

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

February 12, 2008

10:00 AM –2:00 PM

State Courts Building,

1501 W. Washington St., Room 345 A/B

MEMBERS PRESENT

Barbara Appenzeller, CPA
Lt. Mark Carpenter
Honorable Anita Escobedo
Laura Horsley
Honorable Lynda J. Howell
Sheri Lauritano, Esq.
Patricia Madsen, Esq.
Cdr. Scott Mascher
Leah Meyers, GOCYF/DFW
Chief Deputy Jerald Monahan
Honorable Michelle Lue Sang
Honorable Dennis Lusk
Honorable Wendy Million
Paul O’Connell
Honorable William O’Neil, Chair
Doug Pilcher
Catherine Shugrue-Schaffner, Esq.-
(Proxy-Richard Shugrue, Esq., Ph.D.)
Renaë Tenny
Tracey Wilkinson
Kim Van Nimwegen, MSW

MEMBERS ABSENT

Dr. Jennifer J. Casaletto
Joan Fox, DDS
Tracey Hannah, Esq.
Bridget Humphrey, Esq.
Cheryl L. Karp, Ph.D.
Honorable Carolyn Passamonte
Honorable Jack Peyton
Honorable Benjamín Zvenia

STAFF

Kay Radwanski
Lorraine Nevarez

Guests

Leah Heathcoat-CAAFA
Heather Dumas-CAAFA
Kendra Leiby- AZCADV
Theresa Barrett-AOC

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, chair, called the February 12, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts to order at 10:15 a.m. Judge O’Neil

welcomed the members, including five new members. He also notified the committee of Judge Moran's resignation and thanked him for his years of service to this committee.

Judge O'Neil reminded members that anyone serving as proxy must be from outside the committee. Also, a proxy may not carry multiple proxies. In addition, a member appearing telephonically must be present for the whole meeting to be included in the quorum.

B. Approval of Minutes from November 14, 2007

Minutes of the November 14, 2007, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

**MOTION: Motion was made and seconded to approve the November 14, 2007, meeting minutes. Motion passed unanimously.
CIDVC-07-001**

II. IPV Assessment, Screening and Accommodations: Implications for Court-Based Divorce Mediation

Connie J. A. Beck, Ph.D., UOA, discussed her research and the importance of screening for domestic violence between parties who are involved in divorce mediation. Dr. Beck's research answers the following questions: (1) what specific IPV (intimate partner violence) behaviors are identified in pre-mediation screening sessions? (2) What IPV behaviors are associated with a mediator's decision to classify a case as having IPV? (3) What are the characteristics of couples screened out of mediation? (4) What accommodations are provided to couples? Dr. Beck discussed the many variables and correlations that couples indicated during the screening process for mediation. Dr. Beck hopes to develop a conceptual model regarding relationships between variables and outcomes to begin to understand marital stressors, violence triggers and processes variables that lead to specific outcomes throughout divorce process, create a better self-report and interview instrument, develop actuarial predictors of recidivism in divorcing population and differentiate static vs. dynamic risk factors and how often dynamic factors need to be assessed to have accurate predictions.

III. "System Alert" Report-Follow-Up Discussion

Judge O'Neil asked members to review the "Systems Alert" report again and make suggestions to determine effective solutions for the different tribulations identified in the report at the next committee meeting.

IV. New Business

- Judge O'Neil will contact Robert Roll, former CIDVC member, regarding establishment of a workgroup to study the issue of transferred cases between limited and general jurisdiction courts. This issue is more of a business process concern than a technological one. It applies to all courts, not just those using AZTEC. Concerns have been raised about the effect on data in CPOR if a case is transferred from one court to another but the disposition of the sending court's case is not modified.
- Judge Million discussed the VAWA funding and the Lautenberg notification (re prohibition of firearms) on criminal release orders. She provided instruction on this issue at New Judge Orientation recently. Leah Meyers also shared some information on this issue as she is the STOP grant (VAWA) administrator at the Governor's Office. Judge O'Neil appointed an ad hoc workgroup consisting of himself, Judge Million, Judge Lusk, the Hon. Elizabeth Finn, Glendale City Court, and Leah Meyers to explore this issue.
- Judge Lusk raised some concerns about the new protective order form. The protective order form does not provide any space for the judge to sign. Doug Pilcher noted that changes to the forms also require changes to the courts' case management systems. Changes in a CMS results in costs because of the time and personnel required to make such changes. The matter was referred to the Forms Workgroup for review.

V. Workgroup Reports

- A. DV Forms Workgroup (Commissioner Passamonte, Chair) -- No update at this time.
- B. DV Resource Book (Hon. Michelle Lue Sang, Chair) --No update at this time.
- C. Best Practices (Hon. Wendy Million) -- The workgroup has decided to look at the recommendations in the "Systems Alert" report and conduct state-wide surveys to see how different courts in Arizona are trying to meet these challenges.
- D. DV Education Workgroup (Hon. Michelle Lue Sang, Chair) -- The workgroup/CIDVC is sponsoring two judicial conference sessions this year. One session will address the "Systems Alert" report, and Judge Million and Judge Mark Armstrong will conduct a presentation on the Arizona Rules of Protective Order Procedure. The second session will be on the topic of offender and victim behavior in the courtroom. Judge Million is

working on procuring faculty. The workgroup would also like to develop a fact sheet for teens regarding teen dating violence and rights they have as young individuals. The workgroup also thinks it is important to develop staff education.

E. Legislative Workgroup (Hon. Benjamin Zvenia, Acting Chair)—No update at this time.

F. Batterer's Treatment Policies and Programs (Tracy Hannah, Chair)-No update at this time.

VI. Legislative Report

1. HB 2248 Electronic communications; harassment; order; protection

Primary sponsor: Rep. Bob Robson

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2248p.pdf>

Injunction against harassment; petition; venue; fees; notices; enforcement; definition

(Amending § 12-1809, Arizona Revised Statutes; relating to injunction against harassment)

- Clarifies in subsection E that the court, when deciding whether to issue an injunction against harassment, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, including any evidence of harassment by electronic contact or communication.

