT WITH JURISDICTION UNDER SECTIONS 25-1031 THROUGH 25-1033.

§ 25-1111. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

§ 25-1112. RELATION OF ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

THIS CHAPTER MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001, ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(C) OF THE ACT, 15 U.S.C. SECTION 7001(C), OF THAT ACT OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. SECTION 7003(B).

EFFECTIVE DATE.

THIS CHAPTER TAKES EFFECT ON

DRAFT

State	Section of UCAPA / state law	Comments
	<p>Section 2. Definitions.</p> <p>In this [act]:</p> <p>(1) “Abduction” means the wrongful removal or wrongful retention of a child.</p> <p>(2) “Child” means an unemancipated individual who is less than 18 years of age.</p> <p>(3) “Child-custody determination” means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order.</p> <p>(4) “Child-custody proceeding” means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.</p> <p>(5) “Court” means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.</p> <p>(6) “Petition” includes a motion or its equivalent.</p> <p>(7) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(8) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.</p> <p>(9) “Travel document” means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. The term does not include a passport or visa.</p> <p>(10) “Wrongful removal” means the taking of a child that breaches rights of custody or visitation given or recognized under the law of this state.</p>	<p>Official Comment</p> <p>To the extent possible, the definitions track the Uniform Child Custody Jurisdiction and Enforcement Act. The definition of a child as a person under age 18 is the same as in Section 102(2) of the Uniform Child Custody Jurisdiction and Enforcement Act. State law determines when a child becomes emancipated before age 18. This Act is limited to the abduction of minors even though the risk of abduction may apply to a disabled adult who has an appointed adult guardian.</p> <p>The definition of “child-custody determination” is the same as the definition in Section 102(3) of the Uniform Child Custody Jurisdiction and Enforcement Act. This Act uses the traditional terminology of “custody” and “visitation” because that is the language used in the Uniform Child Custody Jurisdiction and Enforcement Act although local terminology may differ. The definition of a child-custody proceeding differs significantly from Section 102(4) of the Uniform Child Custody Jurisdiction and Enforcement Act.</p> <p>The definition of abduction covers wrongful removal or wrongful retention. The definition is broad enough to encompass not only an abduction committed by either parent or a person acting on behalf of the parent but also other abductions. Generally both parents have the right to companionship and access to their child unless a court states otherwise. Abductions can occur against an individual or other entity with custody rights, as well as against an individual with visitation or access rights. A parent with joint legal or physical custody rights, by operation of law, court order, or legally binding agreement, commits an abduction by wrongfully interfering with the other parent’s rights. A removal or retention of a child can be “wrongful” predecree or postdecree. An abduction is wrongful where it is in breach of an existing “child-custody determination” or, if predecree, in violation of rights attributed to a person by operation of law. The term “breaches rights of custody” tracks Article 3 of the Hague Convention on the Civil Aspects of International Child Abduction.</p>

State	Section of UCAPA / state law	Comments
Michigan	<p>(11) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the law of this state.</p> <p>MCLA § 722.1522. Definitions.</p> <p>Michigan statute adds the following definitions not found in UCAPA:</p> <p>(f) <u>"Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.</u></p> <p>(j) <u>"protection order" means either of the following:</u></p> <p>(i) <u>An order entered under section 2950 or 2950a of the revised judiciary act of 1961, 1961 PA 236, MCL600.2950 and 600.2950a, under section 6b of chapter V or section 3(2)(o) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 765.6b and 771.3, under section 13a of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.13a, or under section 36(16) of the corrections code of 1953, 1953 PA 232, MCL 791.236.</u></p> <p>(ii) <u>A foreign protection order as defined in section 2950h of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950h.</u></p>	
	<p>Section 6. Contents of Petition.</p> <p>A petition under this [act] must be verified and include a copy of any existing child-custody determination, if available. The petition must specify the risk factors for abduction, including the relevant factors described in Section 7. Subject to [insert citation to Section 209(e) of the Uniform Child Custody Jurisdiction and Enforcement Act or cite the law of this state providing for the confidentiality of procedures, addresses, and other identifying information], if reasonably ascertainable, the petition must contain:</p> <p>(1) the name, date of birth, and gender of the child;</p> <p>(2) the customary address and current physical location of the child;</p>	<p>Official Comment</p> <p>The contents of the petition follow those for pleadings under Section 209 of the Uniform Child Custody Jurisdiction and Enforcement Act. The information is made subject to state law on the protection of names or identifying information in certain cases. A number of states have enacted laws relating to the protection of victims in domestic violence and child abuse cases by keeping confidential the victims' names, addresses, and other information. These procedures must be followed if the state law requires their applicability. If a state does not protect names and addresses, then a provision similar to Section 209(e) of the Uniform Child Custody Jurisdiction and Enforcement Act should be added. That provision reads:</p>

State	Section of UCAPA / state law	Comments
	<p>(3) the identity, customary address, and current physical location of the respondent;</p> <p>(4) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action;</p> <p>(5) a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case; and</p> <p>(6) any other information required to be submitted to the court for a child-custody determination under [insert citation to Section 209 of the Uniform Child Custody Jurisdiction and Enforcement Act or applicable law of this state].</p>	<p>If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.</p> <p>The requirement for information on domestic violence or child abuse is to alert the court to the possibility that a batterer or abuser is attempting to use the Act. Domestic violence underlies large numbers of parental kidnapping. One study found that approximately one half of abductors had been violent toward the other parent during the marriage or relationship. Some batterers abduct their children during or after custody litigation; others abduct before initiating legal proceedings. The court should not allow a batterer to use this Act to gain temporary custody or additional visitation in an uncontested hearing. A person who has committed domestic violence or child abuse poses a risk of harm to the child. Such a person, however, may still seek relief in a contested hearing where the issues can be fully examined by the court. In order to screen for domestic violence or child abuse, the petition requires disclosure of all relevant information and the court can inquire about domestic violence at any hearing.</p> <p>Notice and opportunity to be heard should be given according to the law of the state and may be by publication if other means are not effective. See Section 108(a) of the Uniform Child Custody Jurisdiction and Enforcement Act.</p>
Michigan	<p>MCLA § 722.1526. Petition; contents.</p> <p>Between subsections (5) and (6) of the uniform text, Michigan statute adds:</p> <p>(f) <u>Information regarding any protection order previously entered involving either party or the child.</u></p>	

State	Section of UCAPA / state law	Comments
New Mexico	<p>NMSA 1978 § 40-10C-6. Contents of petition.</p> <p>Between subsections (5) and (6) of the uniform text, New Mexico statute adds:</p> <p><u>F. a statement of whether a party or other individual having custody of the child has sought the assistance of a domestic violence shelter and, if known, the approximate date and name of the person seeking the assistance of the shelter; and</u></p> <p>Section 7. Factors to Determine Risk of Abduction.</p> <p>(a) In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:</p> <p>(1) has previously abducted or attempted to abduct the child;</p> <p>(2) has threatened to abduct the child;</p> <p>(3) has recently engaged in activities that may indicate a planned abduction, including:</p> <p>(A) abandoning employment;</p> <p>(B) selling a primary residence;</p> <p>(C) terminating a lease;</p> <p>(D) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;</p> <p>(E) applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child; or</p> <p>(F) seeking to obtain the child's birth certificate or school or medical records;</p> <p>(4) has engaged in domestic violence, stalking, or child abuse or neglect;</p> <p>(5) has refused to follow a child-custody determination;</p> <p>(6) lacks strong familial, financial, emotional, or cultural ties to the state or the United States;</p> <p>(7) has strong familial, financial, emotional, or cultural ties to another state or country;</p> <p>(8) is likely to take the child to a country that:</p>	<p>Official Comment</p> <p>The list of risk factors constitutes a summary of the wide variety of types of behaviors and characteristics that researchers have found to be present. The risk factors are based on research that has been done during the last twelve years. Research also shows that abducting parents dismiss the value of the other parent in the child's life; have young children or children vulnerable to influence; and often have the support of their family and others. Parents who have made credible threats to abduct a child or have a history are particularly high risk especially when accompanied by other factors, such as quitting a job, selling a home, and moving assets. See Janet Johnston & Linda Girdner, <i>Family Abductors: Descriptive Profiles and Preventative Interventions</i> (U.S. Dep't of Justice, OJJDP 2001 NCI 182788); ABA, Early Identification of Risk Factors for Parental Abduction (NCJ185026). The more of these factors that are present, the more likely the chance of an abduction. However, the mere presence of one or more of these factors does not mean that an abduction will occur just as the absence of these factors does not guarantee that no abduction will occur. Some conduct described in the factors can be done in conjunction with a relocation petition, which would negate an inference that the parent is planning to abduct the child.</p> <p>International abductions pose more obstacles to return of a child than do abductions within the United States. Courts should consider evidence that the respondent was raised in another country and has family support there, has a legal right to work in a foreign country and has the ability to speak that foreign language. There are difficulties associated with securing return of children from countries that are not treaty partners under the Hague Convention</p>

State	Section of UCAPA / state law	Comments
	<p>(A) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;</p> <p>(B) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:</p> <p>(i) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;</p> <p>(ii) is noncompliant according to the most recent compliance report issued by the United States Department of State; or</p> <p>(iii) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;</p> <p>(C) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;</p> <p>(D) has laws or practices that would:</p> <p>(i) enable the respondent, without due cause, to prevent the petitioner from contacting the child;</p> <p>(ii) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or</p> <p>(iii) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;</p> <p>(E) is included by the United States Department of State on a current list of state sponsors of terrorism;</p> <p>(F) does not have an official United States diplomatic presence in the country; or</p> <p>(G) is engaged in active military action or war, including a civil war, to which the child may be exposed;</p>	<p>on the Civil Aspects of Child Abduction or are not compliant with the Convention. Compliance Reports are available at the United States Department of State website or may be obtained by contacting the Office of Children's Issues in Department of State.</p> <p>Courts should be particularly sensitive to the importance of preventive measures where there is an identified risk of a child being removed to countries that are guilty of human rights violations, including arranged marriages of children, child labor, lack of child abuse laws, female genital mutilation, sexual exploitation, any form of child slavery, torture, and the deprivation of liberty. These countries pose potentially serious obstacles to return of a child and pose the possibility of harm.</p> <p>Courts need to be sensitive to domestic violence issues. Batterers often abduct their children before as well as during and after custody litigation. However, courts also need to be aware of the dynamics of domestic violence. Rather than a vindictive reason for taking the child, a victim fleeing domestic violence may be attempting to protect the victim and the child. Almost half of the parents in one parental kidnapping study were victims of domestic violence and half of the parents who were contemplating abducting their children were motivated by the perceived need to protect their child from physical, sexual, and emotional abuse. Geoffrey L. Greif & Rebecca L. Hegar, When Parents Kidnap: The Families Behind the Headlines 8 (1993). Some of the risk factors involve the same activities that might be undertaken by a victim of domestic violence who is trying to relocate or flee to escape violence. If the evidence shows that the parent preparing to leave is fleeing domestic violence, the court must consider that any order restricting departure or transferring custody may pose safety issues for the respondent and the child, and therefore, should be imposed only when the risk of abduction, the likely harm from the abduction, and the chances of recovery outweigh the risk of harm to the respondent and the child.</p> <p>The Uniform Child Custody Jurisdiction and Enforcement Act recognizes that domestic violence victims should be considered. The Comment to Section 208 of the Uniform Child Custody Jurisdiction</p>

State	Section of UCAPA / state law	Comments
California	<p>(9) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;</p> <p>(10)has had an application for United States citizenship denied;</p> <p>(11)has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver's license, or other government-issued identification card or has made a misrepresentation to the United States government;</p> <p>(12)has used multiple names to attempt to mislead or defraud;</p> <p>or</p> <p>(13)has engaged in any other conduct the court considers relevant to the risk of abduction.</p> <p>(b) In the hearing on a petition under this [act], the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.</p>	<p>and Enforcement Act (jurisdiction Declined by Reason of Conduct) states that "Domestic violence victims should not be charged with unjustifiable conduct for conduct that occurred in the process of fleeing domestic violence, even if their conduct is technically illegal. An inquiry must be made whether the flight was justified under the circumstances of the case."</p> <p>California also has a criminal statute (CA PENAL § 278.5) which criminalizes the act of taking, enticing away, keeping, withholding, or concealing a child or maliciously depriving a lawful custodian of a right to custody, or a person of a right to visitation. California clarifies applicability of that law in CA PENAL § 278.7:</p> <p>CA PENAL § 278.7. Exception: belief of bodily injury or emotional harm; report by person taking or concealing child; confidentiality.</p> <p>(a) Section 278.5 does not apply to a person with a right to custody of a child who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child.</p> <p>(b) Section 278.5 does not apply to a person with a right to custody of a child who has been a victim of domestic violence who, with a</p>
	<p>CA FAM § 3048. Required contents for custody or visitation orders; risk of child abduction; risk factors and preventative measures; notation of preventative conditions on minute order of court proceedings; Child Abduction Unit; child custody order forms.</p> <p>California statute was enacted before UCAPA was drafted. UCAPA borrowed from California law significantly. California statute differs from the text of UCAPA 7(a)(3):</p> <p>(F) Whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling the primary residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, applying to obtain a birth certificate or school or medical records, or purchasing airplane or other travel tickets, with consideration given to whether a party is carrying out a safety plan to flee from domestic violence.</p>	

