

Committee on the Impact of Domestic Violence and the Courts

Tuesday, September 15, 2020 – 10:00 a.m.

[CIDVC Home Page](#)

Arizona State Courts Building, 1501 W. Washington – Virtual Meeting

Conference Call (toll free): 833-548-0282; 877-853-5247; 888-788-0099; 833-548-0276

Meeting ID: 972 5661 7527

Time*	AGENDA ITEM	Presenter
10:00 a.m.	Call to Order/Welcome and Introductions	<i>JUDGE WENDY MILLION TUCSON CITY COURT</i>
	Approval of Minutes – May 19, 2020 <input type="checkbox"/> <i>Formal Action/Request</i>	
10:05 a.m.	Overview of Innovation for Justice Program Licensed Legal Advocate Pilot Program	<i>STACY BUTLER, DIRECTOR INNOVATION FOR JUSTICE PROGRAM UNIVERSITY OF ARIZONA JAMES E. ROGERS COLLEGE OF LAW</i>
10:35 a.m.	2021 Legislative Proposals <input type="checkbox"/> <i>Formal Action/Request</i>	<i>JERRY LANDAU, AOC GOVERNMENT AFFAIRS DIRECTOR</i>
10:50 a.m.	Update: ARPOP Rule Petitions	<i>KAY RADWANSKI, AOC</i>
11:00 a.m.	Ensuring Access to Justice by Adapting Practices During a Pandemic	<i>ALL MEMBERS</i>
	Announcements/Call to the Public Adjournment	<i>JUDGE MILLION</i>

Next Meeting

Tuesday, November 10, 2020; 10 a.m.
Conference Room 119 A/B
Arizona State Courts Building

2021 Meeting Dates

February 9
May 11
September 14
November 9

*All times are approximate and subject to change. The CIDVC chair reserves the right to set the order of the agenda. For any agenda item, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact Kay L. Radwanski, CIDVC staff, at (602) 452-3360, with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Angela Pennington at (602) 452-3547. Requests should be made as early as possible to allow time to arrange for the accommodation.

****NOTICE****

The Arizona Supreme Court and the Administrative Office of the Courts are taking necessary steps to protect employees and partners and help prevent the spread of the COVID-19 coronavirus in the community. To avoid having people gathered in a room at the same time, the CIDVC meeting will be held via phone conference. Anyone from the public who wishes to submit comments on any item on the September 15, 2020, agenda or wishes to speak during the Call to the Public should email comments and requests to [CIDVC Committee Staff](#) by **9:00 a.m. on September 15, 2020.**

**All times are approximate and subject to change. The CIDVC chair reserves the right to set the order of the agenda. For any agenda item, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact Kay L. Radwanski, CIDVC staff, at (602) 452-3360, with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Angela Pennington at (602) 452-3547. Requests should be made as early as possible to allow time to arrange for the accommodation.*

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Draft Minutes

May 19, 2020 10:00 a.m.

Virtual Meeting

Present:

Telephonic: Judge Wendy Million (chair), Elaine Armfield, Sergeant Anthony M. Castro, Judge Bruce R. Cohen, Deborah Fresquez, Maria Christina Fuentes, Judge Catherine Gaudreau, Anna Harper-Guerrero, Judge Statia Hendrix, Joi Hollis Ph.D., Patricia Madsen, Officer Chris Malast, Doreen Nicholas, Amy Offenber, Judge Wyatt Palmer, Sergeant Lauren Pettey, Judge Debra R. Phelan, Pearl Puente, Judge Bruce Staggs, Kristi Ward, Tracey Wilkinson, Chief Terry Young

Absent/Excused: Judge Marianne T. Bayardi, Diane L. Culin, Lynn Fazz, Susan Johnson-Molina; Leah Meyers, Rebecca Strickland, Judge Adam Watters

Presenters/Guests: Jacquelyn Grace Berry; Judge Carol Scott Berry (Ret.); Gaelyn Davis, Governor's Office of Youth, Faith, and Family; Chris Groninger, Arizona Foundation for Legal Services & Education; Professor Negar Katirai, Dakota Francis, Sam Preminger, and Margaret (Peggy) Rowe, University of Arizona Domestic Violence Law Clinic; Erin Lowry, University of Arizona; Judge Sharron Sauls, Kyrene Justice Court; Dr. Neil S. Websdale, Northern Arizona University

Administrative Office of the Courts (AOC) Staff: Jennifer Albright, Theresa Barrett, Chris Manes, Angela Pennington, Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The May 19, 2020, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:02 a.m. by Judge Wendy Million, chair. All participants attended the virtual meeting via Zoom. Judge Million thanked Susan Johnson-Molina, Judge Wyatt Palmer, Judge Bruce Staggs, Judge Adam Watters, and Chief Terry Young for their service to the committee. Their terms expire June 30, 2020.

B. Approval of Minutes

The draft minutes from the February 11, 2020, meeting were presented for approval.

Motion: To approve the February 11, 2020, minutes. **Vote requested by** Judge Million. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Arizona Bar Foundation DVLDP Project

Chris Groninger, Arizona Foundation for Legal Service & Education, spoke to the committee about the Domestic Violence Document Preparers Pilot project. The program, authorized by [Administrative Order 2020-25](#), involves domestic violence lay legal advocates who will work under the supervision of legal aid attorneys to gain the ability and experience to become legal document preparers.

The program will start with 10 legal advocates throughout the state. Dependent upon experience and education, the advocates will be paired with attorneys and supervised for 6-12 months. After the supervision period, the advocate will be eligible to take a practical exam administered by the Supreme Court to become a certified domestic violence legal document preparer. A person providing services under this program must be employed by a non-profit domestic violence service provider, cannot charge fees for services, and must work within a focused scope of practice. The goal for this program is to enhance access to justice, increase access to free legal help, and make services available more broadly.

Currently, the foundation is working with the AOC on the pre-test for the advocates and preparing to open the application process. They believe the number of applications will exceed spots available. This will enable them to move new advocates into open spots as soon as the supervisory period has been completed.

B. Unsung DV Community Heroes of COVID-19

Judge Bruce Cohen addressed the committee, speaking about the changes in the courts because of the COVID-19 pandemic and offering his appreciation to those who have helped keep the courts running. He suggested that CIDVC think about ways, such as certificates, to recognize them for their service.

C. DV Fatality Report Review – Domestic Violence Law Clinic, University of Arizona

Professor Negar Katirai, Domestic Violence Law Clinic, University of Arizona, and students Dakota Francis and Margaret “Peggy” Rowe presented on a project they recently conducted on Domestic Violence Fatality Report Review.