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes; relating to harassment)

- In subsection (A)(1), adds the word contacts to the acts that constitute harassment.

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Clarifies in subsection E that the court, when deciding whether to issue an order of protection, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, including any evidence of harassment by electronic contact or communication.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 22, 2008, and second read on January 23, 2008.**STATUS:** As of February 7, 2008

2. HB 2374 Domestic violence; dating relationships §13-3601

Primary sponsors: Rep. Pete Hershberger and Senator Rebecca Rios

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2374p.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice

(Amending section 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Adds subsection 6: the relationship between the victim and the defendant is currently or was previously a significant romantic or sexual relationship. Requires the court to consider factors to determine that the relationship is or was previously a significant romantic or sexual relationship:
 - Type of relationship.
 - The length of the relationship.
 - The frequency of the interaction between the victim and the defendant.
 - If the relationship has terminated, the length of time since the termination.

STATUS: As February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 23, 2008, and second read on January 28, 2008.

3. HB 2407 Harassment; classification; definition

Primary sponsors: Rep. Pete Hershberger, Rep. David Bradley

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2407p.pdf>

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes)

- In subsection C, changes the classification of harassment from a class 1 misdemeanor to a class 5 felony if the defendant is at least 18 years old and knows or has reason to know the victim is a minor.
- In subsection E, expands the definition of harassment to include:
 - Conduct that serves no legitimate purpose and that would cause a reasonable person to suffer substantial emotional distress and the conduct in fact causes substantial emotional distress, and
 - Conduct that consists of contact by a person who is at least 18 years of age with a minor and that would cause a reasonable parent to fear for the well-being of the parent's minor child who is the target of the contact.

STATUS: As of February 8, 2008

This bill has not been assigned to committees, nor has it been read in the House.

4. HB 2545 Strangulation and suffocation; study committee

Primary sponsors: Rep. Kyrsten Sinema, Rep. Steve Gallardo, Rep. David Lujan, and Rep. David Schapira

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2545p.pdf>

An Act - Establishing the Strangulation and Suffocation Study Committee

- Provides for the establishment of the Strangulation and Suffocation Study Committee consisting of 19 members.
- Committee shall research and report on:
 - Prevalence of intentional strangulation or suffocation in domestic violence situations in this state.
 - The reporting and recording practices of peace officers in relation to strangulation or suffocation involving domestic violence calls.
 - The number and circumstances of cases involving strangulation or suffocation that are considered misdemeanors and felonies.
 - The outcomes of plea bargains in cases involving strangulation or suffocation.
 - The training currently required for first responders regarding physical indications of strangulation or suffocation.
- The committee shall make recommendations to improve law enforcement, judicial and victim advocate responses to strangulation or suffocation cases.
- On or before December 31, 2008, the committee shall submit a report regarding its findings and recommendations to the governor, speaker of the house, president of the senate and the state coalition against domestic violence that has a member who serves on the committee.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 29, 2008, and second read on January 30, 2008.

5. HB 2681 Orders of protection; animals

Primary sponsors: Rep. Jonathan Paton, Rep. Ed Ableser, Rep. Marian McClure

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2681p.pdf>

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Adds subsection G(7), regarding custody of animals, to the types of relief a judge may grant when issuing an order of protection. Specifically, the court, may:
 - Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent, and
 - Order the respondent to stay away from the animal, and
 - Forbid the respondent from taking, transferring, encumbering, concealing, harming or otherwise disposing of the animal.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 4, 2008, and second read on February 5, 2008.

6. HB 2687 Victims' rights; statement of rights

Primary sponsors: Rep. Jackie Thrasher, Rep. Ed Ableser, Rep. David Lujan, Rep. Kyrsten Sinema, Rep. Theresa Ulmer, Rep. Nancy Young Wright

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2687p.pdf>

Statement of rights

(Amending § 13-4438, Arizona Revised Statutes; relating to victim's rights)

Requires the posting of the statement of victim's rights, as set forth in the statute, in both English and Spanish outside of every courtroom entrance;

- Requires the reading of the victim's rights statement at the beginning of the regular criminal docket; and
- Adds the requirement that the victim's rights statement be read not only by judges of the superior court but also by judges of limited jurisdiction courts.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008.

7. SB 1335 Aggravated domestic violence; violation

Primary sponsor: Sen. Tim Bee

Aggravated domestic violence; classification; definition

(Amending § 13.3601.02, Arizona Revised Statutes; relating to family offenses)

- Heightens the severity of aggravated domestic violence by imposing guilt upon a second (rather than third) or subsequent conviction of a domestic violence offense within an 84-month period;
- Disqualifies a person convicted of one (rather than two) prior violation of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served four months in jail; and
- Disqualifies a person convicted of two (rather than three) prior violations of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served eight months in jail.

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services and Rules committees. It was first read on January 31, 2008, and second read on February 4, 2008.

8. SB 1363 Marriage license fees; domestic violence

Primary sponsors: Sen. Paula Aboud, Sen. Amanda Aguirre

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1363p.pdf>

Fees

(Amending § 12-284, Arizona Revised Statutes; relating to court fees)

- Imposes a surcharge (no dollar amount designated) for each filing of a certified copy or abstract of a marriage application or license, which surcharge shall be used to provide funding for domestic violence shelters pursuant to § 36-3002; and
- Requires the clerk to transmit the collected surcharges to the state treasurer each month for deposit in the domestic violence shelter fund established by § 36-3002.