State	Section of UCAPA / state law	Comments
		<p>good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child. “Emotional harm” includes having a parent who has committed domestic violence against the parent who is taking, enticing away, keeping, withholding, or concealing the child.</p> <p>(c) The person who takes, entices away, keeps, withholds, or conceals a child shall do all of the following:</p> <p>(1) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reasons the child was taken, enticed away, kept, withheld, or concealed.</p> <p>(2) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).</p> <p>(3) Inform the district attorney’s office of any change of address or telephone number of the person and the child.</p> <p>(d) For the purposes of this article, a reasonable time within which to make a report to the district attorney’s office is at least 10 days and a reasonable time to commence a custody proceeding is at least 30 days. This section shall not preclude a person from making a report to the district attorney’s office or commencing a custody proceeding earlier than those specified times.</p> <p>(e) The address and telephone number of the person and the child provided pursuant to this section shall remain confidential unless released pursuant to state law or by a court order that contains appropriate safeguards to ensure the safety of the person and the child.</p>

State	Section of UCAPA / state law	Comments
Michigan	<p>MCLA § 722.1527. Determination of risk of abduction; factors.</p> <p>Michigan statute amends the text of UCAPA 7(a)(3) to add the following language:</p> <p>(c) <u>Except for planning activities related to providing for the safety of a party or the child while avoiding or attempting to avoid domestic violence,</u> recently engaged in activities that may indicate a planned abduction, including any of the following:</p> <ul style="list-style-type: none"> (i) Abandoning employment. (ii) Selling a primary residence. (iii) Terminating a lease. (iv) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities. (v) Applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child. (vi) Applying for or obtaining an enhanced driver license or enhanced official state personal identification card for the respondent, a family member, or the child. (vii) Seeking to obtain the child's birth certificate or school or medical records. <p>Michigan statute amends (b) in UCAPA to read as follows:</p> <p><u>(2) If the court finds during a hearing on a petition under this act that the respondent's conduct was intended to avoid domestic violence or imminent harm to the child or the respondent, the court shall not issue an abduction prevention order.</u></p>	
New Mexico	<p>NMSA § 40-10C-7. Factors to determine risk of abduction.</p> <p>New Mexico statute adds the following subsection at the end of Section 7:</p>	

State	Section of UCAPA / state law	Comments
Nevada	<p>C. In applying the provisions of the Uniform Child Abduction Prevention Act, a court shall consider that parents abduct their children before as well as during and after custody litigation. The court shall also consider that some of the risk factors set forth in Subsection A of this section involve the same activities that might be undertaken by a victim of domestic violence who is trying to relocate or flee to escape violence. If the evidence shows that the parent preparing to leave is fleeing domestic violence, the court shall consider that any order restricting departure or transferring custody may pose safety issues for the victim and the child.</p> <p>NRS § 125D.180. Evidence considered in determining credible risk of abduction.</p> <p>Nevada statute adds the following subsection at the end of Section 7:</p> <p>3. If the court finds during the hearing on the petition that the respondent's conduct is intended to avoid imminent harm to the child or respondent, the court shall not issue an abduction prevention order.</p> <p>Section 8. Provisions and Measures to Prevent Abduction.</p> <p>(a) If a petition is filed under this [act], the court may enter an order that must include:</p> <p>(1) the basis for the court's exercise of jurisdiction;</p> <p>(2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;</p> <p>(3) a detailed description of each party's custody and visitation rights and residential arrangements for the child;</p> <p>(4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and</p> <p>(5) identification of the child's country of habitual residence at the time of the issuance of the order.</p> <p>(b) If, at a hearing on a petition under this [act] or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an</p>	
		<p>Official Comment</p> <p>This act provides courts with a choice of remedies. Ideally the court will choose the least restrictive measures and conditions to maximize opportunities for continued parental contact while minimizing the opportunities for abduction. The most restrictive measures should be used when there have been prior custody violations and overt threats to take the child; when the child faces substantial potential harm from an abducting parent who may have serious mental or personality disorder, history of abuse or violence or no prior relationship with the child; or when the obstacles to recovering the child are formidable due to countries not cooperating and enforcing orders from the United States, not being signatories to the Hague Convention on the Civil Aspects of International Child Abduction or non-compliant. Section 8 lists the possible prevention measures categorized as travel restrictions, conditions on the exercise of custody and visitation, and urgent measures when abduction is imminent or in progress.</p>

State	Section of UCAPA / state law	Comments
	<p>abduction prevention order. The order must include the provisions required by subsection (a) and measures and conditions, including those in subsections (c), (d), and (e), that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.</p> <p>(c) An abduction prevention order may include one or more of the following:</p> <p>(1) an imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:</p> <p>(A) the travel itinerary of the child;</p> <p>(B) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and</p> <p>(C) copies of all travel documents;</p> <p>(2) a prohibition of the respondent directly or indirectly:</p> <p>(A) removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;</p> <p>(B) removing or retaining the child in violation of a child-custody determination;</p> <p>(C) removing the child from school or a child-care or similar facility; or</p> <p>(D) approaching the child at any location other than a site designated for supervised visitation;</p> <p>(3) a requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;</p> <p>(4) with regard to the child's passport:</p> <p>(A) a direction that the petitioner place the child's name in the United States Department of State's Child Passport Issuance Alert Program;</p>	<p>If a person files a petition under this Act, even if the court decides not to order restrictive measures or impose conditions, the court may clarify and make more specific the existing child-custody determination. To enter an abduction prevention order, the court must have jurisdiction to make a child-custody determination even if it is emergency jurisdiction. The court should set out the basis for the court's exercise of jurisdiction. The more apparent on the face of the document that the court issuing the order had proper jurisdiction, the more likely courts in other states and countries are to recognize it as valid. The court should also include a statement showing that the parties were properly served and given adequate notice. This makes it apparent on the face of the order that due process was met. <i>See</i> Sections 108 and 205 of the Uniform Child Custody Jurisdiction and Enforcement Act. States do not require personal jurisdiction to make a child-custody determination.</p> <p>The court may make an existing child-custody order clearer and more specific. Vague orders are difficult to enforce without additional litigation. The term "reasonable visitation" can lead to conflicts between the parents and make it difficult for law enforcement officers to know if the order is being violated. The court may specify the dates and times for each party's custody and visitation, including holidays, birthdays, and telephone or Internet contact. Because joint custody arrangements create special enforcement problems, the court should ensure that the order specifies the child's residential placement at all times. Whenever possible, the residential arrangements should represent the parents' agreement. However, to prevent abductions, it is important for the court order to be specific as to the residential arrangements for the child. If there is a threat of abduction, awarding sole custody to one parent makes enforcement easier.</p> <p>The court may also include language in the prevention order to highlight the importance of both parties complying with the court order by including in bold language: "VIOLATION OF THIS ORDER MAY SUBJECT THE PARTY IN VIOLATION TO CIVIL AND CRIMINAL PENALTIES."</p>

State	Section of UCAPA / state law	Comments
	<p>(B) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and</p> <p>(C) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;</p> <p>(5) as a prerequisite to exercising custody or visitation, a requirement that the respondent provide:</p> <p>(A) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;</p> <p>(B) to the court:</p> <p>(i) proof that the respondent has provided the information in subparagraph (A); and</p> <p>(ii) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;</p> <p>(C) to the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that Convention is in effect between the United States and the destination country, unless one of the parties objects; and</p> <p>(D) a written waiver under the Privacy Act, 5 U.S.C. Section 552a [as amended], with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and</p> <p>(6) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.</p>	<p>Because every abduction case may be a potential international abduction case, the prevention order should identify the place of habitual residence of a child. Although the Hague Convention on the Civil Aspects of International Child Abduction does not define "habitual residence" and the determination is made by the court in the country hearing a petition for return of a child, a statement in the child-custody determination or prevention order may help. A typical statement reads:</p> <p>The State of _____, United States of America, is the habitual residence of the minor children within the meaning of the Hague Convention on the Civil Aspects of International Child Abduction.</p> <p>If the court finds a credible risk of abduction, this Act provides numerous measures to prevent an abduction. Courts can require a party traveling outside a specified geographical area to provide the other party with all relevant information about where the child will be and how to contact the child. The court can impose travel restrictions prohibiting the respondent from leaving the United States or a specific geographical area; from removing the child from school, day care or other facilities, and can restrict contact other than as specified in the order. The court may also impose passport restrictions and require the respondent to provide assurances and safeguards as a condition of traveling with the child.</p> <p>The court may also choose to impose restrictions on custody or visitation. The most common, and one of the most effective, restrictions is supervised visitation. Visitation should remain supervised until the court decides the threat of abduction has passed. In addition, the court may require the posting of a bond sufficient to serve both as a deterrent and as a source of funds for the cost of the return of the child. If domestic violence is present, the court may want to order the abusive person to obtain education, counseling or attend a batterers' intervention and prevention program.</p> <p>Because of international abduction cases are the most complex and difficult, reasonable restrictions to prevent such abductions are</p>

State	Section of UCAPA / state law	Comments
	<p>(d) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:</p> <ol style="list-style-type: none"> (1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision; (2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorneys fees and costs if there is an abduction; and (3) require the respondent to obtain education on the potentially harmful effects to the child from abduction. <p>(e) To prevent imminent abduction of a child, a court may:</p> <ol style="list-style-type: none"> (1) issue a warrant to take physical custody of the child under Section 9 or the law of this state other than this [act]; (2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this [act] or the law of this state other than this [act]; or (3) grant any other relief allowed under the law of this state other than this [act]. <p>(f) The remedies provided in this [act] are cumulative and do not affect the availability of other remedies to prevent abduction.</p>	<p>necessary. If a credible risk of international abduction of the child exists, passport controls and travel restrictions may be indispensable. It may be advantageous in some cases to obtain a “mirror” or reciprocal order. Before exercising rights, the respondent would need to get a custody order from the country to which the respondent will travel that recognizes both the United States order and the court’s continuing jurisdiction. The foreign court would need to agree to order return of the child if the child was taken in violation of the court order. This potentially expensive and time consuming remedy should only be ordered when likely to be of assistance. Because the foreign court may subsequently modify its order, problems can arise.</p> <p>The court may do whatever is necessary to prevent an abduction, including using the warrant procedure under this act or under the law of the state. Many law enforcement officers are unclear about their role in responding to parental kidnapping cases. One study showed that 70 percent of law enforcement agencies reported that they did not have written policies and procedures governing child abduction cases. A provision in the custody order directing law enforcement officer to “accompany and assist” a parent to recover an abducted child may be useful but is not included in this Act. The language tracks Section 316 of the Uniform Child Custody Jurisdiction and Enforcement Act that authorizes law enforcement to take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or appropriate public official in obtaining return of a child or enforcing a child-custody determination.</p> <p>The remedies provided in this Act are intended to supplement and complement existing law.</p>
New Mexico	<p>NMSA § 40-10C-8. Provisions and Measures to Prevent Abduction.</p> <p>New Mexico statute adds the following subsection at the end of Section 8:</p> <p><u>G. A court shall not require the disclosure of a confidential communication that is protected by the Victim Counselor</u></p>	

State	Section of UCAPA / state law	Comments
	<p><u>Confidentiality Act, the physician-patient privilege, or the psychotherapist-patient privilege.</u></p> <p>Section 9. Warrant to Take Physical Custody of Child.</p>	
	<p>(a) If a petition under this [act] contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.</p> <p>(b) The respondent on a petition under subsection (a) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.</p> <p>(c) An ex parte warrant under subsection (a) to take physical custody of a child must:</p>	<p>Official Comment</p> <p>This section authorizes issuance of a warrant in an emergency situation, such as an allegation that the respondent is preparing to abduct the child to a foreign country and is on the way to the airport. The harm is the credible risk of imminent removal. If the court finds such a risk, the court should temporarily waive the notice requirements and issue a warrant to take physical custody of the child. Immediately after the warrant is executed, the respondent is to receive notice of the proceedings. This section mirrors Section 311 of the Uniform Child Custody Jurisdiction and Enforcement Act on warrants to pick up a child which are available when there is an existing child-custody determination. In many states, the term used in civil cases is “writ of attachment.”</p> <p>The court should hear the testimony of the petitioner or another witness before issuing the warrant. The testimony may be heard in person, by telephone, or by any other means acceptable under local law, which may include video conferencing or use of other technology.</p> <p>Domestic violence includes “family” violence. Because some batterers may try to use the warrant procedure to prevent victims and the children from escaping domestic violence or child abuse, the court should check relevant state and national databases to see if either the petitioner or respondent’s name is listed or if relevant information exists that has not been disclosed before issuing the warrant and ordering placement. Lundy Bancroft & Jay G. Silverman, <i>The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics</i> 73, 75 (2002)(indicating that most parental abductions take place in the context of a history of domestic violence because threatening to take the child from the mother is a form of control).</p>
	<p>(1) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;</p> <p>(2) direct law enforcement officers to take physical custody of the child immediately;</p> <p>(3) state the date and time for the hearing on the petition; and</p> <p>(4) provide for the safe interim placement of the child pending further order of the court.</p> <p>(d) If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.</p> <p>(e) The petition and warrant must be served on the respondent when or immediately after the child is taken into physical custody.</p>	<p>Some courts have computer terminals on the bench and a database search takes seconds. Courts without computer access can seek the assistance of law enforcement. Unless impracticable, the court</p>

State	Section of UCAPA / state law	Comments
	<p>(f) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.</p> <p>(g) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (a) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney's fees, costs, and expenses.</p> <p>(h) This [act] does not affect the availability of relief allowed under the law of this state other than this [act].</p>	<p>should conduct a search of all person databases of the National Crime Information Center system, including the protection order file, the historical protection order file, the warrants file, the sex offender registry, and the persons on supervised release file. In addition, it is recommended that courts run searches in the National Law Enforcement Telecommunication System in the petitioner's state of birth, current state of residence, and other recent states of residence. Civil courts are authorized by statute and National Crime Information Center policy to have access to information in several files for domestic violence and stalking cases. Because child abduction involves family members and can harm children, and violence between the parents is often a factor leading to child abduction, cases in which a parent alleges a risk of wrongful removal should permit access to the relevant databases.</p> <p>The court should also view comparable state databases, such as the state department of social service registry of persons found to have abused or neglected children. If the petitioner or respondent are listed for a reason related to a crime of domestic or family violence, the court may refuse to issue a warrant or order any appropriate placement authorized under the laws of the state. The warrant must provide for the placement of a child pending the hearing.</p> <p>Temporary placement will most often be with the petitioner unless the database check reveals the petitioner is a likely or known abuser.</p> <p>The court must state the reasons for issuance of the warrant. The warrant can be enforced by law enforcement officers wherever the child is found in the state. The warrant may authorize entry upon private property to pick up the child if no less intrusive means are possible. In extraordinary cases, the warrant may authorize law enforcement to make a forcible entry at any hour. This section also authorizes law enforcement officers to enforce out of state warrants.</p> <p>Section 9 applies only to wrongful removals, not wrongful retentions. It does not hinder a court from issuing any other immediate ex parte relief to prevent a wrongful removal or retention as may be allowed under law other than this act.</p>

CHAPTER X
UNIFORM CHILD ABDUCTION PREVENTION ACT

§ 25-1101. SHORT TITLE. THIS CHAPTER MAY BE CITED AS THE UNIFORM CHILD ABDUCTION PREVENTION ACT.

