

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-22-0030
RULES 3, 14, 23, 24, 25, 26, 30,)
31, 32 AND 42, RULES OF) **FILED: 8/29/2022**
PROTECTIVE ORDER PROCEDURE)
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**ORDER ADOPTING ON AN EMERGENCY BASIS
AMENDMENTS TO RULES 3, 14, 23, 24, 25, 26, 30, 31, 32 AND 42,
ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE**

On June 30, 2022, Hon. Wendy A. Million, Chair of the Committee on the Impact of Domestic Violence and the Courts, filed a rule petition proposing the adoption, on an emergency basis, of amendments to Rules 3, 14, 23, 24, 25, 26, 30, 31, 32, and 42, Arizona Rules of Protective Order Procedure. Upon consideration,

IT IS ORDERED that, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, Rules 3, 14, 23, 24, 25, 26, 30, 31, 32, and 42, Arizona Rules of Protective Order Procedure, are amended on an emergency basis in accordance with the attachment to this order, effective September 24, 2022.

IT IS FURTHER ORDERED that, consistent with this Court's order of July 1, 2022, the Court will consider whether to adopt

TO:

Rule 28 Distribution

Hon. Wendy A Million

ATTACHMENT¹

ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE

Rule 3. Definitions

(a)-(b) [No change]

(c) “**Harassment,**” when applicable to an Injunction Against Harassment, means either of the following:

(1) a series of acts over any period of time that are directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed, and the conduct in fact seriously alarms, annoys, or harasses the person and serves no legitimate purpose. *See* A.R.S. § 12-1809(S); or

(2) one or more acts of sexual violence as defined in A.R.S. § 23-371~~;~~[;]~~or~~

~~(3) any contact if the person is the victim of a crime that was committed by the defendant. For purposes of this rule, “crime” means a conviction for an offense, whether completed or preparatory, that is a dangerous offense as defined in A.R.S. § 13-105, a serious offense or violent or aggravated felony as defined in A.R.S. § 13-706, or any offense in A.R.S. title 13, chapter 14 or 35.1.~~

(d) [No change]

(e) “**Harassment,**” when applicable to an Order of Protection or an Emergency Order of Protection, means conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, humiliated, or ~~harassed~~ mentally distressed, and the conduct in fact seriously alarms, annoys, humiliates or ~~harasses~~ mentally distresses the person. *See* A.R.S. §§ 13-2921, 13-3601(A), and 13-3624(C).

(f)-(g) [No change]

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Rule 14. Filing and Service Fees

(a)-(b) [No change]

(c) **Service Fees.**

(1) A service fee cannot be charged for:

(A) an Order of Protection that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 13-3602(D).

¹ Additions to the text of a rule are shown by underscoring and deletions are shown by ~~strike through~~.

(B) an Injunction Against Harassment—~~between parties in a dating relationship~~ or where the harassment is sexual violence as defined in A.R.S. § 23-371—that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 12-1809(D).

(2) For an Injunction Against Harassment—~~between parties not in a dating relationship~~— or an Injunction Against Workplace Harassment, the fee is determined by the serving agency. *See* A.R.S. §§ 12-1809(D) and 12-284(A).

(d) [No change]

COMMENT [No change]

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Rule 23. Order of Protection

(a)-(i) [No change]

(j) **Effectiveness.** An Order of Protection takes effect when ~~it~~ the defendant is served with a copy of the order and the petition. An Order of Protection that is served on or after September 24, 2022, is in effect for two years from date of service. An Order of Protection served before September 24, 2022, is in effect for one year from date of service. A modified Order of Protection takes effect upon service and expires the same date as the initial order upon which it is based. *See* A.R.S. § 13-3602~~(K)~~(N).

(k) [No change]

COMMENT [No change]

Rule 24. Emergency Order of Protection

(a) **Authority to Issue an Emergency Order of Protection.**

(1) In a county having a population of 150,000 or more, the presiding judge of the superior court in that county must make available on a rotating basis a judge, a justice of the peace, a magistrate, or a commissioner to issue an Emergency Order of Protection by telephone during hours that the courts are closed. *See* A.R.S. § 13-3624(A).

(2) In a county having a population of less than 150,000, a any judge, a justice of the peace, a magistrate, or a commissioner may issue an Emergency Order of Protection by telephone during hours that the courts are closed. *See* A.R.S. § 13-3624~~(B)~~(A).

(b)–(d) [No change]

(e) **Duration.** An emergency order expires ~~at the close of the next judicial business day following the day of issuance or within 72 hours of issuance, whichever is longer~~ seven calendar days after issuance. *See* A.R.S. § 13-3624(E). The plaintiff may file a petition for an Order of Protection on the next judicial business day.

(f) [No change]

COMMENT [No change]

Rule 25. Injunction Against Harassment

(a)-(h) [No change]

(i) **Effectiveness.** An Injunction Against Harassment takes effect when it is served the defendant is served with a copy of the order and the petition, and it expires one year from the date it is served. A modified Injunction Against Harassment takes effect upon service but expires one year after service of the initial order. See A.R.S. § 12-1809(J).

COMMENT [No change]

Rule 26. Injunction Against Workplace Harassment

(a)-(g) [No change]

(h) **Effectiveness.** An Injunction Against Workplace Harassment takes effect when it is served the defendant is served with a copy of the order and the petition, and it expires one year from the date it is served. A modified Injunction Against Workplace Harassment takes effect upon service but expires one year after service of the initial order. See A.R.S. § 12-1810(I).

COMMENT [No change]

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Rule 30. Offender Treatment Programs

(a) [No change]

(b) **Noncompliance with Offender Treatment.** If a judicial officer becomes aware that a defendant has failed to comply with an order to complete a domestic violence offender treatment program, the judicial officer may refer the matter to an appropriate law enforcement agency. A superior court judicial officer may also set the matter for an Order to Show Cause hearing. See A.R.S. § 13-3602(N)(R).

Rule 31. Service of Protective Orders

(a)-(i) [No change]

~~(j) — **Effective Date.** An initial protective order takes effect when the defendant is served with a copy of the order and the petition, and it expires one year from the date it is served. A modified order takes effect upon service but expires one year after service of the initial order.~~

COMMENT [No change]

Rule 32. Registration of Protective Order and Proof of Service

(a) ~~Registration~~; **Central Repository.** The supreme court will maintain a central repository for Orders of Protection, Injunctions Against Harassment, and Injunctions Against Workplace Harassment. Within 24 hours of return of service, every Order of Protection, Injunction Against Harassment, and Injunction Against Workplace Harassment must be entered by the issuing court into the supreme court's central repository for protective orders. The supreme court must register the served protective order with the National Crime Information Center.

(b) ~~Validity~~ **Registration.** The effectiveness of a protective order does not depend on its registration. A protective order, whether or not registered, is a valid court order for ~~one~~ year from the date of service its applicable term.

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Rule 42. Appeals

(a)–(b) [No change]

COMMENT

A protective order entered by a limited jurisdiction court after a hearing at which both parties had an opportunity to appear may be appealed to the superior court. *See* A.R.S. §§ 13-3602(S)(T), 12-1809(P), and 12-1810(P). The procedures to be followed are set forth in A.R.S. § 22-261 for justice courts, are made applicable to municipal courts by A.R.S. § 22-425, and are governed by the *Superior Court Rules on Appellate Procedure-Civil*.