(Amending § 12-284.03, Arizona Revised Statutes; relating to distribution of fees)

- Technical change

(Amending § 36-3002, Arizona Revised Statutes; relating to domestic violence shelter fund)

- Technical change

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services and Rules committees. It was first read on February 4, 2008, and second read on February 5, 2008.

9. SB1386 Domestic violence; definition

Primary sponsor: Sen. Linda Gray

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1386p.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice

(Amending § 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Excludes from the relationships in the definition of domestic violence those current or former household members who reside or resided together as roommates for the purpose of shared housing or expenses and who are not currently or were not previously residing together because of a romantic or sexual relationship.

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services, Judiciary, and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008

10. SB 1395 Orders of protection; animals

Primary sponsors: Sen. Karen Johnson, Sen. Paula Aboud

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1395p.pdf>

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Identical to HB2681
- Adds subsection G(7), regarding custody of animals, to the types of relief a judge may grant when issuing an order of protection. Specifically, the court, may:
 - Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent, and
 - Order the respondent to stay away from the animal, and
 - Forbid the respondent from taking, transferring, encumbering, concealing, harming or otherwise disposing of the animal.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008.

11. SB1432 Domestic violence; child custody

Primary sponsor: Sen. Barbara Leff

Custody; best interests of child

(Amending § 25-403, Arizona Revised Statutes; relating to child custody)

- Clarifies, among the relevant factors that a court must consider in determining custody, that subsection 6 (“the parent more likely to allow the child frequent and meaningful continuing contact with the other parent”) does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.

(Amending § 25-403.3, Arizona Revised Statutes; relating to domestic violence and child abuse)

- Establishes a standard of proof of clear and convincing evidence to the rebuttable presumption that an award of custody to the parent who committed an act of domestic violence against the other parent is contrary to the child’s best interests.

STATUS: As of February 7, 2008

This bill has not been assigned to committees. It was first read on February 5, 2008, and second read on February 7, 2008.

VII. Call to the Public

No public members addressed the committee.

VIII. Adjournment

The meeting was adjourned at 1:45 p.m.

Next Meeting:

Tuesday, May 6, 2008

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

May 6, 2008

10:00 AM –2:00 PM

State Courts Building,

1501 W. Washington St., Room 119 A/B

MEMBERS PRESENT

Barbara Appenzeller, CPA
Lt. Mark Carpenter
Honorable Anita Escobedo
Dr. Jennifer J. Casaletto
Tracey Hannah, Esq.
Laura Horsley
Honorable Lynda J. Howell
Bridget Humphrey, Esq.
Leonard Montenaro
(Proxy for Hon. Michelle Lue Sang)
Honorable Dennis Lusk
Patricia Madsen, Esq.
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Jerold Monahan
Paul O’Connell
Honorable William O’Neil, Chair
Doug Pilcher
Renaë Tenny

Kim Van Nimwegen, MSW
Honorable Benjamin Zvenia

MEMBERS ABSENT

Joan Fox, DDS
Cheryl L. Karp, Ph.D.
Scott Mascher
Honorable Carolyn Passamonte
Honorable Jack Peyton
Catherine Shugrue-Schaffner, Esq
Tracey Wilkinson

STAFF

Kay Radwanski
Lorraine Nevarez

Guests

Kendra Leiby - AZCADV
Mike Breitling - Risk &Needs
Assessment

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, chair, called the May 6, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts to order at 10:15 a.m. Judge O’Neil welcomed the members.

B. Approval of Minutes from February 2, 2008

Minutes of the February 2, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

MOTION: Motion was made and seconded to approve the February 2, 2008, meeting minutes. Motion passed unanimously. CIDVC-08-002

II. Domestic Violence Survivor's Self-Representation Manual

Patricia Madsen, Esq., Community Legal Services (CLS), discussed the self-representation manual for pro per litigants that CLS is preparing in collaboration with the AZ Coalition Against Domestic Violence. The self-representation manual currently is in the production stage and will be targeted toward domestic violence victims and survivors. The manual will be available in Spanish. The manual will provide basic instructional information such as attire to wear in court, how to subpoena witnesses, and how to organize evidence, and it also will provide examples on cross-examination questions. Once the manual is finalized, it will be placed on the AZ Coalition Domestic Violence website to be available for the public to download.

Community Legal Services provides free legal assistance on civil matters to the low-income population in Maricopa County; however, CLS also provides assistance to Mohave County, Yuma County, Yavapai County and La Paz counties. CLS provides assistance in family law, public benefits, employment issues, education issues, housing issues, consumer's issues and a statewide farm worker program. Community Legal Services also has a volunteer lawyers program.

III. Update: Forms and Processes Workgroup

Judge Elizabeth Finn, chair of the Forms and Processes Workgroup, was at an ABA meeting and unable to attend, so Kay provided an update. The Forms and Processes Workgroup was revamped to include members from municipal and superior courts, law enforcement, sheriffs' offices, and the AOC. The workgroup's objectives are to evaluate protective order forms and related business processes and develop training methods and tools to make forms or processes more effective with minimal impact on existing technology. Some opportunities include improving or developing new court processes without incurring costs for changes in technology, improving understanding of ARPOP and DV case processing for judges, court staff and law enforcement, create tools that can be used to train new personnel in event of staff turnover, and improve procedures between courts and sheriffs' offices.

Kay also discussed some issues the workgroup is currently discussing regarding transferring cases and how to best indicate in the case management system that a case has been transferred back to the original hearing court. She also discussed some changes made to several forms to improve their clarity. Other issues the workgroup will be discussing are making the Sheriff's Office aware of transferred cases through use of the transfer order; ensuring that court staff are aware that the Holder of Record box on protective order forms must contain the name and telephone number of the county sheriff; training court staff to send complete, legible forms to sheriffs' offices; and developing court contacts lists for sheriffs' offices.