§ 25-1102. DEFINITIONS.

IN THIS CHAPTER:

(1) “ABDUCTION” MEANS THE WRONGFUL REMOVAL OR WRONGFUL RETENTION OF A CHILD.

(2) “CHILD” MEANS AN UNEMANCIPATED INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE.

(3) “CHILD-CUSTODY DETERMINATION” MEANS A JUDGMENT, DECREE, OR OTHER ORDER OF A COURT PROVIDING FOR THE LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD. THE TERM INCLUDES A PERMANENT, TEMPORARY, INITIAL, AND MODIFICATION ORDER.

(4) “CHILD-CUSTODY PROCEEDING” MEANS A PROCEEDING IN WHICH LEGAL CUSTODY, PHYSICAL CUSTODY, OR VISITATION WITH RESPECT TO A CHILD IS AT ISSUE. THE TERM INCLUDES A PROCEEDING FOR DIVORCE, DISSOLUTION OF MARRIAGE, SEPARATION, NEGLECT, ABUSE, DEPENDENCY, GUARDIANSHIP, PATERNITY, TERMINATION OF PARENTAL RIGHTS, OR PROTECTION FROM DOMESTIC VIOLENCE.

(5) “COURT” MEANS AN ENTITY AUTHORIZED UNDER THE LAW OF A STATE TO ESTABLISH, ENFORCE, OR MODIFY A CHILD-CUSTODY DETERMINATION.

(6) “PETITION” INCLUDES A MOTION OR ITS EQUIVALENT.

(7) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(8) “STATE” MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY RECOGNIZED INDIAN TRIBE OR NATION.

(9) “TRAVEL DOCUMENT” MEANS RECORDS RELATING TO A TRAVEL ITINERARY, INCLUDING TRAVEL TICKETS, PASSES, RESERVATIONS FOR TRANSPORTATION, OR ACCOMMODATIONS. THE TERM DOES NOT INCLUDE A PASSPORT OR VISA.

(10) “WRONGFUL REMOVAL” MEANS THE TAKING OF A CHILD THAT BREACHES RIGHTS OF CUSTODY OR VISITATION GIVEN OR RECOGNIZED UNDER THE LAW OF THIS STATE.

(11) “WRONGFUL RETENTION” MEANS THE KEEPING OR CONCEALING OF A CHILD THAT BREACHES RIGHTS OF CUSTODY OR VISITATION GIVEN OR

RECOGNIZED UNDER THE LAW OF THIS STATE.

§ 25-1103. COOPERATION AND COMMUNICATION AMONG COURTS.

SECTIONS 25-1010, 1011, AND 1012 APPLY TO COOPERATION AND COMMUNICATIONS AMONG COURTS IN PROCEEDINGS UNDER THIS CHAPTER..

§ 25-1104. ACTIONS FOR ABDUCTION PREVENTION MEASURES.

(A) A COURT ON ITS OWN MOTION MAY ORDER ABDUCTION PREVENTION MEASURES IN A CHILD- CUSTODY PROCEEDING IF THE COURT FINDS THAT THE EVIDENCE ESTABLISHES A CREDIBLE RISK OF ABDUCTION OF THE CHILD.

(B) A PARTY TO A CHILD-CUSTODY DETERMINATION OR ANOTHER INDIVIDUAL OR ENTITY HAVING A RIGHT UNDER THE LAW OF THIS STATE OR ANY OTHER STATE TO SEEK A CHILD-CUSTODY DETERMINATION FOR THE CHILD MAY FILE A PETITION SEEKING ABDUCTION PREVENTION MEASURES TO PROTECT THE CHILD UNDER THIS CHAPTER

(C) A PROSECUTOR OR PUBLIC AUTHORITY DESIGNATED UNDER SECTION 25-1065 MAY SEEK A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD UNDER SECTION 9 OR OTHER APPROPRIATE PREVENTION MEASURES.

§ 25-1105. JURISDICTION.

(A) A PETITION UNDER THIS CHAPTER MAY BE FILED ONLY IN A COURT THAT HAS JURISDICTION TO MAKE A CHILD-CUSTODY DETERMINATION WITH RESPECT TO THE CHILD AT ISSUE UNDER CHAPTER 8.

(B) A COURT OF THIS STATE HAS TEMPORARY EMERGENCY JURISDICTION UNDER SECTION 25-1034 IF THE COURT FINDS A CREDIBLE RISK OF ABDUCTION.

§ 25-1106. CONTENTS OF PETITION.

A PETITION UNDER THIS CHAPTER MUST BE VERIFIED AND INCLUDE A COPY OF ANY EXISTING CHILD-CUSTODY DETERMINATION, IF AVAILABLE. THE PETITION MUST SPECIFY THE RISK FACTORS FOR ABDUCTION, INCLUDING THE RELEVANT FACTORS DESCRIBED IN SECTION 25-1107. SUBJECT TO SECTION 25-1039(E), IF REASONABLY ASCERTAINABLE, THE PETITION MUST CONTAIN:

- (1) THE NAME, DATE OF BIRTH, AND GENDER OF THE CHILD;
- (2) THE CUSTOMARY ADDRESS AND CURRENT PHYSICAL LOCATION OF THE CHILD;
- (3) THE IDENTITY, CUSTOMARY ADDRESS, AND CURRENT PHYSICAL LOCATION OF THE RESPONDENT;
- (4) A STATEMENT OF WHETHER A PRIOR ACTION TO PREVENT ABDUCTION OR DOMESTIC VIOLENCE HAS BEEN FILED BY A PARTY OR OTHER INDIVIDUAL OR ENTITY HAVING CUSTODY OF THE CHILD, AND THE DATE, LOCATION, AND DISPOSITION OF THE ACTION;
- (5) A STATEMENT OF WHETHER A PARTY TO THE PROCEEDING HAS BEEN

ARRESTED FOR A CRIME RELATED TO DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT, AND THE DATE, LOCATION, AND DISPOSITION OF THE CASE; AND

(6) ANY OTHER INFORMATION REQUIRED TO BE SUBMITTED TO THE COURT FOR A CHILD-CUSTODY DETERMINATION UNDER SECTION 25-1039.

§ 25-1107. FACTORS TO DETERMINE RISK OF ABDUCTION.

(A) IN DETERMINING WHETHER THERE IS A CREDIBLE RISK OF ABDUCTION OF A CHILD, THE COURT SHALL CONSIDER ANY EVIDENCE THAT THE PETITIONER OR RESPONDENT:

(1) HAS PREVIOUSLY ABDUCTED OR ATTEMPTED TO ABDUCT THE CHILD;

(2) HAS THREATENED TO ABDUCT THE CHILD;

(3) HAS RECENTLY ENGAGED IN ACTIVITIES THAT MAY INDICATE A PLANNED ABDUCTION, INCLUDING:

(A) ABANDONING EMPLOYMENT;

(B) SELLING A PRIMARY RESIDENCE;

(C) TERMINATING A LEASE;

(D) CLOSING BANK OR OTHER FINANCIAL MANAGEMENT ACCOUNTS, LIQUIDATING ASSETS, HIDING OR DESTROYING FINANCIAL DOCUMENTS, OR CONDUCTING ANY UNUSUAL FINANCIAL ACTIVITIES;

(E) APPLYING FOR A PASSPORT OR VISA OR OBTAINING TRAVEL DOCUMENTS FOR THE RESPONDENT, A FAMILY MEMBER, OR THE CHILD; OR

(F) SEEKING TO OBTAIN THE CHILD'S BIRTH CERTIFICATE OR SCHOOL OR MEDICAL RECORDS;

(4) HAS ENGAGED IN DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT;

(5) HAS REFUSED TO FOLLOW A CHILD-CUSTODY DETERMINATION;

(6) LACKS STRONG FAMILIAL, FINANCIAL, EMOTIONAL, OR CULTURAL TIES TO THE STATE OR THE UNITED STATES;

(7) HAS STRONG FAMILIAL, FINANCIAL, EMOTIONAL, OR CULTURAL TIES TO ANOTHER STATE OR COUNTRY;

(8) IS LIKELY TO TAKE THE CHILD TO A COUNTRY THAT:

(A) IS NOT A PARTY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION AND DOES NOT PROVIDE FOR THE EXTRADITION OF AN ABDUCTING PARENT OR FOR THE RETURN OF AN ABDUCTED CHILD;

(B) IS A PARTY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION BUT:

(I) THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION IS NOT IN FORCE BETWEEN THE UNITED

STATES AND THAT COUNTRY;

(II) IS NONCOMPLIANT ACCORDING TO THE MOST RECENT COMPLIANCE REPORT ISSUED BY THE UNITED STATES DEPARTMENT OF STATE; OR

(III) LACKS LEGAL MECHANISMS FOR IMMEDIATELY AND EFFECTIVELY ENFORCING A RETURN ORDER UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION;

(C) POSES A RISK THAT THE CHILD'S PHYSICAL OR EMOTIONAL HEALTH OR SAFETY WOULD BE ENDANGERED IN THE COUNTRY BECAUSE OF SPECIFIC CIRCUMSTANCES RELATING TO THE CHILD OR BECAUSE OF HUMAN RIGHTS VIOLATIONS COMMITTED AGAINST CHILDREN;

(D) HAS LAWS OR PRACTICES THAT WOULD:

(I) ENABLE THE RESPONDENT, WITHOUT DUE CAUSE, TO PREVENT THE PETITIONER FROM CONTACTING THE CHILD;

(II) RESTRICT THE PETITIONER FROM FREELY TRAVELING TO OR EXITING FROM THE COUNTRY BECAUSE OF THE PETITIONER'S GENDER, NATIONALITY, MARITAL STATUS, OR RELIGION; OR

(III) RESTRICT THE CHILD'S ABILITY LEGALLY TO LEAVE THE COUNTRY AFTER THE CHILD REACHES THE AGE OF MAJORITY BECAUSE OF A CHILD'S GENDER, NATIONALITY, OR RELIGION;

(E) IS INCLUDED BY THE UNITED STATES DEPARTMENT OF STATE ON A CURRENT LIST OF STATE SPONSORS OF TERRORISM;

(F) DOES NOT HAVE AN OFFICIAL UNITED STATES DIPLOMATIC PRESENCE IN THE COUNTRY; OR

(G) IS ENGAGED IN ACTIVE MILITARY ACTION OR WAR, INCLUDING A CIVIL WAR, TO WHICH THE CHILD MAY BE EXPOSED;

(9) IS UNDERGOING A CHANGE IN IMMIGRATION OR CITIZENSHIP STATUS THAT WOULD ADVERSELY AFFECT THE RESPONDENT'S ABILITY TO REMAIN IN THE UNITED STATES LEGALLY;

(10) HAS HAD AN APPLICATION FOR UNITED STATES CITIZENSHIP DENIED;

(11) HAS FORGED OR PRESENTED MISLEADING OR FALSE EVIDENCE ON GOVERNMENT FORMS OR SUPPORTING DOCUMENTS TO OBTAIN OR ATTEMPT TO OBTAIN A PASSPORT, A VISA, TRAVEL DOCUMENTS, A SOCIAL SECURITY CARD, A DRIVER'S LICENSE, OR OTHER GOVERNMENT-ISSUED IDENTIFICATION CARD OR HAS MADE A MISREPRESENTATION TO THE UNITED STATES GOVERNMENT;

(12) HAS USED MULTIPLE NAMES TO ATTEMPT TO MISLEAD OR DEFRAUD; OR

(13) HAS ENGAGED IN ANY OTHER CONDUCT THE COURT CONSIDERS RELEVANT TO THE RISK OF ABDUCTION.

(B) IN THE HEARING ON A PETITION UNDER THIS CHAPTER, THE COURT

SHALL CONSIDER ANY EVIDENCE THAT THE RESPONDENT BELIEVED IN GOOD FAITH THAT THE RESPONDENT'S CONDUCT WAS NECESSARY TO AVOID IMMINENT HARM TO THE CHILD OR RESPONDENT AND ANY OTHER EVIDENCE THAT MAY BE RELEVANT TO WHETHER THE RESPONDENT MAY BE PERMITTED TO REMOVE OR RETAIN THE CHILD.

§ 25-1108. PROVISIONS AND MEASURES TO PREVENT ABDUCTION.