Judge Million and Dr. Neil Websdale, director of the National Domestic Violence Fatality Review Initiative, had provided the Domestic Violence Law Clinic with reports filed by various domestic violence fatality review (DVFR) teams around the state and questions to examine in each report. Ms. Francis explained that the students reviewed the questions and then decided which ones would be the most manageable for their semester. They developed a review tool for consistency, and six reviewers applied it to the Arizona DVFR reports. Project goals were to identify general trends across the fatality reviews, identify and provide procedural recommendations to the fatality review board to help create a consistent format for future reviews across the counties, and provide substantive recommendations to decrease the risk of lethality among intimate partner victims and survivors.

Inconsistencies in reporting affected the comparison analysis, but general trends found after reviewing the reports included:

- Varied or lack of details about:
 - the relationship between the perpetrator and the victim,
 - contact with law enforcement, and
 - recommendations by law enforcement.
- Few reports addressed how law enforcement recommendations, if given, were implemented.
- Only some of the reports provided domestic violence statistics.

The team provided both procedural and substantive recommendations to the committee.

- Procedural recommendations included:
 - Consistent formatting to assist in future data collection.
 - A review of past recommendations and their implementation. This could help encourage DVFR teams to give more detailed recommendations and promote implementation.
 - Use of the Fatality Review Project Tool, the APRAIS lethality assessment, and in certain cases the predominant aggressor analysis, to obtain a greater level of detail about the parties' relationships and contact with law enforcement.
 - Avoid victim-blaming language.
- Substantive recommendations included:
 - Outreach and education for both professionals and the community.
 - Development of a metric to assess the level of community education.

The team took questions and said they welcome the opportunity to continue the project. Judge Cohen asked about future work on this project and the possibility of collaboration with Arizona State University (ASU). CIDVC learned that it is already a semi-collaboration, as three of the reviewers were social work majors from ASU.

Dr. Websdale said he will submit written comments on the work the team had done, and he commended them on their work. He then discussed his general comments.

- A.R.S. § 41-198(A)(2) specifies that the report cannot contain any information that identifies specific incidents of domestic violence fatalities or near fatalities. He asked the team to consider the following:
 - How do DVFR teams navigate preparing reviews without identifying the parties?
 - To what extent do the reports, either implicitly or explicitly, breach the terms of their own enabling statutes?

He believes that review templates can be used for discussion on standardization and which direction to move but suggested a metric to know whether recommendations were implemented, in full or in part, because of fatality reviews. He stated that acquiring this information could lead to partnerships and collaboration with other agencies. He touched briefly on the topic of victim blaming and advocated for multi-system education, asserting coordination and collaboration are key.

Regarding question 7a on the APRAIS assessment, Dr. Websdale suggested that the committee submit an amendment to modify the form, as this question is not scored. This will ensure that the form comports with explanatory language on page 2 of the APRAIS form. He feels strongly about standardizing and believes it to be a pivotal step. On the Fatality Review Template Tool created by the team, he recommended that the statutes be referenced in the introduction, along with a mission, vision, and value statement. Also on the tool, he discouraged listing actual names of persons who had been interviewed. This could contravene confidentiality and endanger people, encourage feuding, and dissuade people from providing information. He discussed the use of the word “tactics” on the tool, noting that the term is problematic. He asked how the DVFR teams and other agencies would know that a method used by an abuser is a “tactic” versus instinct, subconscious, etc.

Judge Million asked if the members would approve of the committee moving the report forward, and they agreed. Judge Million thanked the University of Arizona Domestic Violence Law Clinic and Dr. Websdale for their work and comments.

D. ARPOP Rules Petitions

Kay Radwanski, AOC Court Programs Unit, gave an update on comments to petitions affecting the Arizona Rules of Protective Order Procedure (ARPOP). The comment period for petitions ended May 1. There were comments both filed and received by CIDVC.

R-19-0045 would amend the rules concerning first-time plaintiffs filing for Orders of Protection, lowering the standard of proof at contested hearings, limiting the court’s discretion in dismissing or modifying such orders, and dismissing attorney fee claims. This petition affects ARPOP Rules 38 and 39. Both the Arizona State Bar and CIDVC filed comments indicating that they do not support this petition.

R-20-0002, filed by CIDVC, offers solutions for next steps when one or both parties fail to attend a contested hearing. This petition affects Rule 38. The State Bar of Arizona filed a comment in support of this petition.

R-20-0032 would require dismissal of a defective petition without a hearing and bar judicial advice on how to cure it. This petition affects Rules 23 – 26. CIDVC filed a brief comment stating that the committee does not support this petition.

R-19-0048, filed by Justice of the Peace Gerald Williams, affects Rule 38 and seeks direction on whether judicial officers should dismiss a protective order if both parties fail to appear at a contested hearing. CIDVC did not file a comment on this petition.

R-19-0047, filed by Justice of the Peace Gerald Williams and Judge Bruce Cohen, would prohibit a court from issuing an Injunction Against Harassment (IAH) that includes a minor if the IAH would or could impact a family court order or an action involving the same child. CIDVC filed a comment to which Judge Cohen filed a reply.

E. Update: AZPOINT

Ms. Radwanski provided an update on AZPOINT, the Arizona Protective Order Initiation and Notification Tool. Almost 15,000 petitions have been started in the application since its deployment in January. Future enhancements, such as a color-coded dashboard for law enforcement agencies and a Spanish language equivalent to the site, are pending further funds. Judge Million noted Ms. Radwanski will present on AZPOINT during a May 20 webinar sponsored by the National Center for State Courts and the Battered Women's Justice Project.

During discussion, it was noted that the ACESDV Sexual Violence Response Team had requested a change in language on the AZPOINT petition portal. Ms. Radwanski said she will evaluate the requested language, explaining that any language on the judicial website must be neutral. There was a larger discussion about what the process is for orders with minimal or no addresses. Ms. Radwanski stated she would follow up with Mark Peoples, Arizona Criminal Justice Commission. The committee was asked to follow up with law enforcement about their capabilities for address searches. Further discussion revealed the process varies from agency to agency. Judge Million asked when the database would be open to courts to search for additional orders. Ms. Radwanski stated it is a possible future enhancement but who would be allowed access is a policy decision

III. OTHER BUSINESS

A. Announcements/Call to the Public

- The House of Representatives is expected to resume the legislative session soon, and SB1441 will be on their agenda.
- No one responded to the Call to the Public.

B. Next Meeting. Tuesday, September 15, 2020; 10 a.m. Venue TBD

The meeting adjourned at 11:35 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Date: September 15, 2020	Type of Action Requested: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: Overview of Innovation for Justice Program Licenced Legal Advocate Pilot Project
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From: Anna Harper-Guerrero

Presenter: Stacy Butler,
Director, Innovation for Justice Program
University of Arizona James E. Rogers College of Law

Description of Presentation: Ms. Butler will share information about the Licensed Legal Advocate (LLA) pilot, which was supported by the Arizona Supreme Court Task Force on Delivery of Legal Services and approved by the Arizona Judicial Council in December 2019. The LLA pilot is a partnership between the Innovation for Justice Program (i4J) at the University of Arizona James E. Rogers College of Law, the Arizona Supreme Court and Emerge! Center Against Domestic Abuse. Funded by the State Justice Institute, it combines the trauma-informed expertise of the lay legal advocate with legal training specific to DV-related issues by training and licensing lay legal advocates at Emerge to be LLAs, a new tier of civil legal service professional equipped to provide legal advice to domestic violence survivors with respect to specific, high-need issues.