IV. Warnings on DV Convictions and Protection Orders

Judge Million and Leah Meyers discussed the Brady and Lautenberg warnings that appear on various forms that are provided to defendants. Currently, the federal Violence Against Women Act (VAWA) provides grant money to states for domestic violence programs. A new grant provision requires the state to certify that it has a judicial administrative policy or practice in place to notify domestic violence offenders of all applicable federal, state, or local firearms restrictions. The purpose of the judicial notification certification is to verify proper notification was given to defendants. Judge Million has drafted an article on this topic, and it will be posted on the Wendell webpage.

V. Workgroup Reports

- A. DV Forms Workgroup (Hon. Elizabeth Finn, Chair) – Update previously given under minute section “Warnings on DV Convictions and Protection Orders.”
- B. DV Resource Book (Hon. Michelle Lue Sang, Chair) –No update at this time.
- C. Best Practices (Hon. Wendy Million)- The workgroup will look at the recommendations in the “Systems Alert” report and conduct statewide surveys to see what practices are occurring in Arizona courts. The workgroup has divided the back section of the report, Policy Implications and Recommendations, into four categories: (1) police, (2) prosecution and victim's services, (3) courts, and (4) offender treatment. They will study these issues and offer a set of best practices for the state to view.
- D. DV Education Workgroup (Hon. Michelle Lue Sang, Chair) – The workgroup/CIDVC is sponsoring two judicial conference sessions this year. One session will include a discussion of the Morrison Institute's “Systems Alert” report and the Arizona Rules of

Protective Order and Procedure (ARPOP). In the second session, two speakers will discuss the conduct of plaintiffs and defendants in the courtroom and provide information to the judges on how these behaviors impact the case before the court.

E. Legislative Workgroup (Hon. Benjamin Zvenia, Acting Chair)—No update at this time.

F. Batterer's Treatment Policies and Programs (Tracy Hannah, Chair)-Judge Million advised that she and Ms. Hannah have discussed merging this workgroup into the Best Practices Workgroup as both are addressing issues identified in the Morrison Institute report. Judge Million and Ms. Hannah will co-chair the combined workgroup.

VI. Legislative Report

1. HB 2248 Electronic communications; harassment; order; protection

Primary sponsor: Rep. Bob Robson

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2248p.pdf>

Injunction against harassment; petition; venue; fees; notices; enforcement; definition

(Amending § 12-1809, Arizona Revised Statutes; relating to injunction against harassment)

- Clarifies in subsection E that the court, when deciding whether to issue an injunction against harassment, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, *including any evidence of harassment by electronic contact or communication.*

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes; relating to harassment)

- In subsection (A)(1), adds the word *contacts* to the acts that constitute harassment.

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Clarifies in subsection E that the court, when deciding whether to issue an order of protection, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, *including any evidence of harassment by electronic contact or communication.*

STATUS: No progress this week

- Assigned to the Judiciary and Rules committees
- 1/22/08 - first read
- 1/23/08- second read
- 2/28/08- passed by Judiciary (9-0-0-1) (do pass)
- 2/28/08- passed by Rules (7-0-0-3) (constitutional and in proper form)
- 3/3/08-Majority caucus calendar
- 3/3/08-consent calendar
- 3/11/08- passed House (59-0-1); ready for Senate
- 3/11/08- transmitted to Senate

- 3/12/08-first read Senate
- 3/12/08-second read Senate
- 3/17/08- assigned to Senate Judiciary and Rules
- 4/7/08-passed by Senate Judiciary (6-0-1-0) (do pass)
- 4/14/08-passed by Senate Rules (proper for consideration)
- 4/15/08-Senate caucus calendar

2. HB 2374 Domestic violence; dating relationships §13-3601

Primary sponsors: Rep. Pete Hershberger and Senator Rebecca Rios

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2374p.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice
(Amending section 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Adds subsection 6: relationship between the victim and the defendant is currently or was previously a significant romantic or sexual relationship. Requires the court to consider factors to determine that the relationship is or was previously a significant romantic or sexual relationship:
 - Type of relationship.
 - Length of the relationship.
 - Frequency of the interaction between the victim and the defendant.
 - If the relationship has terminated, length of time since termination.

STATUS: **Not progressing**

- Assigned to the Judiciary and Rules committees
- 1/23/08 - first read
- 1/28/08 - second read

3. HB 2407 Harassment; classification; definition

Primary sponsors: Rep. Pete Hershberger, Rep. David Bradley

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2407p.pdf>

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes)

- In subsection C, changes the classification of harassment from a class 1 misdemeanor to a class 5 felony if the defendant is at least 18 years old and knows or has reason to know the victim is a minor.
- In subsection E, expands the definition of harassment to include:
 - Conduct that serves no legitimate purpose and that would cause a reasonable person to suffer substantial emotional distress and the conduct in fact causes substantial emotional distress, and
 - Conduct that consists of contact by a person who is at least 18 years of age with a minor and that would cause a reasonable parent to fear for the well-being of the parent's minor child who is the target of the contact.

STATUS: **Not progressing**

- 2/21/08 – assigned to Judiciary and Rules committees

- 2/21/08 – first read
- 2/25/08 – second read

4. HB 2545 **Strangulation and suffocation; study committee**

Primary sponsors: Rep. Kyrsten Sinema, Rep. Steve Gallardo, Rep. David Lujan, and Rep. David Schapira

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2545p.pdf>

An Act - Establishing the Strangulation and Suffocation Study Committee

- Provides for the establishment of the Strangulation and Suffocation Study Committee consisting of 19 members.
- Committee shall research and report on:
 - Prevalence of intentional strangulation or suffocation in domestic violence situations in this state.
 - The reporting and recording practices of peace officers in relation to strangulation or suffocation involving domestic violence calls.
 - The number and circumstances of cases involving strangulation or suffocation that are considered misdemeanors and felonies.
 - The outcomes of plea bargains in cases involving strangulation or suffocation.
 - The training currently required for first responders regarding physical indications of strangulation or suffocation.
- The committee shall make recommendations to improve law enforcement, judicial and victim advocate responses to strangulation or suffocation cases.
- On or before December 31, 2008, the committee shall submit a report regarding its findings and recommendations to the governor, speaker of the house, president of the senate and the state coalition against domestic violence that has a member who serves on the committee.

