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IN THE SUPREME COURT  
STATE OF ARIZONA

PETITION TO AMEND RULE 6 ) Supreme Court No. R-10\_\_\_\_\_  
OF THE ARIZONA RULES )  
OF PROTECTIVE ORDER PROCEDURE )  
\_\_\_\_\_ )

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend the Arizona Rules of Protective Order Procedure (ARPOP), as reflected in the accompanying Appendix A, on an expedited basis to bring them into conformity with a recent amendment to Arizona statutes.

**I. Background and Purpose of the Proposed Rule Amendment.** Senate Bill 1266 was passed and signed into law in the Second Regular Session of the Forty-Ninth Legislature (Ch. 276)(2010). The bill’s effective date is July 29, 2010.

SB 1266 added subsection A.R.S. § 13-3602(G)(7) to the existing Order of Protection statute, creating a specific provision for protection of animals. This

legislation gives the court the authority to grant a plaintiff exclusive custody of any animal possessed by the parties and forbids the defendant to come near the animal for the duration of the Order of Protection.

The proposed rule amendment would conform the Rules of Protective Order Procedure with the change made to ARS § 13-3602. Amendment of the rule will provide notice to the courts and to the public of the relief regarding animals that may be granted to a plaintiff on an Order of Protection.

**II. Contents of the Proposed Rule Amendment.** Rule 6(C) of the Rules of Protective Order Procedure governs issuance of Orders of Protection. The proposed additional language in Rule 6(C)(5) would add the statutory provision regarding animals to the existing rule.

**III. Pre-Petition Comments.** The petition has not been circulated for pre-petition comments.

**IV. Proposed Post-Petition Public Comment Period.** Petitioner respectfully recommends a public comment period for the proposed rule ending May 20, 2011.

**IV. Effective Date of the Proposed Rule Amendment.** The rights granted by the underlying statutory amendment will become effective on July 29, 2010, and the effective date of the proposed rule amendment must be consistent with that

date. Accordingly, petitioner respectfully requests that the proposed amendments be made effective on and after July 29, 2010, with a comment period to follow.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of June 2010.

By \_\_\_\_\_  
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## APPENDIX A

### Rule 6. Rules of Procedure for Issuing Protective Orders

A. – B. [No change.]

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

1. – 4. [No change.]

5. *Issuance of Order of Protection.* An Order of Protection shall be issued *ex parte* if the judicial officer finds reasonable cause to do so as set forth in paragraph 3 above. At the initial *ex parte* hearing, the plaintiff or appropriate third party shall be provided with a copy of the Order of Protection, which may include any of the following provisions:

a. *No Contact Orders.* The judicial officer may prohibit all contact with the plaintiff or other protected parties, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).

b. *Exclusive Use of Residence.* The judicial officer may grant 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 is not the owner of the residence, the judicial officer may grant exclusive use for a limited period of time. At a contested hearing, the judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use. The judicial officer may allow the defendant to return one time, accompanied by a law enforcement officer, to pick up personal belongings.

c. *Prohibited Locations.* The judicial officer may also order that the defendant not go near the residence, place of employment or school of the plaintiff or other protected parties. The judicial officer may include other specifically designated location(s) in the Order. If the defendant does not know the address of these additional places, the judicial officer may, upon request of the plaintiff, leave the addresses protected. *See* A.R.S. § 13-3602(G)(3).

d. *Firearms and Ammunition.*

1) The judicial officer shall ask the plaintiff about the defendant's use of or access to weapons or firearms. This inquiry shall be made to determine if the defendant poses a credible threat to the physical safety of the plaintiff or other protected persons. The judicial officer may, for the duration of the Order of Protection:

a) prohibit the defendant from possessing, purchasing or receiving firearms and ammunition; and

b) order the defendant, immediately after service of the Order of Protection, to transfer any firearm or ammunition, owned or possessed, to the appropriate law enforcement agency. *See* A.R.S. § 13-3602(G)(4).

2) The plaintiff reporting violations of the order to transfer firearms and ammunition shall be referred to the appropriate law enforcement agency.

e. *Other relief.* The judicial officer may grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances.

f. *Animals.* The judicial officer may also 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 Section 13-2910, or otherwise disposing of the animal.

6. – 7. [No change.]

**D. – F. [No change.]**