

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

May 3, 2006

10:00 AM – 2:00 PM

State Courts Building,

1501 W. Washington St, Room 345 A&B

Conference Call Number: (602) 542-9003

CIDVC Website: <http://www.supreme.state.az.us/cidvc/>

MEMBERS PRESENT

Hon. William O'Neil, Chair
Barbara Appenzeller, CPA
Hon. Ellie Brown
Lt. Mark Carpenter
Capt. Larry Farnsworth
Joan Fox, DDS
Hon. Sherry L. Geisler (teleconference)
Tracy Hannah, Esq.
Hon. Wendy Hernandez
Hon. Jeanne Hicks
Bridget Humphrey, Esq.
Hon. Ronald I. Karp
Patricia Klahr
Sheri Lauritano, Esq.
Hon. Michelle Lue Sang
Summer Dalton for Hon. Dennis Lusk
Jerald Monahan
Hon. Mark Moran
Hon. Carolyn Passamonte
Doug Pilcher
Robert Roll
Dale Wiebusch
Tracey Wilkinson

GUESTS

Veronica Martinez, Oracle Justice Court
Ginger Guyton, Oracle Justice Court

MEMBERS NOT PRESENT

Evelyn Buckner, MSW
Kristen Hoffmeyer, Esq
Paul O'Connell
Doris Robinson Wait, Esq.
Ginger Spencer
Hon. Benjamin Zvenia

STAFF PRESENT

Konnie Neal, Committee Specialist
Kim Ruiz, Support Staff

QUORUM: YES

I. CALL TO ORDER

A. WELCOME AND OPENING REMARKS

Judge William O'Neil, chair, called the May 3, 2006 meeting for the Committee on the Impact of Domestic Violence and the Courts to order at 10:15 am. All members introduced themselves, and Judge O'Neil welcomed new members. Konnie Neal encouraged members to forward recommendations to her for the medical doctor committee membership vacancy. She also reminded the Committee members the importance of participating in the workgroups and recommending non-committee members to join workgroups.

B. APPROVAL OF MINUTES FROM February 8, 2006

Minutes for the February 8, 2006, Committee on the Impact of Domestic Violence and the Courts meeting was presented for approval.

MOTION: **Motion was made and seconded to approve the February 8, 2006 meeting minutes as amended. Motion passed unanimously. 23-0-0. CIDVC-06-003**

II. PROJECT PASSPORT & PROTECTIVE ORDER FORMS

Judge O'Neil gave a brief review of Project Passport, a national effort to make the first page of all Orders of Protection look the same with similar information. Arizona has been a forerunner in this movement for the past year. The technological presentation has also driven some of the changes we will see in the Protective Order forms today. The forms were reviewed as a group and Committee consensus was reached on the following items:

A. Order of Protection (OP)

- It was suggested that language be added to the OP to specify the distance the defendant needs to stay away from the plaintiff.
The Committee agreed that it is best to not limit law enforcement and the courts with specific measurement statements on the OP.
- It was proposed and agreed to add the language "and prosecuted" after "will be arrested" in the last paragraph of the second page.
- It was proposed and agreed to clarify "5-10 days" to mean 5-10 "business" days.
- Concern was stated that the new language added to the defendant warning implies they will automatically be granted their own Order of Protection if requested.
Consensus of the Committee was to keep the language as stated.
- It was recommended that a time limit be stipulated in the law enforcement stand-by for when a defendant can return to the home. The problem with stating a 5-10 day limit is that statute states they can go back one time during the life of the Order, which is one year. Also, the courts do not have a law enforcement schedule. The legislature may also see this as a problem of the courts changing statute with a rule.
Consensus of the Committee was to keep the language as stated.
- It was proposed and agreed to add "Finding Reasonable Cause" language to the bottom of the first page.

MOTION: Motion was made and seconded to approve and forward the Order of Protection form as amended. Motion passed unanimously. 23-0-0. CIDVC-06-004

B. Emergency Order of Protection (EOP)

- The Committee agreed to take the appropriate above stated changes to comply with the OP (e.g. add “prosecuted” and “business days”).

MOTION: Motion was made and seconded to approve and forward the Emergency Order of Protection form as amended. Motion passed unanimously. 23-0-0. CIDVC-06-005

C. Injunction Against Harassment (IAH)

Injunction Against Workplace Harassment (IAWH)

- The Committee agreed to take the appropriate above stated changes to comply with the OP (e.g. add “prosecuted”, “business days” and “finding reasonable cause”).

MOTION: Motion was made and seconded to approve and forward the Injunction Against Harassment and Injunction Against Workplace Harassment forms as amended. Motion passed unanimously. 23-0-0. CIDVC-06-006

D. General Petition

- It was questioned whether “is pregnant” or “has been pregnant” was statutory language, and it was determined “is pregnant” was statutory language.

MOTION: Motion was made and seconded to approve and forward the General Petition form as amended. Motion passed unanimously. 23-0-0. CIDVC-06-007

E. Plaintiff’s Guide Sheet

- The changes made to the Guide Sheet were to comply with the changes to the OP.
- It was recommended and agreed to add language recommending the plaintiff carry a copy of the protective order with them at all times.
- It was suggested and agreed to add the option of making an “other” address confidential (e.g. school address, daycare etc). The “(leave blank if confidential)” qualifier will need to be added to the “other” option on the OP, IAH and IAWH.
- It was proposed and agreed to add language that clarified what information referenced in section 11 would be released for public access.
- It was proposed and agreed to clarify the language in section 5 regarding the importance of appearance at the hearing.