(A) IF A PETITION IS FILED UNDER THIS CHAPTER, THE COURT MAY ENTER AN ORDER THAT MUST INCLUDE:

- (1) THE BASIS FOR THE COURT'S EXERCISE OF JURISDICTION;
- (2) THE MANNER IN WHICH NOTICE AND OPPORTUNITY TO BE HEARD WERE GIVEN TO THE PERSONS ENTITLED TO NOTICE OF THE PROCEEDING;
- (3) A DETAILED DESCRIPTION OF EACH PARTY'S CUSTODY AND VISITATION RIGHTS AND RESIDENTIAL ARRANGEMENTS FOR THE CHILD;
- (4) A PROVISION STATING THAT A VIOLATION OF THE ORDER MAY SUBJECT THE PARTY IN VIOLATION TO CIVIL AND CRIMINAL PENALTIES; AND
- (5) IDENTIFICATION OF THE CHILD'S COUNTRY OF HABITUAL RESIDENCE AT THE TIME OF THE ISSUANCE OF THE ORDER.

(B) IF, AT A HEARING ON A PETITION UNDER THIS CHAPTER OR ON THE COURT'S OWN MOTION, THE COURT AFTER REVIEWING THE EVIDENCE FINDS A CREDIBLE RISK OF ABDUCTION OF THE CHILD, THE COURT SHALL ENTER AN ABDUCTION PREVENTION ORDER. THE ORDER MUST INCLUDE THE PROVISIONS REQUIRED BY SUBSECTION (A) AND MEASURES AND CONDITIONS, INCLUDING THOSE IN SUBSECTIONS (C), (D), AND (E), THAT ARE REASONABLY CALCULATED TO PREVENT ABDUCTION OF THE CHILD, GIVING DUE CONSIDERATION TO THE CUSTODY AND VISITATION RIGHTS OF THE PARTIES. THE COURT SHALL CONSIDER THE AGE OF THE CHILD, THE POTENTIAL HARM TO THE CHILD FROM AN ABDUCTION, THE LEGAL AND PRACTICAL DIFFICULTIES OF RETURNING THE CHILD TO THE JURISDICTION IF ABDUCTED, AND THE REASONS FOR THE POTENTIAL ABDUCTION, INCLUDING EVIDENCE OF DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT.

(C) AN ABDUCTION PREVENTION ORDER MAY INCLUDE ONE OR MORE OF THE FOLLOWING:

- (1) AN IMPOSITION OF TRAVEL RESTRICTIONS THAT REQUIRE THAT A PARTY TRAVELING WITH THE CHILD OUTSIDE A DESIGNATED GEOGRAPHICAL AREA PROVIDE THE OTHER PARTY WITH THE FOLLOWING:
 - (A) THE TRAVEL ITINERARY OF THE CHILD;
 - (B) A LIST OF PHYSICAL ADDRESSES AND TELEPHONE NUMBERS AT WHICH THE CHILD CAN BE REACHED AT SPECIFIED TIMES; AND
 - (C) COPIES OF ALL TRAVEL DOCUMENTS;
- (2) A PROHIBITION OF THE RESPONDENT DIRECTLY OR INDIRECTLY:
 - (A) REMOVING THE CHILD FROM THIS STATE, THE UNITED

STATES, OR ANOTHER
GEOGRAPHIC AREA WITHOUT PERMISSION OF THE COURT OR THE PETITIONER'S
WRITTEN CONSENT;

(B) REMOVING OR RETAINING THE CHILD IN VIOLATION OF A
CHILD-CUSTODY DETERMINATION;

(C) REMOVING THE CHILD FROM SCHOOL OR A CHILD-CARE OR
SIMILAR FACILITY; OR

(D) APPROACHING THE CHILD AT ANY LOCATION OTHER THAN
A SITE DESIGNATED FOR SUPERVISED VISITATION;

(3) A REQUIREMENT THAT A PARTY REGISTER THE ORDER IN
ANOTHER STATE AS A PREREQUISITE TO ALLOWING THE CHILD TO TRAVEL TO
THAT STATE;

(4) WITH REGARD TO THE CHILD'S PASSPORT:

(A) A DIRECTION THAT THE PETITIONER PLACE THE CHILD'S
NAME IN THE UNITED STATES DEPARTMENT OF STATE'S CHILD PASSPORT
ISSUANCE ALERT PROGRAM;

(B) A REQUIREMENT THAT THE RESPONDENT SURRENDER TO
THE COURT OR THE PETITIONER'S ATTORNEY ANY UNITED STATES OR FOREIGN
PASSPORT ISSUED IN THE CHILD'S NAME, INCLUDING A PASSPORT ISSUED IN THE
NAME OF BOTH THE PARENT AND THE CHILD; AND

(C) A PROHIBITION UPON THE RESPONDENT FROM APPLYING
ON BEHALF OF THE CHILD FOR A NEW OR REPLACEMENT PASSPORT OR VISA;

(5) AS A PREREQUISITE TO EXERCISING CUSTODY OR VISITATION, A
REQUIREMENT THAT THE RESPONDENT PROVIDE:

(A) TO THE UNITED STATES DEPARTMENT OF STATE OFFICE OF
CHILDREN'S ISSUES AND THE RELEVANT FOREIGN CONSULATE OR EMBASSY, AN
AUTHENTICATED COPY OF THE ORDER DETAILING PASSPORT AND TRAVEL
RESTRICTIONS FOR THE CHILD;

(B) TO THE COURT:

(I) PROOF THAT THE RESPONDENT HAS PROVIDED THE
INFORMATION IN SUBPARAGRAPH (A); AND

(II) AN ACKNOWLEDGMENT IN A RECORD FROM THE
RELEVANT FOREIGN CONSULATE OR EMBASSY THAT NO PASSPORT APPLICATION
HAS BEEN MADE, OR PASSPORT ISSUED, ON BEHALF OF THE CHILD;

(C) TO THE PETITIONER, PROOF OF REGISTRATION WITH THE
UNITED STATES EMBASSY OR OTHER UNITED STATES DIPLOMATIC PRESENCE IN
THE DESTINATION COUNTRY AND WITH THE CENTRAL AUTHORITY FOR THE
HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD
ABDUCTION, IF THAT CONVENTION IS IN EFFECT BETWEEN THE UNITED STATES
AND THE DESTINATION COUNTRY, UNLESS ONE OF THE PARTIES OBJECTS; AND

(D) A WRITTEN WAIVER UNDER THE PRIVACY ACT, 5 U.S.C.
SECTION 552A [AS AMENDED], WITH RESPECT TO ANY DOCUMENT, APPLICATION,

OR OTHER INFORMATION PERTAINING TO THE CHILD AUTHORIZING ITS DISCLOSURE TO THE COURT AND THE PETITIONER; AND

(6) UPON THE PETITIONER'S REQUEST, A REQUIREMENT THAT THE RESPONDENT OBTAIN AN ORDER FROM THE RELEVANT FOREIGN COUNTRY CONTAINING TERMS IDENTICAL TO THE CHILD-CUSTODY DETERMINATION ISSUED IN THE UNITED STATES.

(D) IN AN ABDUCTION PREVENTION ORDER, THE COURT MAY IMPOSE CONDITIONS ON THE EXERCISE OF CUSTODY OR VISITATION THAT:

(1) LIMIT VISITATION OR REQUIRE THAT VISITATION WITH THE CHILD BY THE RESPONDENT BE SUPERVISED UNTIL THE COURT FINDS THAT SUPERVISION IS NO LONGER NECESSARY AND ORDER THE RESPONDENT TO PAY THE COSTS OF SUPERVISION;

(2) REQUIRE THE RESPONDENT TO POST A BOND OR PROVIDE OTHER SECURITY IN AN AMOUNT SUFFICIENT TO SERVE AS A FINANCIAL DETERRENT TO ABDUCTION, THE PROCEEDS OF WHICH MAY BE USED TO PAY FOR THE REASONABLE EXPENSES OF RECOVERY OF THE CHILD, INCLUDING REASONABLE ATTORNEYS FEES AND COSTS IF THERE IS AN ABDUCTION; AND

(3) REQUIRE THE RESPONDENT TO OBTAIN EDUCATION ON THE POTENTIALLY HARMFUL EFFECTS TO THE CHILD FROM ABDUCTION.

(E) TO PREVENT IMMINENT ABDUCTION OF A CHILD, A COURT MAY:

(1) ISSUE A WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD UNDER SECTION 9 OR THE LAW OF THIS STATE OTHER THAN THIS CHAPTER;

(2) DIRECT THE USE OF LAW ENFORCEMENT TO TAKE ANY ACTION REASONABLY NECESSARY TO LOCATE THE CHILD, OBTAIN RETURN OF THE CHILD, OR ENFORCE A CUSTODY DETERMINATION UNDER THIS CHAPTER OR THE LAW OF THIS STATE OTHER THAN THIS CHAPTER; OR

(3) GRANT ANY OTHER RELIEF ALLOWED UNDER THE LAW OF THIS STATE OTHER THAN THIS CHAPTER.

(F) THE REMEDIES PROVIDED IN THIS CHAPTER ARE CUMULATIVE AND DO NOT AFFECT THE AVAILABILITY OF OTHER REMEDIES TO PREVENT ABDUCTION.

§ 25-1109. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

(A) IF A PETITION UNDER THIS CHAPTER CONTAINS ALLEGATIONS, AND THE COURT FINDS THAT THERE IS A CREDIBLE RISK THAT THE CHILD IS IMMINENTLY LIKELY TO BE WRONGFULLY REMOVED, THE COURT MAY ISSUE AN EX PARTE WARRANT TO TAKE PHYSICAL CUSTODY OF THE CHILD.

(B) THE RESPONDENT ON A PETITION UNDER SUBSECTION (A) MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD AT THE EARLIEST POSSIBLE TIME AFTER THE EX PARTE WARRANT IS EXECUTED, BUT NOT LATER THAN THE NEXT JUDICIAL DAY UNLESS A HEARING ON THAT DATE IS IMPOSSIBLE. IN THAT EVENT, THE COURT SHALL HOLD THE HEARING ON THE FIRST JUDICIAL DAY POSSIBLE.

(C) AN EX PARTE WARRANT UNDER SUBSECTION (A) TO TAKE PHYSICAL CUSTODY OF A CHILD MUST:

(1) RECITE THE FACTS UPON WHICH A DETERMINATION OF A CREDIBLE RISK OF IMMINENT WRONGFUL REMOVAL OF THE CHILD IS BASED;

(2) DIRECT LAW ENFORCEMENT OFFICERS TO TAKE PHYSICAL CUSTODY OF THE CHILD IMMEDIATELY;

(3) STATE THE DATE AND TIME FOR THE HEARING ON THE PETITION;

AND

(4) PROVIDE FOR THE SAFE INTERIM PLACEMENT OF THE CHILD PENDING FURTHER ORDER OF THE COURT.

(D) IF FEASIBLE, BEFORE ISSUING A WARRANT AND BEFORE DETERMINING THE PLACEMENT OF THE CHILD AFTER THE WARRANT IS EXECUTED, THE COURT MAY ORDER A SEARCH OF THE RELEVANT DATABASES OF THE NATIONAL CRIME INFORMATION CENTER SYSTEM AND SIMILAR STATE DATABASES TO DETERMINE IF EITHER THE PETITIONER OR RESPONDENT HAS A HISTORY OF DOMESTIC VIOLENCE, STALKING, OR CHILD ABUSE OR NEGLECT.

(E) THE PETITION AND WARRANT MUST BE SERVED ON THE RESPONDENT WHEN OR IMMEDIATELY AFTER THE CHILD IS TAKEN INTO PHYSICAL CUSTODY.

(F) A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD, ISSUED BY THIS STATE OR ANOTHER STATE, IS ENFORCEABLE THROUGHOUT THIS STATE. IF THE COURT FINDS THAT A LESS INTRUSIVE REMEDY WILL NOT BE EFFECTIVE, IT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO ENTER PRIVATE PROPERTY TO TAKE PHYSICAL CUSTODY OF THE CHILD. IF REQUIRED BY EXIGENT CIRCUMSTANCES, THE COURT MAY AUTHORIZE LAW ENFORCEMENT OFFICERS TO MAKE A FORCIBLE ENTRY AT ANY HOUR.

(G) IF THE COURT FINDS, AFTER A HEARING, THAT A PETITIONER SOUGHT AN EX PARTE WARRANT UNDER SUBSECTION (A) FOR THE PURPOSE OF HARASSMENT OR IN BAD FAITH, THE COURT MAY AWARD THE RESPONDENT REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES.

(H) THIS CHAPTER DOES NOT AFFECT THE AVAILABILITY OF RELIEF ALLOWED UNDER THE LAW OF THIS STATE OTHER THAN THIS CHAPTER.

§ 25-1110. DURATION OF ABDUCTION PREVENTION ORDER.

AN ABDUCTION PREVENTION ORDER REMAINS IN EFFECT UNTIL THE EARLIEST OF:

(1) THE TIME STATED IN THE ORDER;

(2) THE EMANCIPATION OF THE CHILD;

(3) THE CHILD'S ATTAINING 18 YEARS OF AGE; OR

(4) THE TIME THE ORDER IS MODIFIED, REVOKED, VACATED, OR SUPERSEDED BY A COURT WITH JURISDICTION UNDER SECTIONS 25-1031 THROUGH 25-1033.

§ 25-1111. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

§ 25-1112. RELATION OF ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

THIS CHAPTER MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001, ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(C) OF THE ACT, 15 U.S.C. SECTION 7001(C), OF THAT ACT OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. SECTION 7003(B).

EFFECTIVE DATE.

THIS CHAPTER TAKES EFFECT ON

DRAFT

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Family/Juvenile Bridge Orders Workgroup

PRESENTER(S):

Judge Robert Brooks

DISCUSSION:

Comments and Motion for vote on statute draft proposal re: Juvenile-Family Bridge Orders handoff.