Recommended Motion: N/A



Three Types of Non-Lawyer Assistance for DV Survivors in AZ

	Lay Legal Advocate	DV LDP	Licensed Legal Advocate
Role	An existing professional who advocates on behalf of a victim of domestic violence within the civil legal system.	Lay legal advocates, who are limited legal document preparer, authorized to have a greater role than that of a lay legal advocate. Proposal offered by the Arizona Bar Foundation.	Lay legal advocates, who complete a training and exam offered by the University of Arizona James E. Rogers College of Law certified for a one-year period as "LLAs," a new tier of civil legal service provider. Pilot offered by Innovation 4 Justice Program at University of Arizona College of Law.
Legal advice	Cannot offer legal advice	Cannot offer legal advice	Provides survivors with legal advice
Eligibility	Completion of three day, 32 hour, training include: the nature and dynamics of domestic violence, Arizona victims' rights, Arizona's Crime Victim	Already serving as a lay legal advocate.	Already serving as a lay legal advocate, plus Bachelor degree and at least 2,000 hours of work experience as a DV advocate at Emerge! Center Against



Three Types of Non-Lawyer Assistance for DV Survivors in AZ

	Compensation program.		Domestic Abuse.
Educational Requirements	Lay legal advocate training: a three day, 32 hour training that includes the nature and dynamics of domestic violence, Arizona victims' rights, Arizona's Crime Victim Compensation program.	6 months (those with a college degree) to 1-year supervision (those without a college degree) by a legal aid attorney prior to Court testing.	8-week curriculum for Emerge DV advocates who hold a bachelor's degree. DV advocates who participate in the training will receive a combination of online instruction via UA Law's D2L platform and in-person instruction. The curriculum adheres to the University of Arizona's guidelines and requirements for an educational course provided via the university's online D2L platform.
Certification requirement	No certification	Must successfully complete Court certification test.	DV advocates who participate in the UA Law curriculum must receive satisfactory



Three Types of Non-Lawyer Assistance for DV Survivors in AZ

			scores – as determined by the Administrative Office of the Court – in order to obtain their provisional LLA license.
Supervision	n/a	Must complete 10 hours of advanced continuing education within first year of supervision and minimum of 10 hour advanced continuing education training each year after.	Licensed practitioners with a code of ethics , thus no attorney supervision, but attorney mentoring will be available.
What services can they provide at intake?	Provide 24-hour bilingual crisis hotline, crisis intervention and safety planning assistance, domestic abuse education, goal planning assistance, information regarding support and education groups, and other resources.	Same as lay legal advocate.	All the services of lay legal advocates, plus provide survivors with legal advice regarding immediate family law issues, and refer survivors to attorneys for urgent legal issues outside the scope of LLA service, such as how a DV matter affects housing, what survivors



Three Types of Non-Lawyer Assistance for DV Survivors in AZ

			may need to know to protect themselves from financial abuse, and how or whether survivors' immigration status is relevant to their legal options.
What services can they provide during completion of forms?	Provide survivors with general information about the forms needed to file for orders of protection, dissolution of marriage, paternity, annulment, legal separation, child custody, child visitation, and child support.	Select and complete limited scope of forms on behalf of domestic violence victim. Review completed forms to determine whether forms are complete. Review client's documents prior to hearings to determine whether procedural requirements have been met.	Provide legal advice to survivors necessary to the completion of forms by answering specific legal questions that commonly arise during form completion for forms such as orders of protection, dissolution of marriage, paternity, annulment, legal separation, child custody, child visitation, and child support.
What services can they provide preparing a	Provide survivors with general legal	Same as lay legal advocate.	Provide survivors with legal advice regarding what



<p>survivor for court?</p>	<p>information about court hearings and case preparation.</p>		<p>documents and supporting materials they need to save and bring to hearings and trials, and how to preserve, prepare, and ensure admissibility of evidence such as text messages, police reports, and witness testimony.</p>
<p>What services can they provide while attending court hearings?</p>	<p>Provide survivors with information about court procedures, prepare survivors in advance to advocate for themselves in legal proceedings, and transport survivors to the courthouse.</p>	<p>Able to attend court with DVLAP clients to the same extent that LDPs can attend court with their clients. Otherwise, subject to the same restrictions as LDPs, such as not giving legal advice or advocating on behalf of domestic violence victims.</p>	<p>Provide survivors with information about court procedures, prepare survivors in advance to advocate for themselves in legal proceedings, and transport survivors to the courthouse.</p> <p>Sit with survivors during the hearing to provide quiet advice and consultation.</p>



THE UNIVERSITY OF ARIZONA
JAMES E. ROGERS COLLEGE OF LAW

Innovation for Justice

Licensed Legal Advocate Pilot: Building a new tier of legal professional for survivors of domestic abuse



Our Team



Stacy Butler, JD
Director, i4J



Hon. Karen Adam, JD
Curriculum Specialist



Jessica Findley, JD, PhD
Project Manager



Christopher Griffin, JD, MPhil
Director of Empirical & Policy
Research



THE UNIVERSITY OF ARIZONA
JAMES E. ROGERS COLLEGE OF LAW

Innovation for Justice



76% of civil cases in the US involve at least one self-represented litigant.

71% of low-income households have experienced at least one civil legal problem in the past year.

70% of low-income Americans say their lives are “severely” affected by civil legal problems.

Nationally, legal aid is unable to serve **72%** of the people that need and qualify for its services.

It would take **275 pro bono hours** from every lawyer in the country to give each low-income household experiencing a civil legal issue one hour of legal service.