STATUS: Not progressing

- Assigned to the Judiciary and Rules committees
- 1/29/08 - first read
- 1/30/08 - second read

5. HB 2681 **Orders of protection; animals**

Primary sponsors: Rep. Jonathan Paton, Rep. Ed Ableser, Rep. Marian McClure

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2681p.pdf>

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Adds subsection G(7), regarding custody of animals, to the types of relief a judge may grant when issuing an order of protection. Specifically, the court, may:
 - Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent, and
 - Order the respondent to stay away from the animal, and
 - Forbid the respondent from taking, transferring, encumbering, concealing, harming or otherwise disposing of the animal.

STATUS: Not progressing

- Assigned to the Judiciary and Rules committees
- 2/4/08 - first read
- 2/5/08 - second read

6. HB 2687 Victims' rights; statement of rights

Primary sponsors: Rep. Jackie Thrasher, Rep. Ed Ableser, Rep. David Lujan, Rep. Kyrsten Sinema, Rep. Theresa Ulmer, Rep. Nancy Young Wright

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2687p.pdf>

Statement of rights

(Amending § 13-4438, Arizona Revised Statutes; relating to victim's rights)

- Requires the posting of the statement of victim's rights, as set forth in the statute, in both English and Spanish outside of every courtroom entrance;
- Requires the reading of the victim's rights statement at the beginning of the regular criminal docket; and
- Adds the requirement that the victim's rights statement be read not only by judges of the superior court but also by judges of limited jurisdiction courts.

STATUS: Not progressing

- Assigned to the Judiciary and Rules committees
- 2/5/08 - first read
- 2/6/08 - second read

7. SB 1100 Domestic violence and child abuse (Strike Everything amendment)

Primary sponsors: Sen. Leah Landrum Taylor, Sen. Tom O'Halleran, Sen. Rebecca Rios

<http://www.azleg.gov/legtext/48leg/2r/proposed/s.1100954pshs.pdf>

Domestic violence and child abuse

(Amending § 25.403.03, Arizona Revised Statutes)

- Allows the court to request or order the services of the Division of Children and Family Services, Department of Economic Security, if the court believes that a child may be the victim of child abuse or neglect.
- Changes prohibitive language to permissive language.

STATUS: Signed into law

- Assigned to the Public Safety and Human Services and Rules committees
- 1/16/08 - first read (original bill)
- 1/16/08 - second read (original bill)
- 2/28/08 – passed PSHS (5-1-1-0) (do pass amended/strike everything)
- 3/3/08 – passed by Rules (proper for consideration)
- 3/4/08 – caucus calendar • 3/13/08 – Committee of the Whole
- 3/18/08 – third read; passed Senate 28-1-1
- 3/18/08 – transmitted to House
- 3/24/08 – first read House
- 3/24/08 – assigned to House Human Services and Rules committees

- 3/25/08 – second read House
- 3/27/08 – passed Human Services Committee, 6-0-0-4
- 4/15/08 – passed by House Rules, 8-0-2-0 (constitutional and in proper form)
- 4/21/08 – third read
- 4/21/08 – transmitted to Senate
- 4/22/08 – transmitted to Governor
- 4/28/08 – signed by Governor

8. SB 1335 Aggravated domestic violence; violation

Primary sponsor: Sen. Tim Bee

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1335p.pdf>

Aggravated domestic violence; classification; definition

(Amending § 13.3601.02, Arizona Revised Statutes; relating to family offenses)

- Heightens the severity of aggravated domestic violence by imposing guilt upon a *second* (rather than third) or subsequent conviction of a domestic violence offense within an 84-month period;
- Disqualifies a person convicted of *one* (rather than two) prior violation of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served four months in jail; and
- Disqualifies a person convicted of *two* (rather than three) prior violations of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served eight months in jail.

STATUS: Not progressing

- Assigned to Public Safety and Human Services and Rules committees
- 1/31/08 – first read
- 2/4/08 – second read
- 2/14/08 – passed by PSHS (5-0-2-0) (do pass)
- 2/18/08 - passed by Rules (proper for consideration); placed on consent calendar
- 2/19/08 – passed in minority and majority caucuses
- 3/3/08 – third read; passed 26-1-3-0
- 3/3/08 – transmitted to the House
- 3/12/08 – first read House
- 3/12/08 – assigned to House Judiciary and Rules
- 3/13/08 – second read House

9. SB 1363 Marriage license fees; domestic violence

Primary sponsors: Sen. Paula Aboud, Sen. Amanda Aguirre

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1363p.pdf>

Fees

(Amending § 12-284, Arizona Revised Statutes; relating to court fees)

- Imposes a surcharge (no dollar amount designated) for each filing of a certified copy or abstract of a marriage application or license, which surcharge shall be used to provide funding for domestic violence shelters pursuant to § 36-3002; and
- Requires the clerk to transmit the collected surcharges to the state treasurer each month for deposit in the domestic violence shelter fund established by § 36-3002.