RECOMMENDED ACTION OR REQUEST (IF ANY):

A. Before terminating its jurisdiction over a minor who has been adjudicated a dependent child of the juvenile court and returning the minor to the care of at least one of the child's parents, if the parents are not married to each other, the juvenile court shall enter final legal decision-making and parenting time orders before dismissing the dependency. The juvenile court's orders shall be based on the cumulative case record.

B. If legal decision-making and parenting time orders were previously entered in a related family law case, then the juvenile court shall either affirm or modify those orders. The adjudication of the minor child as dependent qualifies as a substantial and continuing change in circumstance justifying modification of the prior orders.

C. A judicial officer who enters final legal decision-making or parenting time orders pursuant to subsection A of this statute is not required to make the written findings required by § 25-403. The judicial officer shall consider all facts relevant to the child's physical and emotional well-being when entering legal decision-making and parenting time orders, including the following:

1. Each parent's engagement in and benefit from the case plan ordered by the juvenile court;

2. Any safety concerns identified about a parent, including any history of domestic violence, and whether those safety concerns remain;
3. Each parent's ability to provide for the child's residential, educational, medical, and developmental needs; and
4. Whether allowing parenting time between a parent and the child will endanger or significantly impair the child's emotional or physical development.

D. The juvenile court shall direct filing of the order in the superior court as follows:

1. If no prior family case exists, the order must be filed in the county where the parent with sole legal decision-making and/or primary parenting time of the child resides. If the parents reside in different counties and share legal decision-making and parenting time, the juvenile court shall determine the county for filing of the juvenile court's order.
2. If a prior family case exists, the order must be filed in the prior case even if neither party nor the child currently reside in that county.

E. The Clerk shall file a copy of the order containing the final legal decision-making and parenting time orders with the family division of the Superior Court, and the Supreme Court shall establish rules governing the process. If there is no existing family law case, the order shall be the initial filing that begins a family law case, and the Clerk shall not charge either parent any fee for the case initiation.

F. Final orders for legal decision-making and parenting time entered by the juvenile court prior to a dismissal of a dependency supersede any previous legal decision-making and parenting time orders entered in an existing Superior Court Title 25 case regarding the child.

G. A parent may request to modify legal decision-making or parenting time orders entered pursuant to paragraph A of this statute through the family court by complying with the requirements of § 25-411. The judicial officer in the family case may waive the time limitations of § 25-411(A) for requests to modify parenting time if good cause exists. The judicial officer in the family case may take judicial notice of the juvenile dependency file in any subsequent family proceeding. The juvenile dependency file shall remain confidential and must be designated as such if used in the family case.

H. The parenting plan entered by the juvenile court does not need to comply with the requirements of § 25-403.02 and instead shall contain, at a minimum, the following:

1. Designation of legal decision-making as joint, with or without final decision-making authority, or sole. If the parties will share joint legal decision-making, then the parenting plan shall include how the parties will communicate with each other regarding the child.
2. A residential parenting time schedule that includes how the parties will exchange the child if both parties will exercise parenting time.

I. As to child support, § 25-403.09 does not apply; however, the juvenile court must take one of the following actions:

1. Enter a child support order at the conclusion of the dependency case;
2. Refer the matter to family court to enter child support orders;
3. Refer the matter to DCSS for child support services if available.

J. This statute does not apply when the juvenile court enters orders making a non-parent the child's final placement or if the parents are married to each other when the dependency terminates.

DRAFT

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting: May 14, 2026	Type of Action Required: [] Formal Action/Request [X] Information Only [] Other	Subject: Child Support Guidelines Review Subcommittee
---	--	--

PRESENTER(S):

Judge Jeffrey Sklar

DISCUSSION:

Update on Subcommittee

RECOMMENDED ACTION OR REQUEST (IF ANY):

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF THE CHILD) Administrative Order
SUPPORT GUIDELINES REVIEW) No. 2026 - 54
SUBCOMMITTEE OF THE)
COMMITTEE ON FAMILY COURT)
_____)

Pursuant to A.R.S. § 25-320(D), the Supreme Court shall establish guidelines for determining the amount of child support and review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts.

In accordance with Arizona Code of Judicial Administration (ACJA) § 1-112, the Committee on Family Court (COFC) shall conduct the federally mandated quadrennial Child Support Guidelines review and make recommendations. Such review shall be conducted by a subcommittee of the COFC, the chair and members of which shall be appointed by the Chief Justice.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution and ACJA § 1-112,

IT IS ORDERED that the Child Support Guidelines Review Subcommittee of the Committee on Family Court (“Subcommittee”) is established to review the current statewide child support guidelines and make recommendations as provided below:

1. Limited Purpose.

The Subcommittee shall conduct a technical review of the existing guidelines which shall:

- Consider economic and labor market data; the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level; and factors that impact compliance with child support orders;
- Analyze case data on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment; and
- Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives.

Further, the Subcommittee may make recommendations where necessary to improve the guidelines.

2. Membership and Term.

The individuals listed in Appendix A are appointed as members of the Child Support Guidelines Review Subcommittee beginning upon entry of this Order. The terms of the Subcommittee and the members shall expire at the conclusion of the project, scheduled for April 2027.

3. Meetings.

Subcommittee meetings shall be scheduled at the discretion of the Subcommittee Chair. Pursuant to ACJA § 1-202, all meetings shall comply with the public meeting policy of the Arizona Judicial Branch.

4. Administrative Support.

The Administrative Office of the Courts shall provide staff for the Subcommittee. Such staff may conduct or coordinate research as requested by the Subcommittee.

5. Reports.

The Committee on Family Court shall submit a final report to the Arizona Judicial Council at the Council's October 2026 meeting.

IT IS FURTHER ORDERED that the final report and recommendations submitted to the Arizona Judicial Council, a Subcommittee membership list, the effective date of the guidelines, and the dates of the next review shall be published on the Arizona Judicial Branch website and made accessible to the public.

Dated this 6th day of May, 2026.

ANN A. SCOTT TIMMER
Chief Justice

**Appendix A
Membership List
Child Support Guidelines Review Subcommittee**

Chair

Judge Jeffrey Sklar
Court of Appeals, Division II

Members

Commissioner Joseph Rhoades
Family Court Commissioner
Superior Court in Maricopa County

Commissioner Patricia Green
Family Court Commissioner
Superior Court in Pima County

Commissioner Joseph Goldstein
Superior Court in Yavapai County

Erin E. Richardson
Section Chief Counsel
Office of the Attorney General
Child and Family Protection Division

Janet Sell
Assistant Attorney General (Retired)

Tracy McElroy
Conciliation Court Director
Superior Court in Pinal County

James Giacomino
Clerk of the Court
Superior Court in Pima County

Carol Park Aden
Attorney
Community Legal Services

Steve Wolfson Attorney
Dickinson Wright, PLLC

Keith Berkshire
Attorney
Berkshire Law Office, PLLC

Lynda R. Vescio
State Bar of Arizona Representative
Law Offices of Vescio & Seifert, PC

Laura C. Belleau
Attorney
Karp & Weiss

Emily Britton, Custodial Parent

Mark Sorge, Non-Custodial Parent

Kellie DiCarlo
Certified Legal Document Preparer
Arizona Legal Document Services, LLC

BaLeigh Waldrop
Certified Public Accountant

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting: May 14, 2026	Type of Action Required: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: R-26-0008 Petition to Amend Rules 14, 45, & 45.1, and to Adopt Rule 45.2, ARFLP
---	--	--

PRESENTER(S):

Hon. Greg Sakall, Chair

DISCUSSION:

Re Comments on Petition

RECOMMENDED ACTION OR REQUEST (IF ANY):

Approve a reply to be filed

Commentor	Action Proposed	Discussion	Action Taken
Nicholas J. Brown 02/10/2026	I would change the proposed revision to Rule 45.1(d)(4) on page 5 to reflect the case will continue as a petition "for dissolution, legal separation, or annulment" not as "to establish paternity or maternity and/or a petition to establish legal decision-making, parenting time, and child support" as that would be under Rule 45.2(d)(4)		
Hon. Samuel Thumma, April 29, 2026	Following a presentation at the April 9, 2026, Commission meeting, a motion was made and seconded that the Commission support Rule Change Petition No. R-26-0008. After discussion by members of the Commission, that motion passed. This Comment is a result of that formal Commission action and is intended to reflect the Commission's support for the changes requested in the Petition.		

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting: May 14, 2026	Type of Action Required: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: R-26-0009 Petition to Amend Rules 47, 47.1, 47.2, 48 & 91.5, ARFLP
---	--	---

PRESENTER(S):

Hon. Greg Sakall, Chair

DISCUSSION:

Re: Comments on Petition

RECOMMENDED ACTION OR REQUEST (IF ANY):

Approve a reply to be filed

Commentor	Action Proposed	Discussion	Action Taken
<p>Jessica J. Fotinos, Bar No. 019777 General Counsel State Bar of Arizona</p>	<p>The State Bar submits this Comment in support of the Petition because it addresses concerns raised by both the public and the family court bench. The proposed changes are informed by judicial and practitioner experience in family court and provide concrete improvements to the delivery of family court services. The bench and bar recognize that family violence and child safety are critical issues that must be addressed with care and rigor in Arizona’s family courts. The proposed amendments further provide a nimbler process for addressing material changes in circumstances after temporary orders hearings, as often occur in cases involving children and/or domestic violence. These proposed changes further address procedural challenges self-represented parties face in post-judgment or post-decree proceedings. They streamline these cases in a manner that is fair to all parties involved while giving the court the information and evidence to better determine post-decree issues of modification and enforcement, and to protect the children from further victimization.</p>		

Kandra Durfield	<p>The proposed requirement in Rule 47(a)(1) that a party “state what happened” with specific acts, dates, and circumstances raises a practical concern in cases involving domestic violence. Given the well-documented effects of trauma, including non-linear and delayed recall, a victim may not be able to fully articulate all relevant incidents at the time of filing a motion for temporary orders.</p> <p>As written, the rule does not appear to address whether parties may supplement or amend their allegations prior to the hearing with reasonable notice, or how facts not included in the initial motion may be treated in subsequent proceedings.</p> <p>Clarification may be helpful to ensure the rule is not interpreted as requiring an exhaustive recitation at the outset, and that parties retain the ability to supplement or amend filings and present additional relevant evidence related to domestic violence at later stages.</p>		
Hon. Samuel Thumma, April 29, 2026	<p>“Following a presentation at the April 9, 2026, Commission meeting, a motion was made and seconded that the Commission support Rule Change Petition No. R-26-0009. After discussion by members of the Commission, that motion passed. This Comment is a result of</p>		

	<p>that formal Commission action and is intended to reflect the Commission's support for the changes requested in the Petition.</p> <p>Commission supports the adoption of the proposed amendments requested in Petition No. R-26-0009.”</p>		
--	--	--	--

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Proposed rule change regarding adopting the civil rules expedited dispute resolution process.

PRESENTER(S):

Hon. Greg Sakall, Chair

DISCUSSION:

This tracks the proposed changes in [R-26-0017](#)

RECOMMENDED ACTION OR REQUEST (IF ANY):

Approve a reply to be filed

Rule 35.2. Joint Filings

(a) Duties. If a rule or order requires parties to jointly prepare and file a document with the court, each party must:

- (1) make itself reasonably available to participate in preparing the document;
- (2) promptly respond to communications from any other party concerning the document;
- (3) cooperate and make a good faith effort to resolve differences about the document's content, format, and the manner in which it will be filed; and
- (4) assure that the document is timely filed.

(b) Separate Sections. If a rule or order allows it, each party or side may prepare its own section of a joint filing, but each section must be clearly identified as being separately prepared by that party or side. A party or side may not make changes to another party's or side's section of a draft joint filing.

(c) Separate Filing. If the filing of a joint document becomes impractical because another party fails to comply with its duties under this rule, a party may prepare and file a document on its own behalf. If it does so, the filing's title must indicate that the party is filing it separately from the other party.

(d) Sanctions. A court may sanction any party who violates any of its duties under this rule.

Rule 35.3. Expedited Procedure for Resolving Certain Disputes

(a) Joint Statement of Dispute. If the parties have a dispute to which these expedited procedures apply, they must file with the court a joint statement of dispute. The joint statement must not exceed 3 pages of explanatory text, with each side entitled to submit one and one-half pages of that text. Unless Rule 9(c)(2) applies, the parties must also attach a good faith consultation certificate complying with Rule 9(c) and must comply with Rule 35.2. Unless the court orders otherwise, the parties may not attach exhibits, other than any proposed amended pleading, discovery request, objection, or response directly applicable to the dispute. The purposes of the joint statement are to notify the court of the dispute, and to make a record of the relief sought. Additional briefing or other submissions on the dispute are permitted only if the court orders it.

(b) Expedited Hearing by the Court. The court, on its own motion or upon a request by a party to the dispute, should schedule a hearing at the earliest convenient time, unless the court determines that a hearing would not assist in the resolution of the dispute or there is otherwise good cause to rule on the dispute without a hearing.

(c) Resolution by Minute Entry, Order. The court must issue a written order or written ruling setting forth the dispute's resolution. After resolution, a party may file with the court materials necessary to create a record of the dispute.

Rule 28. Amended and Supplemental Pleadings

(a) Amendments Before Trial.

(1) [No change]

(2) *Amending by Leave of Court.* A party who cannot amend under Rule 28(a)(1) may amend by written agreement of all parties or may request the court's permission to amend. Leave to amend will be freely given when justice requires. Unless the court decides to permit full briefing, a party seeking to amend its pleadings where written consent of all opposing parties has not been obtained must use the expedited procedure for resolving disputes set forth in Rule 35.3.