86% of the civil legal problems faced by low-income Americans in a given year receive **inadequate or no legal help.**

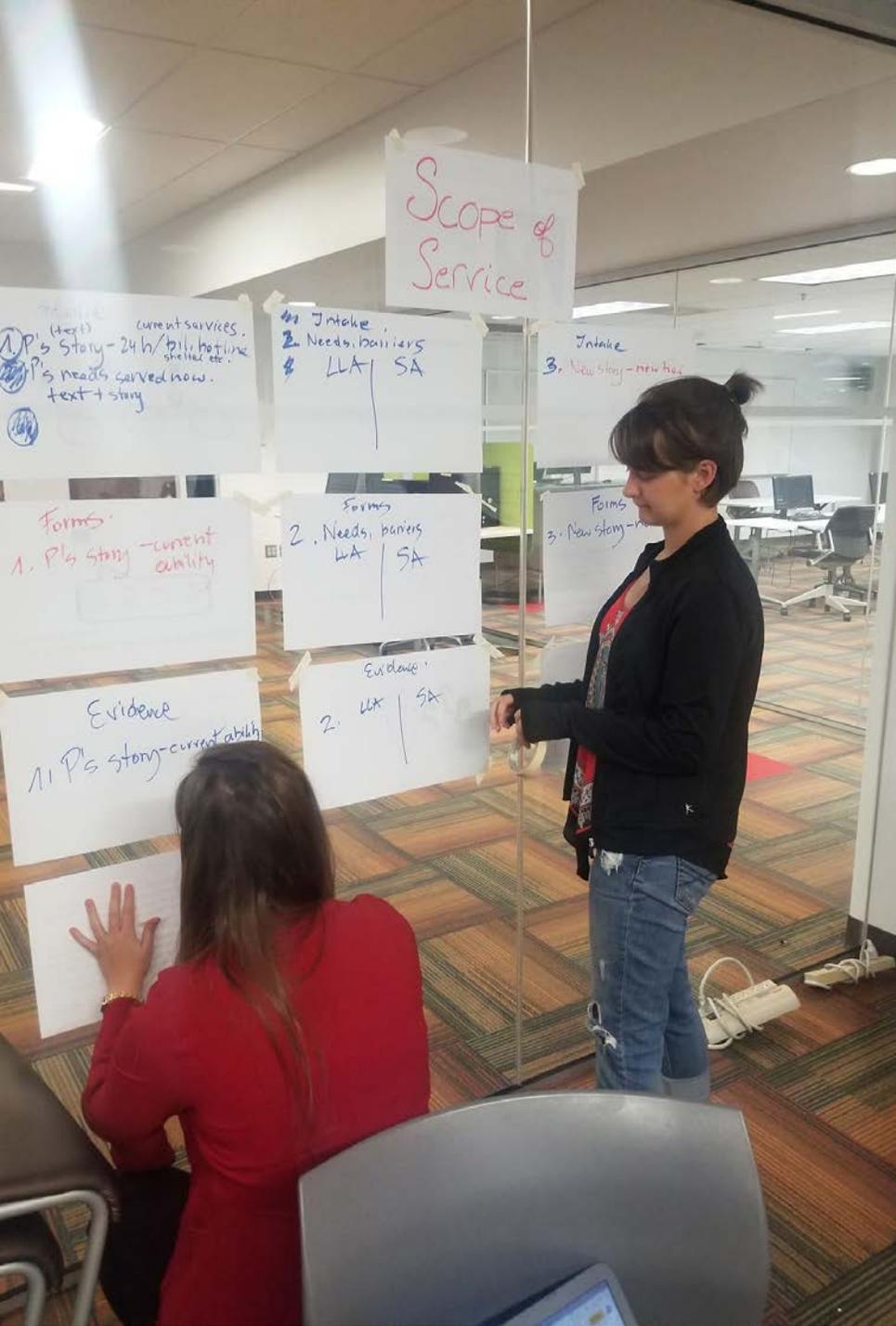
97% of low-income survivors of DV in the United States experienced a civil legal problem such as the need for a protective order, divorce, child custody order, consumer protection, or housing assistance.

They received inadequate or no professional legal help for approximately 86% of those civil legal problems.



Designing with the community ...

Scope of Service for Licensed Legal Advocates



What can a LLA do that a lay advocate cannot do?

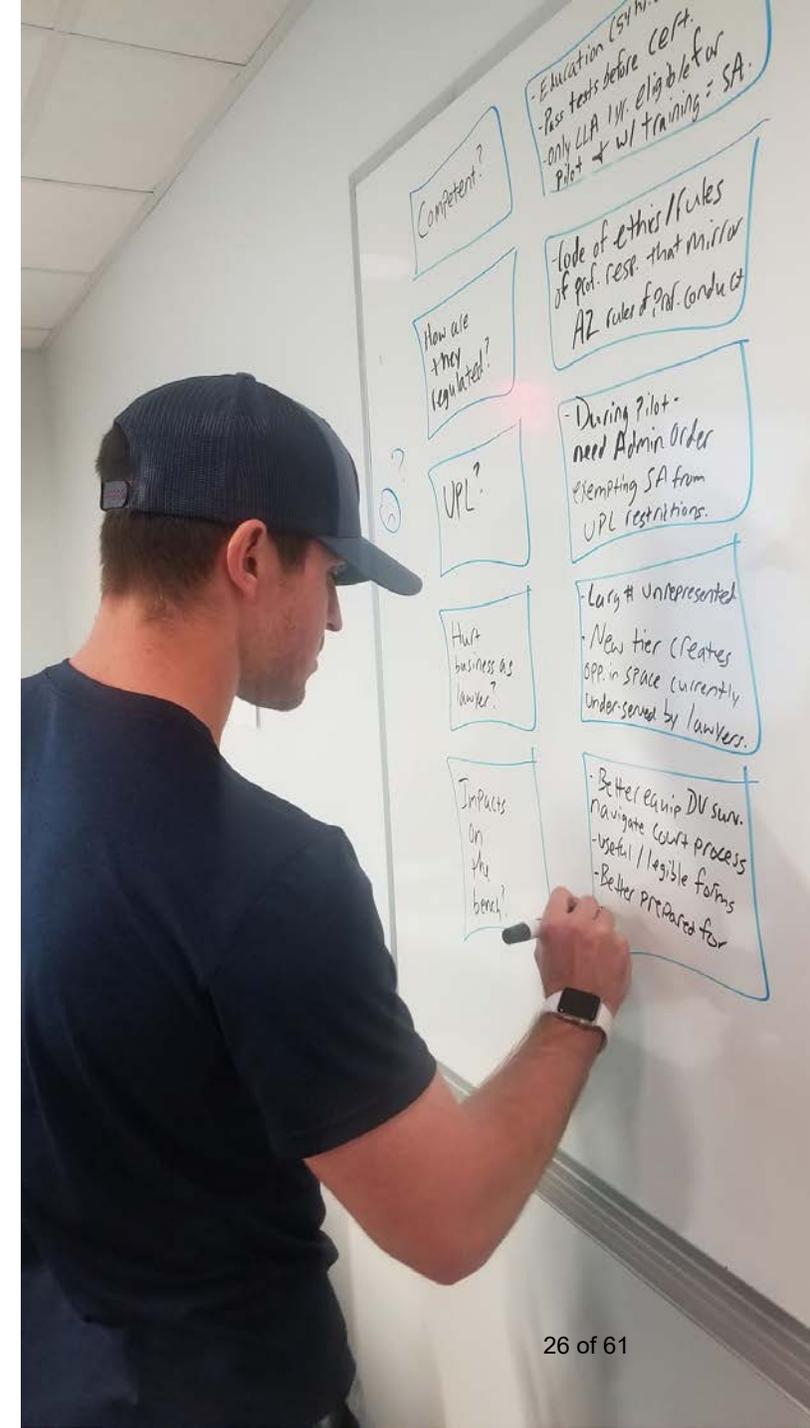
Give *limited legal advice and assistance* to survivors of domestic abuse in family law matters, including Orders of Protection.