(Amending § 12-284.03, Arizona Revised Statutes; relating to distribution of fees)

- Technical change

(Amending § 36-3002, Arizona Revised Statutes; relating to domestic violence shelter fund)

- Technical change

STATUS: Not progressing

•Assigned to Public Safety and Human Services and Rules committees

- 2/4/08 - first read
- 2/5/08 - second read

10. SB1386 Domestic violence; definition

Primary sponsor: Sen. Linda Gray

<http://www.azleg.gov/legtext/48leg/2r/proposed/s.1386245pshs.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice

(Amending § 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Per strike everything amendment, changes from mandatory to discretionary the requirement that an indictment, information, complaint, summons or warrant that is issued and involves domestic violence to:
 - State that the offense involved domestic violence.
 - Be designated by “DV.”
- Makes technical changes.
- Emergency measure that becomes effective on the signature of the Governor.

STATUS: Not progressing

• Assigned to the Public Safety and Human Services, Judiciary, and Rules committees

- 2/5/08 - first read
- 2/6/08 - second read
- 2/14/08 – held by PSHS
- 2/19/08 – withdrawn from Judiciary
- 2/27/08 – strike everything
- 2/28/08 – held by PSHS
- 4/10/08- on House Human Services agenda if first read and assigned

11. SB 1395 Orders of protection; animals

Primary sponsors: Sen. Karen Johnson, Sen. Paula Aboud

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1395p.pdf>

STATUS: STRIKE EVERYTHING – bill subject changed to proceedings at the counting center; scanned ballots

- Assigned to the Judiciary and Rules committees
- 2/5/08 - first read
- 2/6/08 - second read

12. SB1432 Domestic violence; child custody

Primary sponsor: Sen. Barbara Leff

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1432p.pdf>

Custody; best interests of child

(Amending § 25-403, Arizona Revised Statutes; relating to child custody)

- Clarifies, among the relevant factors that a court must consider in determining custody, that subsection 6 (“the parent more likely to allow the child frequent and meaningful continuing contact with the other parent”) does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.

(Amending § 25-403.3, Arizona Revised Statutes; relating to domestic violence and child abuse)

- Establishes a standard of proof of clear and convincing evidence to rebuttable presumption that award of custody to the parent who committed an act of domestic violence against the other parent is contrary to the child’s best interests.
- Requires the court to make written findings of fact regarding relevant factors in determining whether a person has committed domestic violence.
- Requires the court to make written findings of fact regarding considerations used to determine whether the presumption has been rebutted by clear and convincing evidence.

STATUS: No progress this week

- Assigned to Public Safety and Human Services and Rules committees
- 2/5/08 - first read
- 2/7/08 - second read
- 2/20/08 - amended
- 2/21/08 – passed by PSHS (6-0-1-0) (do pass amended)
- 2/25/08 – passed by Rules (proper for consideration)
- 2/26/08 – passed by Majority and Minority caucuses
- 3/3/08 – Committee of the Whole
- 3/10/08 – Third Read
- 3/10/08 – passed Senate 24-1-5; ready for House
- 3/10/08 – transmitted to House
- 3/20/08 – first read House
- 3/20/08 – assigned to House Judiciary and Rules committees
- 3/24/08 – second read House
- 4/14/08 – on Education (K-12) Committee, if withdrawn from primary committee
- 4/21/08 – held by Judiciary Committee

VII. Call to the Public

Mike Breitling, Risk & Needs Assessment, addressed the committee about a system that is currently being used at Phoenix Municipal Court and Tucson City courts. There are three different domestic violence assessments available: (1) domestic violence inventory for male or female adults (2) domestic violence juvenile inventory (3) pre and post clinical test that allows for assessing improvement. These assessments can keep court records for a lifetime history. The assessments have about 150 questions and take around 30 minutes to administer.

VIII. Adjournment

The meeting was adjourned at 2:00 p.m.

Next Meeting:

Tuesday, September 9, 2008

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

September 9, 2008

10:00 AM –2:00 PM

State Courts Building,

1501 W. Washington St., Room 119 A/B

MEMBERS PRESENT

Allison Bones, AZCADV
Lt. Mark Carpenter
Honorable Anita Escobedo
Joan Fox, D.D.S.
Tracey Hannah, Esq. (by telephone)
Bridget Humphrey, Esq.
Cmdr. Scott Mascher
Honorable Michelle Lue Sang
Honorable Dennis Lusk
Patricia Madsen, Esq.
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Police Chief Jerald Monahan
Paul O'Connell
Honorable William O'Neil, Chair
Doug Pilcher
Renaë Tenney
Tracey Wilkinson
Honorable Benjamín Zvenia
(by telephone)

MEMBERS ABSENT

Barbara Appenzeller, CPA
Dr. Jennifer J. Casaletto
Laura Horsley
Sheri Lauritano, Esq.
Honorable Lynda J. Howell
Cheryl L. Karp, Ph.D.
Honorable Jack Peyton
Catherine Shugrue-Schaffner, Esq

STAFF

Kay Radwanski
Lorraine Nevarez

Guests

Kendra Leiby, AZCADV
Blake Holub, MAG
Honorable Ronald Karp (retired)

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O'Neil, chair, called the September 9, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:15 a.m. Judge O'Neil welcomed the members.

B. Approval of Minutes from May 6, 2008

Minutes of the May 6, 2008, CIDVC meeting were presented for approval.

MOTION: Motion was made and seconded to approve the May 6, 2008, meeting minutes. Motion passed unanimously. CIDVC-08-003

II. Teleconference Etiquette

Diane Allen, AOC, discussed helpful hints and tips for making the telephone conference system function more efficiently, providing a better experience for members who participate telephonically. Some of those helpful tips are as follows:

- If possible, avoid using a speaker phone.
- If possible, do not use a cell phone. A desk phone, without the speaker function enabled, works best with the conference system technology.
- Avoid noisy areas.