(3) *Proposed Pleading as an Exhibit.* A party seeking ~~moving for~~ leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the joint statement of dispute or to the motion if the court decided to permit full briefing. The exhibit must show how the proposed pleading differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.

(4) *Filing and Response.* If ~~a motion for~~ leave to amend is granted, the ~~moving~~ amending party must file and serve the amended pleading within 10 days after the entry of the order granting leave ~~the motion~~, unless the court orders otherwise. An opposing party must respond to an amended pleading, if a response is required, within the time remaining for response to the original pleading or within 10 days after the amended pleading is served, whichever is later, unless the court orders otherwise.

Rule 49. Disclosure

(a) Generally.

(1) – (3) [No change]

(4) Expedited Procedure for Resolving Discovery and Disclosure Disputes Generally. Unless the court decides to permit full briefing or all parties stipulate to the relief sought, a party seeking relief due to a dispute between parties that could properly be addressed under Rule 53(a) or any discovery or disclosure dispute must use the expedited procedure for resolving disputes set forth in Rule 35.3. Nothing in this Rule limits the ability of the parties to seek the intervention of the court by telephone during a deposition without the necessity of filing a written statement of discovery dispute.

Rule 52. Subpoena

(c) Subpoena to Produce Materials or to Permit Inspection; Duties; Objections.

(1) – (5) [No change]

(6) *Objections Procedures; Duty to Confer.*

(A) – (B) [No change]

(C) Duty to Confer. Before bringing any motion to compel, motion to quash, or motion for protective order regarding compliance with a subpoena, the movant must attempt to resolve the dispute by good faith consultation with the opposing party or person. Unless Rule 9(c)(2) applies, any motion regarding compliance with a subpoena must be accompanied by a good faith consultation certificate under Rule 9(c). Absent agreement of the subpoenaed person, the expedited procedures in Rule 35.3 do not apply to motions under this rule.

Rule 65. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) Motion for Order Compelling Disclosure or Discovery.

(1) *Generally.* Subject to Rule 35.3, a party may move for an order compelling disclosure or discovery. The party must serve the motion on all other parties and affected persons and must attach a good faith consultation certificate complying with Rule 9(c).

(2) – (3) [No change]

(4) *Payment of Expenses.*

(A) If the Motion or Rule 35.3 Relief Is Granted (or Disclosure or Discovery Is Provided After Filing). If the motion is granted--or if the disclosure or requested discovery is provided after the motion was filed--the court may, after giving an opportunity to be heard, require the party or person whose conduct necessitated the motion or Rule 35.3 request, to pay the movant's reasonable expenses incurred in making the motion or request, including attorney fees. The court may not order this payment if:

- (i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;
- (ii) the opposing party's nondisclosure, response, or objection was in good faith; or
- (iii) other circumstances make an award of expenses unjust.

(B) If the Motion or Rule 35.3 Relief Is Denied. If the motion or Rule 35.3 relief is denied, the court may, after giving an opportunity to be heard, require the movant, the attorney filing the motion or Rule 35.3 request, or both, to pay the party or person who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney fees. The court may not order this payment if the motion was filed in good faith or other circumstances make an award of expenses unjust.

(C) If the Motion or Rule 35.3 Relief Is Granted in Part and Denied in Part. If the motion or Rule 35.3 request is granted in part and denied in part, the court, after giving an opportunity to be heard, may apportion the reasonable expenses, including attorney fees, for the motion or Rule 35.3 request.

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Firearm Memorandum, April 13, 2026, Update #1

PRESENTER(S):

Hon. Greg Sakall

DISCUSSION:

Re: Firearm Transfer Procedures — Statewide Implementation Update #1

RECOMMENDED ACTION OR REQUEST (IF ANY):

Layan, Vada

From: Roberson, Wanda
Sent: Monday, April 13, 2026 8:50 AM
To: Superior Court Judges - All; Justice Court Judges - All; Municipal Court Judges - All; Superior Court Clerks; Superior Court Administrators; Clerk of Court Administrators; Superior Court Deputy Administrators; Law Librarians / Self Service Center
Cc: AOC Directors/Officers; Court Services
Subject: FW: Firearm Transfer Procedures — Statewide Implementation Update #1



Supreme Court of Arizona
Administrative Office of the Courts
Court Services Division
1501 West Washington, Suite 410
Phoenix, AZ 85007

MEMORANDUM

To: All Superior Court Judges
All Justices of the Peace
All Municipal Court Judges
Superior Court Clerks
Superior Court Administrators
Clerk of Court Administrators
Superior Court Deputy Administrators
Law Librarians

From: Michael Malone, Director, Court Services Division

Date: April 13, 2026

Re: Firearm Transfer Procedures — Statewide Implementation Update #1

This memo is the first in a series of updates on the implementation of statewide procedures for firearm transfers in protective order cases. Its purpose is to ensure that courts planning new programs—or operating existing ones—are aligned with best practices currently under consideration.

Background

Committee on the Impact of Domestic Violence and the Courts (CIDVC), a standing committee of the Arizona Judicial Council, leads efforts to enhance victim and staff safety and promote offender accountability. In support of Chief Justice Ann Scott Timmer’s Strategic Agenda Goal 3.4 (Domestic Violence Initiatives), CIDVC established a Firearms Workgroup in 2025 to propose revisions to the Arizona Rules of Protective Order Procedure (ARPOP). The goal is to create consistent statewide protocols for firearm transfers and provide

clear processes for defendants to demonstrate compliance when ordered to transfer firearms under Arizona law to law enforcement.

CIDVC Workgroup: Progress to Date

- Reviewed Arizona programs and national models to identify best practices and developed recommendations for firearm transfer procedures in order-of-protection cases.
- Drafted proposed ARPOP rule changes and statewide forms based on those recommendations and vetted them through CIDVC, other Arizona Judicial Council standing committees, the Arizona Criminal Justice Commission (ACJC), and the Conciliation Court Roundtable.
- Filed rule petition R-26-0004 in January 2026 (Rules 12, 23, 25, 26, and 38), which is now open for public comment.

Next Steps

Staff from the Administrative Office of the Courts, Court Services Division (CSD), are currently meeting with the Information Technology Division to assess technical impacts on the statewide CMS (AJACS) and AZPOINT. These discussions also include identifying realistic implementation timelines and developing specifications for non-AJACS courts. Additional steps already identified include:

- Submitting required event codes for approval
- Continuing outreach to stakeholders to support readiness and a smooth rollout once rule changes are adopted
- Working with potential pilot courts to assist with testing and proof of concept

Important Reminders for Courts

- Notify the CSD of any new program or expansion of an existing program.
- If you are developing a program, please contact us early so we can help ensure alignment with standards under consideration.
- Courts are encouraged to review rule petition R-26-0004 for context and details regarding proposed requirements and to submit comments or suggestions for improvement.

Contacts

For Firearms Transfer project details and protective order questions: Elsa Robbins — erobbins@courts.az.gov | 602-452-3360

For SharePoint form access support: Julie Graber — jgraber@courts.az.gov | 602-452-3250

Hope you both have a good evening.

Thank you,

COMMITTEE ON FAMILY COURT
 formerly known as
 Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Updates on Rule Petitions of interest to the COFC

PRESENTER(S):

Hon. Greg Sakall, Chair

DISCUSSION:

- R-25-0055
- R-26-0004
- R-26-2015 Amend Rule 51
- R-26-0016 Amend Rules 44.1 & 44.2
- R-26-0031 Emergency Update to Rule AZRFLP 77 – Petition Filed on behalf of COFC

RECOMMENDED ACTION OR REQUEST (IF ANY):

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
valayan@courts.az.gov (for COFC purposes only)

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-25-0055
)
PETITION TO AMEND)
R. PRO. JV. CT. 323) COMMENT OF THE
) COFC
)
_____)

The Maricopa County Indigent Defense Agencies filed the pending petition to address the overlap of dependency proceedings with family court matters.

The Committee on Family Court (“COFC”) reviewed and discussed the Petition at its February 19, 2026 meeting. It voted unanimously to oppose the Petition as written.

COFC agrees that the overlap of dependency proceedings with family court matters is a persistent challenge which needs to be addressed. In fact, the Court’s Strategic Agenda’s Goal 3.5(G) reflects its importance, and assigns that task to COFC. Consistent with that mandate, COFC has convened a workgroup, which includes stakeholder groups from both juvenile and family courts, to discuss how to solve some of the challenges. After much

discussion and research, the workgroup is proposing new statutory language that would allow for bridge orders before a dependency action is dismissed. COFC will consider the workgroup's proposal at its May 14, 2026 meeting.

As to the pending rule petition more generally, COFC urges the Court to deny it. While well-intentioned, the proposed language does not take into consideration Rule 5.1, Ariz. R. Fam. L. P., which addresses simultaneous dependency and legal decision-making/parenting time proceedings. Portions of the proposed Rule 323 and the existing family law rules are inconsistent. *See, e.g.*, Comment of COJC. Furthermore, in various aspects, the proposed Rule 323 lacks procedural clarity and would present additional logistical and administrative complications.

For the foregoing reasons, COFC respectfully requests that the Court deny the Petition as drafted.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Chair, Committee on Family Court

(ix) **If available**, the results of a domestic violence risk assessment tool administered to the plaintiff

COFC's concerns are that in these hearings, judicial officers are not always presented with the results of a domestic violence risk assessment tool administered to the plaintiff. As drafted by CIDVIC, an argument could be made that the proposed rule would require the judicial officer or court to administer the assessment tool. COFC does not believe that was CIDVIC's intent, and if so, proposed Rule 23(i)(2)(ix) should be modified as above.

As to the proposed amendments to Rule 12, COFC opposes them as written. The amendments conflict with Rule 7, Ariz. R. Fam. L. P., which also addresses protected addresses. As many court users have both family court and protective order proceedings, COFC believes further study is needed to harmonize the two rules so that similar processes are followed. Furthermore, proposed Rule 12(c) is written too broadly as the plaintiff's address may be known to all parties in some cases. Finally, if the Court is inclined to adopt the proposed Rule 12(c), the final sentence should allow the Clerk or Court the option to redact the address or strike the filings, if redaction is not available.

As to the proposed amendments to Rule 38(d), COFC agrees that Rule 38(d) needs to be modified to clarify the temporal limitation on events that

can be included in an amended petition. COFC had an extended discussion regarding whether the amendments to a petition should be limited either (i) to those events that occurred before the date the defendant was served with the initial petition (CIDVIC's position), or (ii) to those events that occurred before the contested hearing. COFC was informed that CIDVIC had similar discussions, and its members had varying positions. Upon a vote of 9-7, a slight majority of COFC supported the CIDVIC position on this issue.

As to the proposed amendments to Rule 38(f)(2), COFC discussed whether if the plaintiff fails to appear at the contested hearing, there should be some limitation on the plaintiff's ability to apply for another protective order based on the same allegations. COFC recognizes that there are often legitimate reasons for a plaintiff to fail to appear at such a hearing; however, if there is no limitation, a plaintiff could abuse the process by filing repeated petitions on the same allegations. If the Court wishes to place some limitation on the plaintiff's ability to refile, COFC suggests the Court consider the following additional language in red below:

(f) Appearance at the Contested Hearing.

(1) *Defendant Fails to Appear.* If the plaintiff appears for the contested hearing and the defendant fails to appear, and the defendant received actual notice of the hearing, the protective order will ~~remain in effect~~ be affirmed as originally issued.

(2) *Plaintiff Fails to Appear.* If the defendant appears for the contested hearing and the plaintiff fails to appear, and the plaintiff received actual notice

of the hearing, the protective order will be dismissed. The plaintiff's failure to appear **for good cause** does not preclude the plaintiff from applying for another protective order based on the same allegations.

For the foregoing reasons, COFC respectfully requests that the Court consider COFC's comments and proposed modifications to the proposed rules.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Chair, Committee on Family Court

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
valayan@courts.az.gov (for COFC purposes only)

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-26-0015
)
PETITION TO AMEND RULE 51)
OF THE ARIZONA RULES OF)
FAMILY LAW PROCEDURE) COMMENT OF THE
) COFC
)
_____)

The State Bar of Arizona (“State Bar”) filed the pending Petition seeking to amend Rule 51 of the Arizona Rules of Family Law Procedure (Ariz. R. Fam. L. P.), to harmonize expert discovery in civil and family courts.

The Committee on Family Court (“COFC”) reviewed and discussed the Petition at its February 19, 2026 meeting. It voted unanimously to support the Petition with one modification.

As to its proposed modification, COFC suggests that the changes to Rule 51(b)(4)(C) be limited to only those experts who are retained by a party. In family court, there are sometimes neutral or court-appointed experts. As to those experts who are not experts aligned with either party, COFC believes

that further review and discussion is necessary so that a subpart of the rule can be drafted that would cover discovery as to those court-appointed experts.

For now, COFC urges the Court to adopt the proposed amendments with COFC's proposed modifications to the State Bar's language in proposed, amended Rule 51(b)(4) in red below.

Rule 51. General Provisions Governing Discovery

(b) Discovery Scope and Limits. Unless the court orders otherwise in accordance with these rules, the scope of discovery is as follows:

(1) – (3) [No change]

(4) *Expert Discovery.*

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 51(b)(3)(A) and (B) protect communications between the party's attorney and ~~any that party's~~ expert witness regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed. The dates on which the expert received facts or data from the party's attorney that the expert considered in forming the opinions to be expressed, and any portions of communications between the party's attorney and the expert that evidence those dates are discoverable.