Examples of Legal Advice and Assistance

1. Whether a participant should seek an order of protection and who else should be included.
2. Whether a participant should ask to establish paternity and child support.
3. Whether a participant should petition for dissolution, separation or annulment of marriage.
4. Whether a participant should participate in mediation.
5. Whether a participant should seek sole legal decision-making and/or supervised parenting time.

What are the limits to the LLA practice?

- The LLA will be permitted to provide legal advice and assistance in a few critical areas of family law and procedure.
- These areas are described in the Scope of Service.
- Legal advice and assistance outside of these areas must be referred to an attorney.
- Violating the limits of legal advice and assistance will result in serious consequences for the LLA.



At Legal Intake

1. General legal information and referrals to licensed attorneys for immediate legal issues not within the scope of service (collateral issues) such as housing, financial abuse, and immigration.
2. Legal advice and assistance regarding immediate legal issues within the scope of service, such as orders of protection, paternity, child support, dissolution, legal decision-making and/or parenting time.

During Selection/Completion of Forms

Legal advice and assistance related to the legal issues within the scope of service including:

1. Orders of protection;
2. Petitions to establish paternity and child support;
3. Petitions for legal separation or dissolution;
4. Requests for spousal maintenance;
5. Motions for temporary orders for legal decision-making and/or parenting time;
6. Requests for waiver of mediation or provision of special accommodations.

During Case Preparation

Advice and assistance with identifying, locating, obtaining, preserving and presenting supporting materials for the participant's case.

During Court Hearings

Accompany survivor to court hearings and sit at counsel table to provide support and quiet advice and assistance, and to respond to questions from the judge.

Education and Training for Licensed Legal Advocates



What is the schedule for the class?

- Eight-week class
- Eight or nine hours per week
- All done during work hours at Emerge!
- Two hours for class preparation
- Two hours of online instruction
- Two hours of exam on Thursdays
- Two hours of in-person meet up at Emerge! on Fridays

Weekly Module	Faculty	Class Preparation and Study Time Mon-Thurs	Online Lecture and Activities Mon-Thurs	Exam Thursday	Meet-Up Friday 11-1	Total Hours
1. Legal Advocacy and Ethics January 2021	Janis	2	2	2	2	8
1. Procedure (1) January 2021	Kristy	2	2	2	2	8
1. Procedure/Trial Prep (2) January 2021	Kristy	2	2	2	2	8
1. Family Law (1) January 2021	Marissa	2	2	2	2	8
1. Family Law (2) February 2010	Ari	2	2	2	2	8
1. Case Preparation October 19, 2020	Marissa	2	2	2	2	8
1. Procedural Fairness February 2021	Ari	2	2	2	2	8
1. Collateral Issues (Outside Scope of Service) February 2021	Hue	2	2	0	4 All faculty (Review/Research Role training)	8
Total Hours		16	16	14	18	64

Will there be a support system for the LLAs?

At the end of each week, the online faculty member will meet in-person with the LLA students to answer questions and provide support.

For the year of the pilot, the faculty will serve as mentors to the LLAs.



Licensing and Regulation for Licensed Legal Advocates

Testing

Each Module includes four or five knowledge checks to ensure students are tracking with the material

Each Module includes a case study. The facts in the case study change to mirror the issues addressed in the Module.

Each Module includes a requirement that students build and expand on an interview checklist which they will use in their work.

Licensing exams: 20-30 multiple choice questions at the conclusion of each Module. Students must achieve a score of at least 70% to be licensed. Students may retake any exam during the course of the class.

Case study analysis: At the conclusion of each module, students will answer essay questions so that faculty can assess their ability to identify legal issues and determine appropriate action.

LLA Code of Conduct

Competence

Diligence

Independence

Communications

Confidentiality of Information

Conflict of Interest: Current Clients

Conflict of Interest: Current Clients: Specific Rules

Declining or Terminating Representation

Truthfulness in Statements to Others

Reporting Professional Misconduct

Misconduct

Questions?



COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Date: September 15, 2020	Type of Action Requested: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: Proposed AJC Legislation
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From: Kay Radwanski, AOC

Presenter: Jerry Landau, AOC Government Affairs Director

Description of Presentation: Mr. Landau will present court-related bills that have been proposed for inclusion on the Judiciary's legislative agenda. The Arizona Judicial Council will consider submitted bills later this year.

Recommended Motion: The committee may vote to recommend support for a bill, suggest changes to a bill, or take no action on a bill.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Date: September 15, 2020	Type of Action Requested: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: 2020 Rules Agenda Results
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From: Kay Radwanski

Presenter: Kay Radwanski

Description of Presentation: Ms. Radwanski will discuss the Supreme Court's orders regarding ARPOP-related rule petitions that were filed in 2020. Click this [link](#) for the minutes from the August 25 rules agenda meeting.

Petition #	Filed by	Regarding	Result
R-20-0038	Dave Byers, AOC administrative director	Rules 23 and 38—Notice regarding exclusive use of residence; additional hearings	Adopted on emergency basis; comment period open; on rules agenda for December
R-20-0032	Mike Palmer	Rules 23, 24, 25, 26—hearings	Denied
R-20-0002	Judge Wendy Million on behalf of CIDVC	Rule 38—Nonappearance at contested hearing	Adopted as modified
R-19-0048	Judge Gerald Williams	Rule 38—Nonappearance at contested hearing	Denied
R-19-0047	Judge Gerald Williams, Judge Bruce Cohen	Rule 35—IAH and family court cases	Continued; referred to Family Court Improvement Committee
R-19-0045	Ursula Johnston	Rule 38 and 39—Contested hearing procedure	Denied

Recommended Motion: Information only.

David K. Byers
Administrative Director
Administrative Office of the Courts
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Phoenix, AZ 85007-3327
Phone: (602) 452-3301
Projects2@courts.az.gov

ARIZONA SUPREME COURT

In the matter of:)
)
PETITION TO AMEND RULES 23) Supreme Court No. 20 - _____
AND 38 OF THE ARIZONA RULES OF) (expedited consideration
PROTECTIVE ORDER PROCEDURE) requested)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend the rules specified above as proposed in Appendix A. The proposed amendments implement legislative enactments affecting the protective order rules from the 2020 legislative session as more particularly described below.

