

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-16-0026
RULE 31, ARIZONA RULES OF)
PROTECTIVE ORDER PROCEDURE)
)
) **FILED 9/2/2016**
_____)

**ORDER
AMENDING RULE 31, ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE**

A petition having been filed proposing to amend Rule 31, Arizona Rules of Protective Order Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 31, Arizona Rules of Protective Order Procedure, be amended in accordance with the attachment hereto, effective January 1, 2017.

DATED this 2nd day of September, 2016.

_____/s/_____
SCOTT BALES
Chief Justice

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TO:

Rule 28 Distribution

David K Byers

Kay Radwanski

Hon Wendy A Million

John A Furlong

ATTACHMENT¹

Arizona Rules of Protective Order Procedure

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(R), 12-1809(R), or 12-1810(R) 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(K), 12-1809(J) and 12-1810(I).

(c) Transmission of an Order of Protection or an Injunction Against Harassment. Upon issuance of an Order of Protection or an Injunction Against Harassment based on a dating relationship, and with the approval of the plaintiff, a court may transmit the documents for service to a cooperating law enforcement agency or a private process server under contract with the court.

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

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

~~(e)~~ **(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.

~~(f)~~ **(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.

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by strikeouts.

~~(g)~~ **(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.

~~(h)~~ **(i) Filing the Proof of Service.** The original proof of service must be promptly filed with the clerk of the issuing court. If mailed, proof of service must be postmarked no later than the end of the seventh court business day after the date of service. Proof of service may be submitted by facsimile, provided the original proof of service is promptly filed with the court. *See* A.R.S. §§ 13-3602(M), 12-1809(L) and 12-1810(K).

~~(i)~~ **(j) Effective Date.** An initial protective order takes effect when the defendant is served with a copy of the order and the petition, and it expires one year from the date it is served. A modified order takes effect upon service but expires one year after service of the initial order.

COMMENT

The defendant must be personally served because 1) personal service on the defendant satisfies the criminal notice requirement if a violation of the protective order is prosecuted under criminal statutes, and 2) unless the affidavit of service, acceptance of service, or return of service shows personal service on the defendant, many sheriffs' offices, which are the holders of record, will not accept a protective order for entry into protective order databases.