Judge O'Neil reminded committee members that their attendance is very important. A member can attend by phone, in person, or by sending another person to serve as proxy. A proxy form must be submitted prior to the meeting. Also, the member cannot direct the proxy on how to vote.

III. Phoenix DV Fatality Review

In April 2005, Governor Napolitano signed into law Senate Bill 1071, authorizing creation of domestic violence fatality review teams and providing the teams protection against civil litigation. The City of Phoenix established the first DV Fatality Review Team (DVFRT), launching the project in 2006. The team's purpose is to examine domestic violence fatalities in order to better understand the dynamics of domestic violence cases and make recommendations for system improvements.

Libby Bissa, City of Phoenix Family Advocacy Center, and Commander Kim Humphrey, Phoenix Police Department, discussed their report on Phoenix' first DV fatality review. In the case studied, the victim was murdered by the defendant, father of her child, at a parenting time exchange. The defendant had repeated contact with the criminal justice system over a number of years, but he was never held accountable for his actions.

The presenters discussed recommendations made by the DVFRT for the system response to these specific cases. They are as follows:

- Increase communication regarding misdemeanor and felony prosecutions;
- Develop a multi-department/agency Phoenix domestic violence coordination team;
- Develop 'best practices" protocols for the Threat Management Team;
- Increase the use of forensic medical exams;
- Develop cross-system communication abilities among prosecutors, advocates, and police and probation units;
- Hire additional advocates for immediate response;
- Increase the knowledge and skills of all members of the criminal justice system, and
- Develop improved processes for assessing lethality for domestic violence victims.

IV. Safe Havens Supervised Visitation and Safe Exchange Grant in Pinal County

Rachel Whyte, Program Administrator, Governor's Office for Children, Youth and Families, and Jerald Monahan, Chief, Apache Junction Police Department, discussed a three-year planning and implementation grant awarded to Pinal County that is being used to set up supervised visitation and safe exchanges for parenting time. The first program site will be implemented in Casa Grande. The purpose is to increase safety for victims and their children by increasing opportunities for supervised visitation and safe exchange in cases of domestic violence. The goals of the programs are:

- To design a safe, child-centered supervised visitation and exchange program for parents and guardians for cases pending in Family Court where there is a history of domestic violence.
- To implement a collaborative and sustainable program of supervised visitation and safe exchanges for parents and guardians for cases pending in Family Court where there is a history of domestic violence.
- To create a model supervised visitation and safe exchange program for other communities throughout the State of Arizona.

An advisory committee meets monthly to discuss ways to help develop a community needs assessment, policies, protocols, trainings, safety plan, etc., and to help identify roles and individuals for implementation of the program in Pinal County.

V. AZCADV Legislative Survey Results

Kendra Leiby, AZCADV, gave a presentation on the Coalition's legislative survey results. The survey helps AZCADV determine its priorities for the organization's legislative agenda next year. Their results indicated the following legislative needs:

- DV Budget
- DV Child Custody
- Legal Assistance Fund
- Aggravated Domestic Violence
- Dating Relationships
- Strangulation/Suffocation
- Protective Order Service/Facilitation
- Address Confidentiality Program

VI. Potential Judiciary Branch Legislative Proposals

Amy Love, Legislative Analyst, AOC, discussed a legislative proposal received by the AOC's legislative team. This proposal requested that all statutory references to "domestic violence" be changed to "domestic victim." The core issue of this proposal stems from the perception of what constitutes domestic "violence." At least one state, Wisconsin, uses the term "domestic abuse," rather than "domestic violence" in its statute. Ms. Love requested feedback from the Committee regarding the terminology.

Committee Comments:

- Domestic violence has its own definition in this state as it does in other states. Laws should change when moving something forward; this proposal only renames a term. The Judicial College could address this issue with more training on domestic violence.
- Domestic violence is not solely physical harm. It can be emotional, physiological etc.
- Education would be a better approach to this issue.

MOTION: The Committee would not support the AOC moving forward with this type of bill. Motion passed unanimously. CIDVC-08-004

VII. Workgroup Reports

- A. DV Forms and Process Workgroup (Hon. Elizabeth Finn, Chair) – Staff discussed some of technical changes the workgroup is recommending for following forms: (1) Notice of Hearing Prior to-order of protection, injunction against harassment, injunction against workplace harassment. (2) Plaintiff's Guide Sheet for Protective Orders (3) Request—hearing, dismiss order, cancel hearing and order and (4) Hearing Order. The Committee recommended the workgroup review the forms again based on the suggestions and comments given by other committee members.

- B. DV Resource Book (Hon. Michelle Lue Sang, Chair) – The Judicial Education Division’s Publication Committee will have oversight of the domestic violence civil and criminal bench books. Judge Million, who also is a member of the Publications Committee, has re-formatted the DV civil bench book to make it more useful to judges on the bench. The bench book is available on the intranet AJIN. The bench book is organized in conjunction with the Arizona Rules of Protective Order Procedure and includes notes from the previous version of the bench book and comments from the rules. It was suggested that the bench book include more scripts for the judges’ benefit. The previous DV civil bench book contains extensive information on domestic violence and resources, such as contact information for shelters. The group discussed the possibility of CIDVC developing this valuable information into a separate resource book. Under the auspices of the Publications Committee, the DV criminal bench book will be incorporated into the standard Criminal Bench Book as criminal procedure for DV cases is not different from procedure in other types of criminal matters.
- C. Best Practices (Hon. Wendy Million, Tracy Hannah) - No update at this time.
- D. DV Education Workgroup (Hon. Michelle Lue Sang, Chair) – The workgroup’s focus is on sessions for the Judicial Conference. Any suggestions would be greatly appreciated.
- E. Legislative Workgroup (Hon. Benjamin Zvenia, Acting Chair)—No update at this time.