I. Purpose of the Proposed Rule Amendments.

The proposed rule amendments in Appendix A and changes to official forms in Appendices B, C and D would implement the changes to A.R.S. §§ 13-3602 and -3624 made by SB 1441 that establish notice requirements and hearing rights when the protective order petitioner is awarded exclusive possession of the parties' residence and later vacates the residence before expiration of the protective order. The proposed amendments to the rules track the language of this legislation.

II. Preliminary Comments.

The proposed rule changes were drafted by staff to the Committee on the Impact of Domestic Violence in the Courts and reviewed by the Committee Chair, Judge Wendy Million. They have not been sent to the court community for pre-filing comments due to the short period of time since the enactment of the new statutory provisions.

III. Request for Expedited Consideration and Adoption.

SB 1441 will become effective August 25, 2020. Implementation of SB 1441 will require changes not only to the rules, but also to forms that are issued by Administrative Directive: the Plaintiff's Guide Sheet for Protective Orders and the Defendant's Guide Sheet for Protective Orders, Appendices B and C show the changes that will be made to these documents. The AOC has also developed a Notice form (Appendix D) for use by the plaintiff and the court as contemplated by SB 1441. Also, the following Notice to Plaintiff will be added below the signature block on the Emergency Order of Protection:

NOTICE TO PLAINTIFF: If this order gives you exclusive use and possession of the residence and you move out while this order is in effect, you must notify the court within five days of moving out of the residence.

As permitted by Supreme Court Rule 28(h), petitioner requests expedited consideration and adoption of the proposed amendments with a comment period to

follow, so they can be effective at the same time as the new legislation on August 25, 2020,

Respectfully submitted this 13th day of July, 2020.

By /S/
David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, Arizona 85007
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Projects2@courts.az.gov

APPENDIX A

Arizona Rules of Protective Order Procedure

(deletions shown with ~~strikethrough~~, new language is underlined)

Rules 1 through 22 [No changes]

23. Order of Protection

(a) through (g) [No changes]

(h) Relief. When issuing an Order of Protection, *ex parte* or after a hearing, a judicial officer may:

- (1) prohibit the defendant from having any contact with the plaintiff or other protected persons, with any exceptions specified in the order. *See* A.R.S. § 13-3602(G)(3).
- (2) grant the plaintiff exclusive use of the parties' residence if there is reasonable cause to believe that physical harm otherwise may result. *See* A.R.S. § 13-3602(G)(2). If the plaintiff moves out of the residence while the order is in effect, the plaintiff must file a written notice with the court within five days after moving. Upon receipt, the court must provide a copy of the notice to the defendant and advise of the right to request a hearing pursuant to A.R.S. § 13-3602(L).
 - (A) A plaintiff who is not the owner of the residence may be granted exclusive use for a limited time.
 - (B) The defendant may be permitted to return one time, accompanied by law enforcement, to pick up personal belongings.
 - (C) At a contested hearing, a judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use.
- (3) order the defendant not to go on or near the residence, place of employment, or school of the plaintiff or other protected persons. Other specifically designated locations may be included in the order. If the defendant does not know the address of these additional places, a judicial officer may, at the plaintiff's request, protect the additional addresses. *See* A.R.S. § 13-3602(G)(3).
- (4) grant the plaintiff the exclusive care, custody, or control of any animal that is owned, possessed, leased, kept, or held by the plaintiff, the defendant, or a minor child residing in the residence or household of the plaintiff or the defendant and order the defendant to stay away from the animal and forbid the defendant from taking, transferring,

encumbering, concealing, committing an act of cruelty or neglect in violation of A.R.S. § 13-2910, or otherwise disposing of the animal. *See* A.R.S. § 13-3602(G)(7).

(5) grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and proper under the circumstances. *See* A.R.S. § 13-3602(G)(6).

(i) through (k) [No changes]

Rules 24 through 37 [No changes]

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(~~H~~)(L), 12-1809(H), 12-1810(G).

(b) Exclusive Use. 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).

(b) through (i) renumber

Rules 39 through 42 [No changes]

Appendix B

ALL COURTS IN ARIZONA

ADDRESS

CITY, AZ ZIP CODE

TELEPHONE NUMBER

Plaintiff’s Guide Sheet for Protective Orders

This guide sheet provides basic information about protective orders. Keep this guide for future reference. If you receive a protective order, you should always carry a copy of the order with you.

**READ THIS
FIRST.**

TYPES OF PROTECTIVE ORDERS

1. ORDER OF PROTECTION (OP)—An OP is used when you and the defendant (the person from whom you want protection) have a specific relationship. In addition to having a qualifying relationship, you must state how an act of domestic violence was threatened or committed against you within the last year.

A qualifying relationship for an Order of Protection includes any of the following:

- married to each other (past or present)
- live together (past or present)—intimate partners
- romantic or sexual relationship (past or present)
- parent of a child in common
- one party is pregnant by the other
- related as parent, grandparent, child, grandchild, brother, sister (including step or in-law)
- live together (past or present)—not intimate partners

2. INJUNCTION AGAINST HARASSMENT (IAH)—If you and the defendant do not share any of these relationships, you may ask for an Injunction Against Harassment (IAH). You must tell on the petition how the defendant has committed a series of acts (more than one) of harassment against you in the last year or one act of sexual violence (as defined in ARS § 23-371) against you.

3. INJUNCTION AGAINST WORKPLACE HARASSMENT (IAWH)—An employer or owner of a business or operation may file for this type of injunction for the benefit of an employee or the business based on a single act or a series of acts of harassment.

PETITION

Your request for a protective order begins when you file a petition with the court. There is no cost to file the petition for an OP or an IAH. In the petition, you must provide dates and facts about the domestic violence or harassing acts that you allege the defendant has committed against you or why you believe domestic violence or harm may occur without protection. **NOTE: If the judge grants your request, the defendant will be given a copy of your petition and the order. The petition may be used in future judicial proceedings.** You can list only one defendant per petition. If you want to file against more than one person, you must file a separate petition for each defendant.

CHILDREN AS OTHER PROTECTED PERSONS

You may ask for a child be included as a protected person only if (1) the child is not the defendant’s child or (2) the child is the defendant’s child and the domestic violence involved the child. Only a superior court judge can decide child custody (legal decision-making) or parenting time in a separate family law action.

FAMILY COURT

If either you or the defendant file an action for maternity, paternity, annulment, legal separation, or divorce, tell the clerk immediately so the protective order case can be transferred to the superior court.

FILING A PETITION ON BEHALF OF A MINOR OR ANOTHER PERSON

If you are:

- a parent, guardian, or custodian of a minor who is asking for protection from someone else, choose the relationship between the *minor* and the *defendant* on the petition.
- applying on behalf of a person who is either temporarily or permanently unable to request an order, choose the relationship between the *person* and the *defendant* on the petition.

