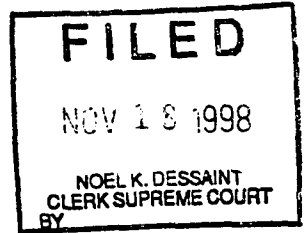


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In The Matter Of:	)	
	)	Administrative Order
ADOPTION OF POLICIES	)	
REGARDING PROTECTION ORDERS	)	No. 98- 66
IN DOMESTIC VIOLENCE CASES	)	(Revising Administrative
_____	)	Order No. 96-37)

On August 6, 1996, by Administrative Order No. 96-37, the Supreme Court adopted Policies Regarding Protective Orders in Domestic Violence Cases and authorized inclusion of the Policies in the Benchbook for Orders of Protection and Injunctions Against Harassment in Domestic Violence Cases. The Benchbook was developed by the Committee on the Impact of Domestic Violence and the Courts to promote consistency in the treatment of protective orders in domestic violence cases. Subsequent changes in state statutes and court procedures have prompted the Committee to recommend amendments to and revisions of the Policies originally adopted.

On October 14, 1998, the Arizona Judicial Council recommended approval of new Policies propounded by the Committee for inclusion in the Benchbook.

Now, therefore, pursuant to the administrative authority vested in the Supreme Court by Arizona Constitution, Article VI, Section 3,

IT IS ORDERED that attached Policies on Orders of Protection and Injunctions Against Harassment in Domestic Violence Cases are adopted and authorized for immediate inclusion in the Benchbook for Orders of Protection and Injunctions Against Harassment in Domestic Violence Cases, replacing the Policies adopted by Administrative Order 96-37.

DATED this 18th day of November, 1998.

THOMAS A. ZLAKET  
Chief Justice

**POLICIES ON  
ORDERS OF PROTECTION AND  
INJUNCTIONS AGAINST HARASSMENT  
IN DOMESTIC VIOLENCE CASES**

1. All requesting parties shall be advised of the right to obtain protective relief in any court and all courts shall be prepared to issue protective orders. Nevertheless, courts located within a one-mile proximity may enter agreements designating a principal court for issuance of Orders of Protection and Injunctions Against Harassment.

2. Petitions involving a threat to personal safety shall be heard as expeditiously as possible. Petitions shall be interspersed with short proceedings and longer matters shall be interrupted to hear petitions.

3. At all stages of proceedings involving protective orders, judicial officers and court personnel shall maintain appropriate security for the parties and themselves. Courts shall be cautious to protect the safety of the parties.

4. A court shall not order or refer the parties to mediate issues presented in a proceeding for an Order of Protection or any domestic or family violence issues in a proceeding for an Injunction Against Harassment. Parties may participate in mediation to resolve ancillary issues not associated with domestic or family violence only when each party voluntarily requests mediation in writing. In this situation, courts shall be cautious to protect the safety of the parties and to assure that participation is not the product of coercion or duress.

5. The number of times that an Order of Protection or Injunction Against Harassment has been requested and/or dismissed does not alone provide a basis for denying a request for protective relief.

6. An order remains valid unless it expires, or is modified or dismissed by the court. Conduct of the plaintiff alone does not invalidate the order.

7. An Order of Protection or Injunction Against Harassment shall contain the name of only one plaintiff and defendant.

8. When a protective order is issued against a person who is under the age of 18, that person shall be named as the defendant.

9. An Order of Protection may restrain the defendant from coming near specifically designated persons. The child of married or previously married parties shall not be included in such "no contact" provisions unless the judicial officer has a reasonable belief that harm may result to the child or determines that the alleged acts of domestic violence involved the child. Before granting an order prohibiting contact, the following factors shall be considered:

- a. Whether the child will be harmed if the defendant is permitted to maintain contact with the child.
- b. Whether the child will be endangered if there is contact outside the presence of the plaintiff. The zone of danger for the child may not exist if the plaintiff is not present when contact occurs.

No Order of Protection or Injunction Against Harassment shall include exceptions for child visitation or custody. Any issues regarding visitation or custody must be addressed by the Superior Court in an action under Title 25 of the Arizona Revised Statutes.

10. All modified Orders of Protection or Injunctions Against Harassment shall be served and registered in the same manner as original Orders or Injunctions.

11. Issuing Orders of Protection and Issuance of Injunctions Against Harassment involving domestic violence acts.

- a. Plaintiffs shall be advised that fees for filing and service of process may be waived or deferred. Court personnel shall not collect advance payment of service fees on behalf of the serving agency. Fees may not be charged to a party requesting a hearing or dismissal of an Order of Protection or Injunction Against Harassment.
- b. Each plaintiff or third party requesting an Order of Protection or Injunction Against Harassment shall be heard by a judicial officer. It is inappropriate for an order to be signed merely on a review of the written petition.
- c. Judicial officers shall assure that a petition contains information necessary to support the issuance of a protective order or include within the petition evidence supporting the issuance obtained from the plaintiff or requesting third party. Of particular importance is a specific statement, including dates, of the domestic violence alleged, as required by statute.
- d. When an Order of Protection is requested, judicial officers shall inquire whether the plaintiff wants to exercise the right to keep the plaintiff's address protected from disclosure. A plaintiff may not be aware of the right under state law to have the address protected.
- e. Each party who obtains an Order of Protection or Injunction Against Harassment shall be advised by judicial officer of the specific content of the protective order and that the order is not effective until served on the defendant. Each plaintiff shall be provided with a copy of the protective order and a safety plan and informed how to report violations.

12. Dismissing Protective Orders.

- a. In order to dismiss a protective order, the request shall be made by the plaintiff personally before a judicial officer in order to ensure that the request is not motivated by coercion or duress.
- b. Upon an appearance to request that a protective order be dismissed, the judicial officer may exclude the defendant from the hearing who has not been served or who has not requested a hearing to challenge the initial issuance of the order. If the plaintiff requests that an order of the court be dismissed without the defendant being present, the judicial officer may take action without prior notice to the defendant.
- c. All dismissed Orders of Protection or Injunctions Against Harassment shall be registered in the same manner as original Orders or Injunctions.

13. Hearings.

- a. If after service of an Order of Protection or Injunction Against Harassment the defendant requests a hearing, both parties shall be afforded an opportunity to be heard, present evidence, and call and cross examine witnesses. A judicial officer shall state the basis for continuing, modifying or dismissing the order. This is required even if a defendant consents to continuation of the protective order.
- b. All parties or witnesses shall be sworn under oath before providing testimony or evidence in connection with a protective order, whether in the consideration of issuing the order or in the course of a subsequent hearing.
- c. All hearings on protective orders shall be recorded to preserve the record and, in the case of limited jurisdiction courts, to avoid the necessity of a *de novo* hearing should the matter be transferred to the Superior Court.
- d. When an Order of Protection or Injunction Against Harassment is modified after a hearing, the modified order shall be served to be effective. To ensure the safety of protected persons, the court shall inquire whether the defendant will accept service of the modified order and obtain the necessary affidavit. If service is not accepted, the court shall, if possible, determine whether service can be accomplished while the defendant is present.

14. Judicial officers who may issue Orders of Protection and Injunctions Against Harassment and clerks or staff that assist them shall attend training on these Orders/Injunctions on a regular basis.