For the foregoing reasons, COFC respectfully requests that the Court grant the Petition as modified. If the Court wishes to refer the issue of expert discovery of trial-preparation protection for communications with a court-appointed expert to COFC, COFC would further review the matter and file a rule change petition in due course.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Chair, Committee on Family Court

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
valayan@courts.az.gov (for COFC purposes only)

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	Arizona Supreme Court No. R-26-0016
)	
PETITION TO AMEND RULES)	
44.1 AND 44.2 OF THE ARIZONA)	
RULES OF FAMILY LAW)	COMMENT OF THE
PROCEDURE)	COFC
)	
_____)	

The State Bar of Arizona (“State Bar”) filed the pending Petition seeking to amend Rules 44.1 and 44.2 of the Arizona Rules of Family Law Procedure (Ariz. R. Fam. L. P.), to allow for final decrees and judgments to be entered with very specific relief when the underlying petition only contained general language that “all community assets should be awarded equitably” and that “all community debt be assigned equitably.”

The Committee on Family Court (“COFC”) reviewed and discussed the Petition at its February 19, 2026 meeting. It voted unanimously, with one abstention, to oppose the Petition as drafted.

COFC’s primary concern is ensuring procedural due process to the Respondent who is in default. “The elements of procedural due process are

notice and an opportunity to be heard.” *Iphaar v. Industrial Comm'n*, 171 Ariz. 423, 426 (App.1992). In a default context, a “defendant who consciously allows a default judgment to be taken against him [should be able to] rest secure in the knowledge that the judgment will not exceed the relief requested in the [petition].” *Darnell v. Denton*, 137 Ariz. 204, 206 (App. 1983) (discussing Ariz. R. Civ. P. 54(d)).

COFC agrees with the State Bar that family law petitions often contain very broad requests for relief and do not drill down into specific allocation of specific assets and debts. When confronted with requests for a default decree or judgment on such petitions, the current rules provide for the family court to hold a hearing. Ariz. R. Fam. L. P. 44.1(a)(1) (providing generally that a court cannot grant a default judgment without a hearing where the proposed judgment is different from the petition or for amounts greater than what was requested in the petition); Ariz. R. Fam. L. P. 44.2(a) (providing that a party who cannot meet Rule 44.1’s requirements must have a hearing). If a Petitioner does not want to have a hearing, the petitioner has options. The petitioner may either seek a judgment consistent with the petition or may file and serve an amended petition under Ariz. R. Fam. L. P. 28 and 41.

Rather than continue the current practices which allow for reasonable alternatives for the Petitioner as well as safeguards to ensure that any

decree/judgment is fair and equitable, the State Bar proposes that a petitioner could materially change the relief requested in the petition by merely attaching the proposed default judgment or decree to the Application for Default and sending the same to the respondent. In the proposed rule, the State Bar provides for no limitation on the changes a petitioner could make. A petitioner could originally allege that neither party is entitled to spousal maintenance or child support and then change it to include a request for significant maintenance and support. A petitioner could include an unequitable division of property and debt, while the petition had set forth an equitable division.

Also of concern, the proposed rule change only requires that the proposed decree be “sent.” That term is ambiguous as to the means of transmission and not consistent with the mailing requirements of Ariz. R. Fam. L. P. 44(a)(3).

While the State Bar argues that due process is satisfied by merely attaching the proposed decree to the Application for Default, COFC respectfully disagrees. Rules 28 and 41 serve important functions as they ensure that a petition gives the respondent notice of the relief requested, set forth procedures on how to amend a petition, and ensure that, in almost all instances, the respondent has actual notice of what the petition (or amended petition) requests. *See, e.g., Scott v. G.A.C. Finance Corp.*, 107 Ariz. 304, 305

(1971) (recognizing the purpose of service is to give the other party actual notice of the proceedings). While Rule 41(d) provides for mailing to a respondent, it still requires that there be a receipt signed by the respondent. Ariz. R. Fam. L. P. 41(d)(1). Importantly, Rule 44 regarding applications for default merely requires a mailing and not the signed receipt. Ariz. R. Fam. L. P. 44(a)(3)(A).

For the foregoing reasons, COFC respectfully requests that the Court deny the Petition. There are not sufficient safeguards in the State Bar's proposed rule to ensure that the respondent has actual notice of any proposed material changes to the petitioner's requested relief.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Chair, Committee on Family Court

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
vlayan@courts.az.gov (for COFC purposes only)

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-26-xxxx
)
EMERGENCY PETITION TO)
AMEND RULE 77, ARIZONA)
RULES OF FAMILY LAW)
PROCEDURE)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court, the Committee on Family Court (“COFC”) respectfully petitions the Court to modify Rule 77 of the Arizona Rules of Family Law Procedure. Further, COFC requests expedited consideration of this Petition pursuant to Supreme Court Rule 28(h)(1) and the issuance of an emergency order pursuant to Supreme Court Rule 28(h)(2).

On August 26, 2025, the Court granted COFC’s Petition R-24-0060 which, in part, added a new Rule 77(d)(2) to provide for additional procedures applicable to trial and evidentiary hearings with a self-represented party. As relevant to this petition, Rule 77(d)(2) generally provides for the court to

conduct the direct examination of a self-represented party unless there is a request otherwise before testimony begins. The rule provides as follows:

(2) Additional Procedures Applicable to Trials and Evidentiary Hearings with a Self-Represented Party. In addition to the procedures of Rule 77(d)(1) and absent a request otherwise before testimony begins, the court will conduct the direct examination of a self-represented party on the issues raised by the parties' pleadings, pretrial statements, and notices of issues. The court must allow a self-represented party to, within that party's allotted trial time, (1) testify about relevant information not addressed by the court's direct examination; (2) conduct their own direct examination upon request; and (3) cross-examine any other parties and their witnesses.

Rule 77(d)(2). The amendment became effective January 1, 2026.

Since its effective date, family courts in Arizona have faced conflicting arguments on whether the phrase “absent a request otherwise” either allows (i) only the self-represented party to object to the family court conducting the direct examination of that party or (ii) allows the opposing party to object to the family court conducting the direct examination of a self-represented party. The latter argument has been raised primarily by attorneys representing opposing parties.

It had been COFC’s intent in proposing Rule 77(d)(2) that the request would have to come from the self-represented party to be examined, not the opposing party or that party’s counsel. Furthermore, COFC’s purpose behind proposing Rule 77(d)(2) was to ensure that in cases involving self-represented litigants, the family court “provide leadership to ensure that it has relevant

information before making a final decision[,]” while ensuring each party’s due process rights. Amended Petition, R-24-0060, p. 3. It would frustrate the purpose of Rule 77(d)(2) if an opposing party were able to prevent the Court from questioning a self-represented party.

In order to ensure that there is statewide uniformity in implementing this new rule, COFC respectfully request that the Court modify Rule 77(d)(2) as follows:

(2) Additional Procedures Applicable to Trials and Evidentiary Hearings with a Self-Represented Party. In addition to the procedures of Rule 77(d)(1) and absent a request otherwise from the self-represented party before any testimony begins, the court will conduct the direct examination of ~~a self-represented~~ that party on the issues raised by the parties' pleadings, pretrial statements, and notices of issues. The court must allow a self-represented party to, within that party's allotted trial time, (1) testify about relevant information not addressed by the court's direct examination; (2) conduct their own direct examination upon request; and (3) cross-examine any other parties and their witnesses.

Expedited consideration and an emergency order is necessary to mitigate or eliminate these adverse effects on litigants, children, and the family courts.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Greg Sakall
Chair, Committee on Family Court

Attachment A

Rule 77 of the Arizona Rules of Family Law Procedure is amended as noted below (deletions indicated by strikethrough and additions by underscoring):

Rule 77. Trial Setting; Conduct of Proceedings; Procedures for Evidentiary Hearings and Trials

(a) – (c) [No change]

(d) Procedures for Trials and Evidentiary Hearings.

(1) [No change]

(2) *Additional Procedures Applicable to Trials and Evidentiary Hearings with a Self-Represented Party.* In addition to the procedures of Rule 77(d)(1) and absent a request otherwise from the self-represented party before any testimony begins, the court will conduct the direct examination of ~~a self-represented~~ that party on the issues raised by the parties' pleadings, pretrial statements, and notices of issues. The court must allow a self-represented party to, within that party's allotted trial time, (1) testify about relevant information not addressed by the court's direct examination; (2) conduct their own direct examination upon request; and (3) cross-examine any other parties and their witnesses.

(3) [No change]

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-26-0031
RULE 77, RULES OF FAMILY LAW)
PROCEDURE)
)
)
)
)
)
) **FILED:05/04/2026**

O R D E R

On May 1, 2026, Judge Greg Sakall, Chair of the Committee on Family Court, filed a rule petition on the Committee's behalf to amend Rule 77(d)(2) of the Rules of Family Rule Procedure. The proposed amendment is intended to clarify that only the self-represented party—and not an opposing party—may object to the court conducting direct examination of that party.

Petitioner further requests that the petition be given expedited consideration under Rule 28(h)(1), Rules of the Supreme Court of Arizona, and be adopted on an emergency basis under Rule 28(h)(2) of the same rules.

Upon consideration,

IT IS ORDERED granting the request to consider this petition on an expedited basis.

IT IS FURTHER ORDERED that during its August 2026 Rules Agenda, the Court will consider whether to adopt the proposed amendment to Rule 77(d)(2) on an emergency basis. If it does, the

Court will consider whether to adopt the rule amendment on a permanent basis during its December 2026 Rules Agenda. If it decides not to adopt the proposed rule amendment on an emergency basis, the Court will decide whether to adopt it on a non-emergency basis during its December 2026 Rules Agenda.

IT IS FURTHER ORDERED that this petition is opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than October 1, 2026, and any reply due no later than October 15, 2026.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules. For example, the Rules of Family Law Procedure can be found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?" Alternatively, commenters may submit comments by filing an original and one paper copy of the comment with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	COFC-CIDVC Workgroup – Initial Draft Proposals

PRESENTER(S):

Patricia Madsen, COFC-CIDVC Workgroup Chair

DISCUSSION:

COFC-CIDVC Workgroup initial draft proposals for changes to specific rules of Arizona Rules of Protective Order Procedure and to Rule 5 of the Arizona Rules of Family Law Procedure.

RECOMMENDED ACTION OR REQUEST (IF ANY):

Feedback and suggestions requested on issues under debate.

**COFC-CIDVC Workgroup
PROPOSED ARPOP Rule 2 & ARFLP Rule 5 – Consolidation
(5/11/26)**

PROPOSED ARPOP RULE 2:

Rule 2. Applicability of Other Rules

To the extent not inconsistent with these rules, the Arizona Rules of Family Law Procedure apply to protective order ~~matters~~hearings heard in conjunction with hearings in a pending family law cases in superior court. In all other ~~eases~~instances, the Arizona Rules of Civil Procedure apply when not inconsistent with these rules.

PROPOSED ARFLP RULE 5:

Rule 5. Consolidation

(a) Scope of Consolidation.

(1) Generally. If pending cases involve a common child, common parties, or a common question of law or fact, the court may order a joint hearing or trial of any or all the matters at issue, or it may consolidate the cases.

(2) Assigned Judge. The judge assigned to the first-filed case will hear a motion to consolidate.

(3) Other Orders. The court may enter orders under this rule to avoid unnecessary costs or delay or to serve the best interest of a minor child.

(4) Orders of Protection. The court may not consolidate a case involving an order of protection with a family law case but may ~~conduct a joint hearing.~~ schedule a hearing on the order of protection and a hearing in a family law case for the same date and time, to be conducted separately but consecutively. Exhibits must be submitted separately for each hearing. However, to avoid unnecessary duplication, the court may take judicial notice of testimony given or findings made in the earlier hearing. The Arizona Rules of Protective Order Procedure govern the hearing on order of protection, but the Arizona Rules of Family Law Procedure may apply when not inconsistent with the protective order rules. For consecutive hearings, absent a specific request by a party, the court should conduct the hearing on order of protection before conducting the family law hearing.

(b) Lowest Case Number. If the court consolidates two or more cases, the first-filed case number will be the controlling case number, and the clerk must file all further filings under that number only. Unless the court orders otherwise, consolidation is for all purposes and not only for conducting a hearing or trial.

(c) Duplicate Pleadings. If the court consolidates cases in which a party in one case has filed a petition that substantially responds to an opposing party's petition in another case, the party's petition will be treated as a response to the opposing party's petition, unless the court orders a further response.

**COFC-CIDVC Workgroup
PROPOSED CHANGES TO ARPOP RULES 5 AND 35 – Children on Protective Orders
(5/11/26)**

Note: “Proposed ARPOP Rule 5(b)” below includes changes proposed by the CIDVC-ARPOP Workgroup on 5/5/26. Specifically, that Workgroup rewrote the introductory paragraph of 5(b) and removed requirements regarding children with a legal relationship to the defendant, as those requirements are already addressed in ARPOP Rule 35(b).

Proposed ARPOP Rule 5(b)

(b) Specifically Designated Person. ~~A protected specifically designated person is any other specifically designated person who the court has determined should be a minor child~~ protected by ~~the a~~ protective order.

~~(1) Child as a Protected Person. A judicial officer cannot include a defendant's child in a protective order unless there is reasonable cause to believe:~~

~~(A) physical harm may result or has resulted to the child, or~~

~~(B) the alleged acts of domestic violence involved the child.~~

(1) Child and Defendant Have a Legal Relationship. If there is a legal relationship between the child at issue and the defendant, in determining whether to include the child as a specifically designated person on the protective order, the judicial officer must review and apply the considerations in Rule 35(b).

(2) *Child and Defendant with No Legal Relationship.* If the defendant and the child have no legal relationship, the judicial officer, upon request, may prohibit the defendant’s contact with the child based on danger to the plaintiff.