SERVICE AND EFFECT

Order of Protection: The court will send the OP to the appropriate law enforcement agency for service. There is no cost for service of an OP. If law enforcement is unable to serve the OP within 15 days, law enforcement will contact you. Law enforcement has a continuing duty to attempt service, so if you have additional information about the defendant’s location, please contact the law enforcement agency. The OP will be valid and enforceable for one year from the date of service. A served OP is enforceable by law enforcement in any state or tribal nation in the United States.

Injunction Against Harassment or an Injunction Against Workplace Harassment: You have one year from the date of issuance to ask for an IAH or IAWH to be served on the defendant. The order will be valid and enforceable for one year from the date of service. The court will instruct you on how service can be made. Law enforcement will serve an IAH involving a dating relationship or based on an act of sexual violence at no cost. There is a fee to serve an IAWH or an IAH not involving a dating relationship or sexual violence. The cost to serve injunctions depends on mileage and number of attempts. If you cannot afford pay for service, you can ask the judge to defer or waive the fee.

CONTESTED HEARING

If the defendant disagrees with the protective order, the defendant has the right to ask for a hearing. The court will conduct the hearing within 5 to 10 business days after the defendant makes a written request. At this hearing, you may present evidence (exhibits) and have witnesses testify on your behalf. The judge will take testimony from you, the defendant, and any witnesses to decide whether there is a legal reason to keep the order in place. If you do not appear for the hearing, the court may dismiss your order; therefore, you must notify the court of any change in your contact information to ensure you get notice of any hearing dates and times.

NO-CONTACT ORDERS

The defendant can be arrested for violating this protective order, even if you initiate contact. **If the defendant does not want you to contact him or her, the defendant has the right to request a protective order against you.** Orders are not automatically granted upon request—legal requirements must be met.

RESIDENCE AND PROPERTY

You may ask the judge to give you exclusive use of a residence you share with the defendant. If the defendant needs to retrieve personal belongings, the judge may order a standby. Standby allows the defendant to return once with a law enforcement officer to get necessary personal belongings. **IMPORTANT: If you move out of the residence while the court order is still in effect, you must notify the court within five days of moving out. Click here to find the form or ask the court for a blank form.** Neither law enforcement nor a protective order can resolve conflicts over property, title, furniture, finances, real estate, or other ownership issues. If the judge grants the defendant standby, the defendant must arrange a time and date with a law enforcement agency.

FIREARMS

You may ask the judge to order the defendant not to possess, receive, or purchase firearms or ammunition while the protective order is in effect.

ANIMALS	If you are asking for an Order of Protection, you may also ask the court to grant you the custody, care, and control of any animal owned by you, the defendant, or a minor child living in your household if you believe the defendant is a danger to the animal.
COUNSELING	Counseling for the defendant can be ordered only at a hearing of which the defendant has notice and an opportunity to participate.
CHANGING OR DISMISSING THE ORDER	Nothing you do on your own can dismiss or change this protective order. If you want to change or dismiss this order, you must make a written request to the court.
PUBLIC ACCESS	To comply with federal law, no identifying information about you from this protective order case will be published on the Judicial Branch website (www.azcourts.gov).
RESOURCES, SAFETY PLANS	See Domestic Violence Info (http://www.azcourts.gov/domesticviolencelaw) and the booklet <i>Things You Should Know About Protective Orders</i> for information about protective orders, resources, and safety plans.

Appendix C

ALL COURTS IN ARIZONA ADDRESS CITY, AZ ZIP CODE TELEPHONE NUMBER

Defendant: _____ Date: _____ Case No. _____

Defendant’s Guide Sheet for Protective Orders - Please Read Carefully

This guide sheet provides more information about the petition and the order that have been served on you.

The PETITION contains the plaintiff’s allegations against you and the relief that was requested from the court. The ORDER tells you what conditions the judge granted. If you were served only with a petition, a pre-issuance hearing will be scheduled.

IF YOU HAVE BEEN SERVED WITH:

ORDER OF PROTECTION. An Order of Protection has been issued because you allegedly committed or may commit an act of domestic violence against the plaintiff. You and the plaintiff have one of the following relationships:

- married (past or present)
- live/lived together as intimate partners
- romantic or sexual relationship (past or present)
- parent of a child in common
- one party is pregnant by the other
- related as parent, grandparent, child, grandchild, brother, sister (including step or in-law)
- live/lived together but not as intimate partners

INJUNCTION AGAINST HARASSMENT. You allegedly have committed a series of acts (more than one) of harassment or one act of sexual violence (as defined in ARS § 23-371) against the plaintiff within the last year.

INJUNCTION AGAINST WORKPLACE HARASSMENT. An employer or a business owner, for the benefit of employees or the business, has filed a petition against you, alleging at least one act of harassment.

SERVICE AND EFFECT

This protective order is valid for one year from the date it was served on you. It is enforceable by law enforcement in any state or tribal nation in the United States.

MODIFYING OR DISMISSING THIS ORDER

Only a judge can modify or dismiss this protective order. The plaintiff cannot dismiss or change this protective order without the court's written approval.

CONTACT WITH THE PLAINTIFF

You can be arrested for violating this protective order, even if the plaintiff initiates contact with you. You have the right to request a protective order against the plaintiff if you do not want the plaintiff to contact you. But orders are not automatically granted upon request. Legal requirements must be met.

REQUEST FOR HEARING

Contested Hearing. If you disagree with this protective order (regardless of its type), you have the right to request a hearing. The hearing will be held within

5 to 10 business days after you file a written request at the court that issued this order.

Exclusive Possession of Residence. If the court issued an Order of Protection that granted the plaintiff exclusive possession of a residence shared with you, the plaintiff must notify the court if he/she moves out of the residence while the order is in effect. Upon receipt of the notice, the court will send a copy to you. You have a right to a court hearing, upon written request, if there has been a change of circumstances related to the shared residence. See ARS § 13-3602(L).

In either situation, if a hearing is held and the order remains in effect or is modified, and you and the plaintiff are either married (past or present), live together as intimate partners (past or present), or are parents of a child in common, you may be prohibited from possessing a firearm. This prohibition may apply even if you fail to appear for the hearing. If you have questions about whether your request for a hearing can result in a firearms prohibition, you should contact an attorney. The court cannot give you legal advice.

**RESIDENCE AND
PROPERTY**

The judge may have given the plaintiff exclusive use of a residence shared with you and may have allowed you a law enforcement standby. If the judge has granted standby on the protective order, you may return to the residence once with a law enforcement officer to obtain necessary personal belongings. You must arrange a date and time with law enforcement for the standby. Neither law enforcement nor this protective order can resolve conflicts over property, title, furniture, finances, real estate, or other ownership issues.

FIREARMS

If the judge has ordered under Arizona law that you cannot possess, receive, or purchase firearms, you must surrender them within 24 hours after service of this protective order to the law enforcement agency named on this order. You should ask law enforcement to issue proof of the surrender. You may also have to provide documentation to the court that firearms were transferred to the specified law enforcement agency. If you have questions about a firearms prohibition and surrender, you should contact an attorney. The court cannot give you legal advice.

