

E-Filing Policy Issue - # 9
(Filing an Order of Protection)

Issue: (State the issue and whether it is specific to a certain level of court or case type.)

Can an Order of Protection or an Injunction Against Harassment be e-filed?

Discussion: (Provide the factual setting or context for the issue.)

Rule 6, ARPOP, seems to require a judicial officer to conduct a hearing with each plaintiff who requests an order of protection. The AOC supports requiring a hearing in every instance in which an order of protection is requested, in part to assess the veracity of the person requesting the order, and in part due to the potential consequences to the person against whom the order is to be issued (e.g. removal from the home, etc.) Generally the hearing is held at the same time the plaintiff comes to the court to complete the paperwork requesting the order of protection.

These same requirements (and AOC position) apply to an injunction against harassment.

Authorities: (Provide references to specific statutes, rules, codes or administrative orders you believe are pertinent to the issue.)

A.R.S. §13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing.

Arizona Rules of Protective Order Procedure

Rule 6. Rules of Procedure for Issuing Protective Orders

C. Order of Protection. The judicial officer shall conduct a separate hearing with each plaintiff who requests an Order of Protection.

A.R.S. §12-1809. Injunction against harassment; petition; venue; fees; notices; enforcement; definition

A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the injunction requested should issue without a further hearing.

Arizona Rules of Protective Order Procedure

Rule 6. Rules of Procedure for Issuing Protective Orders

E. Injunction Against Harassment. The judicial officer shall conduct an individual hearing with each plaintiff who requests an Injunction Against Harassment.

Alternative Solutions: (List all identified alternative solutions for the issue.)

- Plaintiff can e-file a request for an order of protection or an injunction against harassment and then appear before a judicial officer for the order to be issued. A time restriction would most likely be necessary between the time of e-filing and the hearing (e.g. same day) – otherwise the filing need not be “accepted” by the court.
- Require a request for an order of protection or injunction against harassment to be filed in person - not e-filed. Intelligent forms could be completed offsite and brought to the courthouse by the plaintiff for filing, and the hearing could be conducted at the time of filing.

Position/Recommendation: (Does the AOC E-filing team have a recommendation on this issue?)

No.

Decision:

These petitions seem to be better fitted for completing on the system and printing rather than full e-filing. Emergency orders of protection can be obtained from any court as well as local law enforcement when the court is closed, so restricting e-filing does not trigger an access-to-justice issue. Turbo Court can advise a petitioner that an emergency order can always be granted in person at a police station when the court is closed.

If an e-filing process is pursued, the system must force the filer to select a specific court (only courts currently set up to receive e-filed petitions will appear in the list -- few municipal courts will be online early on) and require acknowledgement that no order will be granted until after a hearing by the selected court. The document could then be submitted to the court without being filed until the petitioner arrives at the court. A hearing must be held expeditiously. Petitioners could be warned that their petitions would be purged from the system for lack of action within a certain number of days if they did not appear at the court, but that they could always refile if they so desired. This would potentially mitigate a large number of abandoned filings perpetually populating the hold queue at each court.