Formatted: Font: Italic

Proposed ARPOP Rule 35(b)

(b) **Contact Between a Child and a Defendant Who Have a Legal Relationship.** Before granting a protective order prohibiting contact with a child with whom the defendant has a legal relationship, the judicial officer must consider:

(1) whether the child has been harmed by the defendant or may be harmed if the defendant is permitted to maintain contact with the child, and

(2) whether the ~~child may be endangered if there is contact outside the presence of the plaintiff~~ alleged acts of domestic violence occurred in the child’s presence, regardless of whether the child witnessed the acts.

**COFC-CIDVC Workgroup
PROPOSED ARPOP CHANGES RE MINOR/JUVENILE DEFENDANTS:
(5/7/26)**

***Note:** The COFC-CIDVC Workgroup presents these proposals to address the significant due process concerns inherent in requiring minors who are protective order defendants to represent and defend themselves in protective order proceedings. Currently, while protective orders issued against minors younger than 12 years-old must be issued and litigated in the juvenile division of the superior court, no minor of any age receives court-appointed attorney representation for protective order matters. Workgroup members acknowledge that these proposals implicate issues of unauthorized practice of law and that the underlying issue of minor protective order defendants may need to be resolved legislatively. Further explanation regarding the proposals appears at the end of this document.*

Rule 5. Parties

(a) Plaintiff and Other Appropriate Requesting Persons

- (1) Plaintiff. The plaintiff is the person or another appropriate requesting person who files the petition for a protective order.
- (2) Plaintiff for an Injunction Against Workplace Harassment. The plaintiff may be an employer or an authorized agent of the employer.
- (3) Victim. As used in these rules, the terms “victim” and “plaintiff” are interchangeable.
- (4) Other Appropriate Requesting Persons.
 - (A) Parent, Legal Guardian, or Legal Custodian of a Minor. If the person in need of protection is a minor, then the parent, legal guardian, or person who has statutorily defined legal custody of the minor must file the petition unless the court determines otherwise. The petition must name the parent, guardian, or custodian as the plaintiff and the minor as a specifically designated person.
 - (B) Third Party. If the person in need of protection is either temporarily or permanently unable to request an order, a third party may request a protective order on the person's behalf. After the request, the judicial officer must determine whether the third party is an appropriate requesting party. See A.R.S. §§ 13-3602(A) and 12-1809(A).

(b) Protected Person. A protected person is any other specifically designated person who the court has determined should be protected by the order.

- (1) Child as a Protected Person. A judicial officer cannot include a defendant's child in a protective order unless there is reasonable cause to believe:
 - (A) physical harm may result or has resulted to the child, or
 - (B) the alleged acts of domestic violence involved the child.
- (2) Child and Defendant with No Legal Relationship. If the defendant and the child have no legal relationship, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.

(c) Defendant.

(1) Defendant. The defendant is the person against whom the plaintiff or another appropriate person is seeking protection.

(2) Minor as a Defendant. Only the juvenile division of the superior court may issue a protective order against a person under 18 years of age. See A.R.S. §§ 13-3602(B)(2) and 12-1809(B)(2).

(A) The parent, legal guardian, or person who has statutorily defined legal custody of the minor defendant under the age of 18 shall be able to appear on behalf of and assist the minor defendant in defending against the petition.

(B) The qualifying adult may request a contested hearing, file or respond to a motion or participate in the hearing as defined in Rule 38(g). The Court shall construe the appearance of a qualifying adult on behalf of a minor defendant under this rule the same as it would construe a self-represented litigant in a civil case.

(C) Both the qualifying adult and the minor defendant shall appear at any contested hearing.

Rule 31. Service of Protective Orders

(a) Who Can Effect Service. A protective order can be served only by a person authorized by Rule 4(d), *Arizona Rules of Civil Procedure*, A.R.S. §§ 13-3602(K), 12-1809(S), or 12-1810(S) or as otherwise provided in this rule.

(b) Expiration of an Unserved Order. A protective order expires if it is not served on the defendant, together with a copy of the petition, within one year from the date the judicial officer signs the protective order. See A.R.S. §§ 13-3602(N), 12-1809(J) and 12-1810(I).

(c) Transmission of an Order of Protection. Upon issuance of an Order of Protection, a court must transmit the documents for service to the appropriate law enforcement agency or constable. The court may accomplish transmission of the Order of Protection and accompanying documents by using a service portal managed by the Administrative Office of the Courts. But if the portal is unavailable for any reason, the issuing court must provide the documents to law enforcement in some other manner. The court must transmit the documents on the same day the Order of Protection is issued, unless the judicial officer makes a finding on the record that extraordinary circumstances exist. If the judicial officer delays service because of extraordinary circumstances, the judicial officer must indicate a time, not to exceed 72 hours, by which the court must transmit the order to the appropriate law enforcement agency or constable for service.

(d) Certification Not Required. There is no requirement that the copy of the order served on the defendant be certified.

(e) Service of a Modified Order. The service and registration requirements applicable to the original protective order also apply to a modified protective order.

(f) Acceptance of Service. A defendant may sign an acceptance of service form, which has the same effect as service. If the defendant refuses to sign an acceptance of service form, the judicial officer may have the defendant served in open court. In superior court, the minute entry must reflect the method of service that was used.

(g) Service in Court. If the defendant is present in court and refuses to sign an acceptance of service form, the judicial officer must have the defendant served in open court by a person specially appointed by the court. A judicial appointment to effectuate service may be granted freely, is valid only for the service of the protective order or modification entered in the cause, and does not constitute an appointment as a registered private process server. A specially appointed person directed to serve such process must be a court employee who is at least 21-years old and cannot be a party, an attorney, or the employee of an attorney in the action whose process is being served. If such an appointment is entered on the record, a signed order is not required provided a minute entry reflects the special appointment and the nature of service.

(h) Service at the Scene. If a defendant is physically present with the plaintiff and has not yet been served, a peace officer may be summoned to the scene and may use the plaintiff's copy of the protective order to effect service on the defendant.

(i) Filing the Proof of Service. Proof of service must be promptly filed with the clerk of the issuing court as soon as practicable after service but no later than 72 hours, excluding weekends and holidays. Proof of service may be submitted by facsimile, electronically, or in person. *See* A.R.S. §§ 13-3602(P), 12-1809(L) and 12-1810(K).

(j) Service on a Minor Defendant. A minor less than 18 years old may be served in any manner provided by this rule for serving an individual and also delivering a copy of the documents in the same manner:

(1) to the minor's parent or guardian, if any of them reside or may be found within Arizona; or

(2) if none of them resides or is found within Arizona, to any adult having the care and control of the minor, or any person of suitable age and discretion with whom the minor resides; or

(3) if a court has appointed a guardian or conservator for a minor, to the appointed guardian or conservator.

Rule 38. Contested Hearing Procedures

(a) Requesting a Hearing. At any time while a protective order or a modified protective order is in effect, a defendant may request one hearing in writing. *See* A.R.S. §§ 13-3602(L), 12-1809(H), 12-1810(G).

(b) Scheduling the Hearing. A judicial officer must hold the hearing at the earliest possible time.

(1) If an Order of Protection grants exclusive use of the residence, a judicial officer must hold a hearing within 5 court business days of the request. If exclusive use of a residence is awarded to the plaintiff, the court, on written request of a party, may hold additional hearings at any time if there is a change in circumstances related to the primary residence. *See* A.R.S. § 13-3602(L).

(2) For all other protective orders, a judicial officer must hold a hearing within 10 court business days of the request unless the judicial officer finds good cause to continue the hearing for a longer period of time.

(c) Notice of Hearing. The court must notify the plaintiff of the hearing. There is no statutory requirement for personal service of the hearing notice.

(d) Amended Petition. At a contested hearing, if a plaintiff seeks to testify or present evidence about relevant allegations that were not included in the petition, the court must:

(1) allow the plaintiff to amend the petition in writing on a form provided by the court, a copy of which the court must immediately provide to the defendant; and

(2) offer the defendant each of the following options:

(A) a continuance of the hearing, within the timeframes specified by Rule 38(b), to allow the defendant the opportunity to prepare for the additional allegations; or

(B) a brief recess to allow the defendant the opportunity to review the amended petition and prepare for the additional allegations; or

(C) an explanation of the options above and an opportunity to waive them. If the defendant waives both the opportunity for a continuance or a brief recess, then the court must proceed with the contested hearing on the amended petition that includes the additional allegations.

(e) Court Security Measures. The court must take reasonable measures to ensure that the parties and any witnesses at the hearing are not subject to harassment or intimidation in the courthouse or on adjoining property. For each hearing, the judicial officer must determine whether there is a need to have a law enforcement officer or a security officer present to help ensure the hearing is orderly or to provide escort for either party. The court may direct the defendant to remain in the courtroom for a period of time after the plaintiff is excused.

(f) Appearance at the Contested Hearing.

(1) *Defendant Fails to Appear.* If the plaintiff appears for the contested hearing and the defendant fails to appear, and the defendant received actual notice of the hearing, the protective order will remain in effect.

(2) *Plaintiff Fails to Appear.* If the defendant appears for the contested hearing and the plaintiff fails to appear, and the plaintiff received actual notice of the hearing, the protective order will be dismissed.

(3) *Neither Party Appears.* If neither party appears for the contested hearing, and each party received actual notice, the hearing will be vacated, and the protective order will remain in effect.

(4) For the purposes of this subsection, where the defendant is under the age of 18, the defendant is defined as both the qualifying adult and the minor defendant.

(g) Procedure. If both parties appear and a contested hearing is conducted, the following rules apply:

- (1) *Parties' Right to be Heard.* The judicial officer must ensure that both parties have an opportunity to be heard, to present evidence, and to call and examine and cross-examine witnesses.
 - (2) *Oath or Affirmation.* The court must administer an oath or affirmation to all parties and witnesses at all hearings.
 - (3) *Standard of Proof.* For a protective order to remain in effect as originally issued or as modified at a hearing, the plaintiff must prove the case by a preponderance of the evidence.
 - (4) *Basis for Continuing, Modifying, or Revoking Protective Orders.* At the conclusion of the hearing, the judicial officer must state the basis for continuing, modifying, or revoking the protective order.
 - (5) *Service of Modified Protective Order.* A modified protective order must be served on the defendant. Procedures for serving a defendant who is present in the courtroom are set forth in Rule 31(f)-(g).
-

Additional Explanation:

Issue 1: Juveniles currently appear in court for Orders of Protection and IH's. IH's are more common. Juvenile defendants who are under the age of 12 have their cases heard in Juvenile Court. Juveniles who are 13-18 have their cases heard in adult court.

Proposal for Issue 1: The first issue is where the case heard. We propose that anyone under the age of 18 have their cases heard in juvenile court.

Issue 2: No matter where the hearing is held, juvenile defendants lack the ability to present their own cases. They lack the ability to understand legal pleadings, the burden of proof, what they need to do to present evidence, etc. They lack the ability to understand the serious ramifications of IAH's and OOPs. This presents significant due process issues. In juvenile court, plaintiffs are also usually juveniles, but they have a parent appearing because the petition is filed on behalf of a minor child by the parent/guardian. There is no rule that permits a parent of a minor defendant to assist them in court. Changing/adding a rule (or rules) to permit and effectuate this assistance is necessary to ensure due process and establish consistency in practice.

Proposal for Issue 2: We propose the following rule changes to:

Add Rule 5(c)(2)(A): The parent/legal guardian or person who has statutorily defined legal custody of the minor defendant under the age of 18 shall be able to appear on behalf of and assist the minor defendant in defending against the petition.

Add Rule 5(c)(2)(B): The qualifying adult may request a contested hearing, file or respond to a motion or participate in the hearing as defined in Rule 38(g). The Court shall construe the appearance of a qualifying adult on behalf of a minor defendant under this rule the same as it would construe a self-represented litigant in a civil case.

Add Rule 5 (c)(2)(c): Both the qualifying adult and the minor defendant shall appear at any contested hearing.

Add Rule 38(f)(4): Where the defendant is under the age of 18, the defendant is defined as both the qualifying adult and the minor defendant.

Issue 3: The ARPOP rules do not address service of juvenile defendants. Rule 4.1 (e) of the Rules of Civil Procedure state that service upon a defendant under 18 years of age shall be by personal service upon the defendant and parent.

Proposal: Add paragraph to Rule 31 to address service upon juvenile defendants for OOPs and IAH's to mirror the service requirements of the civil rules.

COMMITTEE ON FAMILY COURT
formerly known as
Family Court Improvement Committee

Date of Meeting:	Type of Action Required:	Subject:
May 14, 2026	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Workgroup Updates

PRESENTER(S):

Workgroup Members

DISCUSSION:

Workgroup Updates

RECOMMENDED ACTION OR REQUEST (IF ANY):

Committee on Family Court

Judicial Training Update – May 14, 2026

CLE/COJET

At the request of Chief Justice Timmer, I have requested that the Arizona State Bar Family Law Executive Council create a CLE/COJET seminar(s) to address best practices in handling cases that involve abuse/domestic violence, particularly in light of new Arizona Rule of Family Law Procedure 77 and the questions to be asked by counsel or the judge to elicit information necessary to enter appropriate orders. A subcommittee will be formed to address this issue.

Past Training:

May 1, 2026 - Quarterly Virtual Training

Keith Berkshire and Kristi Reardon presented on Arizona Rule of Family Law Procedure 78(b), 78(c) and 78(e).

Upcoming Trainings:

Annual Judicial Conference in June 2026

Beyond Sticks and Stones: Words and Actions Can Hurt Me

A.R.S. §25-403.03 is currently under consideration by the Legislature. There is momentum to re-write this statute to include, *inter alia*, coercive control within the definition of domestic violence. Regardless of the final iteration of the statute, courts need to better focus on the furtive effects of non-physical abuse/domestic violence and assist judges in identifying cases in which less obvious forms of domestic violence may be present and to empower judges to enter appropriate orders.