CHILDREN

If your child is listed as a protected person, you may be referred to superior court. Only a superior court judge can decide child custody (legal decision-making) or parenting time in a separate family law action.

FAMILY COURT

If either you or the plaintiff file an action for maternity, paternity, annulment, legal separation, or divorce, advise this court immediately so the protective order case can be transferred to the superior court.



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

JANET JOHNSON
Clerk of the Court

August 31, 2020

RE: RULE 35, RULES OF PROTECTIVE ORDER PROCEDURE
Arizona Supreme Court No. R-19-0047

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 25, 2020, in regard to the above-referenced cause:

WOULD AMEND ARIZONA RULE OF PROTECTIVE ORDER PROCEDURE 35 TO FORBID COURTS ISSUING INJUNCTIONS AGAINST HARASSMENT ORDERS FROM INCLUDING MINOR CHILDREN IF IT WOULD OR MAY IMPACT A FAMILY COURT ORDER OR ACTION INVOLVING THE SAME CHILDREN

ORDERED: Petition to Amend Rules of Protective Order Procedure 35 = CONTINUED until the December 2020 Rules Agenda. This matter will be referred to the Family Court Improvement Committee, a standing committee of the Arizona Judicial Council established by Administrative Order 2019-115.

To find a copy of the minutes and orders click [here](#).

Janet Johnson, Clerk

TO:

Hon. Bruce R Cohen
Gerald A Williams
Hon. Keith E Russell
Wendy A Million
jd

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Date: September 15, 2020	Type of Action Requested: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: Ensuring Access to Justice During a Pandemic
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From: Kay Radwanski, AOC

Presenter: Roundtable--All Members

Description of Presentation: Members are invited to share domestic violence-related strategies and practices that their agencies, systems, or groups have adapted during the COVID-19 pandemic. The goal is to create a best practices guide that can be shared with courts and agencies statewide, cataloguing innovative ideas and adaptations related to their work in the domestic violence arena.

Recommended Motion: Information only.

CASE LOG

Plaintiff's Counsel: _____

Case No: _____

Defendant's Counsel: _____

<u>Date</u>	<u>Activity</u>	<u>Name or Initials</u>
	Petition for protective order is filed	
_____	<p>Ex Parte Hearing is held — <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone</p> <p>Plaintiff is sworn <input type="checkbox"/> and testifies. It is ordered:</p> <p><input type="checkbox"/> ISSUING an <input type="checkbox"/> OP <input type="checkbox"/> IAH <input type="checkbox"/> IAWH, with terms including:</p> <p style="margin-left: 20px;"><input type="checkbox"/> NO HOLD for Service, or</p> <p style="margin-left: 20px;"><input type="checkbox"/> Service hold for (circle one): 24 / 48 / 72 hours (maximum)</p> <p style="margin-left: 20px;"><input type="checkbox"/> No contact w/Plaintiff, <i>except</i>: <input type="checkbox"/> Phone <input type="checkbox"/> E-mail/fax <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____</p> <p style="margin-left: 20px;"><input type="checkbox"/> Exclusive use of residence to Plaintiff; and <input type="checkbox"/> Court advised Plaintiff that if he/she moves out of this residence, he/she must notify the Court, in writing, within 5 days of moving out</p> <p style="margin-left: 20px;"><input type="checkbox"/> Civil standby for Defendant</p> <p style="margin-left: 20px;"><input type="checkbox"/> Additional protected persons (names): _____</p> <p style="margin-left: 20px;"><input type="checkbox"/> No contact w/additional protected persons, <i>except</i>: <input type="checkbox"/> Phone <input type="checkbox"/> E-mail/fax <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____</p> <p>Prohibited Locations: <input type="checkbox"/> Residence <input type="checkbox"/> Work <input type="checkbox"/> School <input type="checkbox"/> Other: _____</p> <p>ADDRESS CONFIDENTIAL: <input checked="" type="checkbox"/> Residence <input type="checkbox"/> Work <input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Finding that Defendant presents a credible threat to physical safety of Plaintiff or other protected parties; therefore <input type="checkbox"/> Firearms prohibition ordered, and <input type="checkbox"/> Defendant must transfer firearms to: _____.</p> <p><input type="checkbox"/> Animals: care and custody of _____ granted to Plaintiff</p> <p><input type="checkbox"/> Other terms ordered: _____</p> <p><input type="checkbox"/> Requested terms denied: _____</p> <p><input type="checkbox"/> If OP: <u>verify</u> that parties' relationship is correctly indicated on both Petition and Order</p> <p><input type="checkbox"/> IAH is based on <input type="checkbox"/> a dating relationship <input type="checkbox"/> an act of sexual violence [no fee for service]</p> <p><input type="checkbox"/> Weapon is alleged in the petition</p> <p><input type="checkbox"/> Defendant's date of birth is estimated</p> <p><input type="checkbox"/> DENYING THE PETITION FOR A PROTECTIVE ORDER</p> <p><input type="checkbox"/> SETTING PRE-ISSUANCE HEARING on _____ at _____ a.m./p.m.</p>	
_____	<input type="checkbox"/> Order reviewed and approved for electronic signature by: Judge _____	

SURPRISE CITY COURT
16081 N. CIVIC CENTER PLAZA, SUITE 105, SURPRISE, AZ 85374 PHONE: 623-222-4800

_____ Plaintiff vs. _____ Defendant	CASE NO: _____	<p style="text-align: center;">NOTICE OF HEARING</p> <input type="checkbox"/> ORDER OF PROTECTION <input type="checkbox"/> INJUNCTION AGAINST HARASSMENT <input type="checkbox"/> INJUNCTION AGAINST WORKPLACE HARASSMENT ISSUE DATE: _____
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Upon request of a party or the Court, this matter is set for hearing on _____ at _____ AM/PM, in Courtroom _____.

Both parties will appear remotely by telephone. Parties must call the Court at (623) 222-4800 fifteen (15) minutes before the scheduled telephonic hearing time and provide us with a call-back number. At the time of the hearing, the Court will call each party and the hearing will commence.

If exhibits will be used during the hearing (exhibits which must relate specifically to the dates and events listed in the Petition for the Order of Protection), they must be emailed to the Court at motion@surpriseaz.gov by no later than 4:00 PM the day before the scheduled telephonic hearing. The Court will then email copies of the exhibits to the other party.

The parties are to present testimony and evidence as to whether the Court should continue, revoke, or modify the protective order listed above.

Date: _____ Clerk: _____

CERTIFICATE OF TRANSMITTAL

Notice mailed emailed provided personally to Plaintiff on _____ by _____

Notice mailed emailed provided personally to Defendant on _____ by _____