MOTION: Motion was made and seconded to approve and forward the Plaintiff’s Guide Sheet as amended. Motion passed unanimously. 23-0-0. CIDVC-06-008

F. Defendant's Guide Sheet

- It was proposed and agreed to add and change language to section 8 regarding documentation as proof of compliance to the surrendering of firearms.
- It was proposed and agreed to change the language in section 4 regarding a hearing and the potential for firearms prohibition.

MOTION: Motion was made and seconded to approve and forward the Defendant's Guide Sheet as amended. Motion passed unanimously. 23-0-0. CIDVC-06-009

The other ancillary forms just had formatting updates to comply with all other forms, so there were no substantive changes. There is no need for review for approval.

III. CALL TO THE PUBLIC

Susan Ledbetter, a member of the public, called into the Committee to discuss the effects of her past legal matters. She had an Order of Protection filed against her with crimes against children specified. She had a hearing and no evidence was presented against her for the charge. It was her understanding, after the hearing the Order was supposed to be sealed. She has since found out it was not sealed and the information is available on the internet. She has not been able to get a job, because the charge of crimes against children shows in a background check. She would like the Committee to address the issue of the need for evidence to be present with a charge of crimes against children, and the importance of information being sealed from public access.

Olga Chaikheeva, General Manager of the Shield Foundation, presented four issues to the Committee:

- Many times police officers have problems finding Order of Protection in their systems, so plaintiffs need to know the importance of having the OP on them at all times, to ensure enforcement.
- She would like the court to accept evidence from the plaintiff at the initial hearing for an Order of Protection. Then, if the plaintiff is unable to attend the hearing (due to hospitalization, etc.) the evidence will already be present for consideration.
- She would like an Order of Protection to include protection for, and exclusive use of the family car. There should also be a statement to the defendant that the family vehicle is protected. Many times it is the only form of transportation to and from work for a plaintiff, so the defendant damages it to stop the plaintiff from leaving the house.
- She would like the Order of Protection to include protection of the plaintiff's cell phone. Many times they have a family plan for cell phones, with no other home telephone, and the defendant disconnects them. The plaintiff then has no access to a telephone.

IV. DOMESTIC VIOLENCE LEGISLATION

Dale Wiebusch gave the following legislation updates:

HB2716: This bill has been killed due to a lack of compromise language.

SB1097: This is a striker and was changed to a human egg donor bill.

SB1147: This bill was signed by the Governor yesterday (interfering with the emergency use of a telephone).

SB1342: This bill has been gone for awhile. It comes down to movement from both the judicial side and the law enforcement side to reach an agreement. It will come up again next year.

SB1493: Same outcome as SB1342.

SB1164: A striker has been applied to the "strangulation bill" making it a displaced pupil grant program. It has been sent back to the Senate to pass as amended, but there has been no movement. This probably means there is not enough support for the striker, so we may still have a chance to get it returned to the original strangulation legislation.

HB2124: This bill was signed by the Governor yesterday (victims cannot be evicted for the summoning of 911 on their behalf).

SB1145: This bill had an emergency clause in it, so it went into effect last week. It expands the areas in which you can claim self-defense and it changes the burden of proof on self-defense from the assailant to the prosecutor. This has a potential effect on domestic violence cases.

Budget: There is agreement on how much can be spent (around \$10.2 billion), but the biggest stumbling block has to do with tax cuts vs. rebates.

There was a House bill that had to do with cleaning up the language related to restaurants that serve liquor such as: what percentage of sales are from liquor vs food and how close they can be to schools. Yesterday, on the Senate floor, an amendment was attached to allow people to carry guns into restaurants that serve liquor. This is a repeat of last year's "guns in bars bill". It passed the Senate, but has to go back through the House.

V. DOMESTIC VIOLENCE RULES

A draft of the Rules was handed out to the Committee members for review. Input from CIDVC members is important to the final draft. A comment website will be established for the new Rules, and any input from CIDVC members would be very helpful. The draft of the Rules will be presented to the DV Rules Committee later today for approval to move forward for petition in November. The Rules will go through the same Committee schedule for approval as the Protective Order Forms.

VI. JUDICIAL ACCESSIBILITY TO PROTECTIVE ORDER COURT RECORDS

Konnie Neal provided follow up information from the discussion in the last Committee meeting. The recommendations from CIDVC and DV Rules that it would not be a good idea for judges to access any prior protective orders or history that was available electronically, was sent forward to the AOC.

VII. Brainstorm Ideas for Protective Order Forms and Rules Outreach

Konnie Neal encouraged the Committee to provide ideas for getting the word out about the new Rules and Protective Order Forms, and arranging trainings. Non-AZTEC courts have been working with Robert Roll since last year, but we probably need to send out a reminder of the changes coming. Their goal is to keep what the courts have and just enhance what is already there. AZTEC courts should contact Pat Wuensche.

VIII. WORKGROUP UPDATES

- Judge Moran, Chair of the DV Education Workgroup, asked the Committee to start thinking about some solid suggestions for a training program for all judges at the Judicial Conference for next year.
- Judge Moran, Chair of the Criminal Benchbook Workgroup, said the workgroup will meet after the legislature adjourns to address the legislative changes and how they affect the Benchbook.
- Bridget Humphrey informed the Committee that the DV Benchbook Workgroup will need to rework the DV Benchbook once the DV Rules Committee completes the Rules. What remains will be split into a true Benchbook and a resource book.
- Robert Roll updated the Committee regarding the work of the Technology Workgroup. They are about to bring in Cochise County to CPOR/LPOR. There are currently 5 counties with full functionality in CPOR/LPOR.

IX. GOOD OF THE ORDER / ADJOURNMENT

Judge William O'Neil, Chair, adjourned the meeting at 1:30 p.m.

NEXT MEETING

(This is a date change from the original Committee Calendar)

Wednesday, August 9, 2006

10:00 am to 2:00 pm

State Courts Building, Conference Room 345 A/B