VIII. Discussion: “No Contact” Provision on Protective Orders

Patricia Madsen, Community Legal Services, has heard from lay advocates that some police officers believe a protective order is unenforceable unless it includes a physical distance that defendant must stay from the plaintiff. This is incorrect as the statutes make no such requirement. Chief Monahan offered to bring the issue to the East Valley Chiefs Association. The Forms and Process Workgroup will be developing an information sheet for law enforcement. This issue of “no contact” provision on protective orders will be added to the information sheet. This information sheet could be used in training or placed in a common area where officers gather to pick up forms.

IX. Petition to Amend ARPOP

Judge O’Neil discussed a petition submitted to the Arizona Supreme Court regarding changes to ARPOP. HB 2248, signed into law during the most recent legislative session,

requires judges, when deciding whether to issue protective orders, to consider evidence of harassment by electronic contact or communication. The rules petition requests the inclusion of the statutory language in ARPOP Rule 6 so the rule mirrors the statute. Also, because of a statutory change in the warning language on Orders of Protection in 2007, technical changes to statutory citations within the rules became necessary.

X. Legislative Update, Douglass v. State

Staff gave a legislative update on the final summary of the DV-related bills as follows:

	Bill	Description
Passed	HB 2248 - Electronic communications; harassment; order; protection	Requires the court, when deciding whether to issue an injunction against harassment or an order of protection, to review the petition, any other pleadings on file and any evidence submitted by the plaintiff, <i>including any evidence of harassment by electronic contact or communication</i> . Amends ARS §§ 12-1809 and 13-3602.
	SB 1100 - Domestic violence and child abuse	Allows the court to request or order the services of the Division of Children and Family Services, Department of Economic Security, if the court believes that a child may be the victim of child abuse or neglect. Changes prohibitive language to permissive language. Amends ARS § 25.403.03.
	SB1476 - Probation; facilities; safe communities act	Allows the court to adjust the period of a defendant’s supervised probation for earned time credit. Requires the Legislature to annually appropriate up to 40 percent of any cost savings related to a reduction in probation revocations and new crimes committed by probationers to the Adult Probation Services Fund of each county. Amends ARS §§ 12-267, 13-901, 13-903 and 13-917; amends Title 12, Ch. 2, Art. 7, Arizona Revised Statutes, by adding Section 12-270; amends Title 41, Ch. 11, Art. 1, Arizona Revised Statutes, by adding Section 41-1608.
Failed	HB 2374 - Domestic violence; dating relationships	Would have amended ARS § 13-3601 by adding dating relationship to the definition of domestic violence. Set forth factors for the court to consider in determining whether a

	relationship met the definition.
HB 2407 - Harassment; classification; definition	Would have amended ARS § 13-2921 to change the classification of harassment from a class 1 misdemeanor to a class 5 felony if the defendant was at least 18 years old and knew or had reason to know the victim was a minor; would have expanded the definition of harassment.
HB 2545 - Strangulation and suffocation; study committee	Would have established a committee, made recommendations, and prepared a report on the issue of intentional strangulation or suffocation in domestic violence situations.
HB 2681 - Orders of protection; animals	Would have amended ARS § 13-3602 to include custody of animals to the types of relief a judge could grant when issuing an order of protection.
HB 2687 - Victim's rights; statement of rights	Would have amended ARS § 13-4438 to require posting and reading of a statement of victim's rights in courthouses and at the beginning of the regular criminal docket; would have extended the reading requirement to limited jurisdiction courts.
SB 1335 - Aggravated domestic violence; violation	Would have amended ARS § 13-360102 by heightening the severity of aggravated domestic violence by imposing guilt upon a second (rather than third) or subsequent conviction of a DV offense within an 84-month period.
SB 1363 - Marriage license fees; domestic violence	Would have amended ARS § 12-284 by imposing a surcharge for certified copies or abstracts of marriage applications or licenses; surcharge would have been used to provide funding for DV shelters.
SB 1386 - Domestic violence; definition	Would have amended ARS § 13-3601 to change from mandatory to discretionary the requirement that an indictment, information, complaint, summons or warrant that is issued and involves DV to state that the offense involved domestic violence and that it be designated by "DV."
SB 1432 - Domestic violence; child custody	Would have amended ARS §§ 25-403 and 25-403.3 to clarify that the subsection 6 factor ("the parent more likely to allow the child frequent and meaningful continuing contact with the other parent") does not apply if the court determines that a

	<p>parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse; would have established a standard of proof of clear and convincing evidence to the rebuttable presumption that an award of custody to a parent who committed an act of DV against the other parent is contrary to the child's best interests.</p>
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Staff also discussed *Douglass v. State* (2008 WL 962906, Ariz. App. Div. 1). This case involved prosecution of a defendant for contempt of a protection order. Arizona is unique in that it has a victim's rights provision in its constitution that gives victims of any type of crime certain rights (such as the right to not be required to speak to the defendant or defendant's attorney) that other states may not offer to them. In this particular case, the wife had a protection order against the husband (defendant) and he violated the order. Since the civil order was violated, it became a criminal matter -- *State of Arizona v. Douglass*. Defendant argued that the criminal matter changed the status of the wife from victim to witness, allowing her to be deposed by his attorney. However, the Court of Appeals upheld the superior court and the justice court. The court concluded that the Order of Protection exists because the plaintiff went to court seeking protection and she is a victim under the Victims' Rights Bill; therefore, she could not be deposed in the criminal contempt case. This also is important in cases where victims want to make victim impact statements at time of sentencing.

XI. Call to the Public

No members of the public addressed the committee.

XIII. Adjournment

The meeting was adjourned at 1:55 p.m.

Next Meeting:

Tuesday, November 4, 2008, 10:00 a.m. – 2:00 p.m.
 State Courts Building, Conference Room 119 A/B