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ARIZONA SUPREME COURT

Protective Orders) [R-26-0004](#)
) [R-26-0013](#)
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Petitioner Ashley J. Florian respectfully submits these proposed amendments to the **Arizona Rules of Protective Order Procedure (ARPOP)**. The purpose of this petition is to ensure that all court-ordered deprivations of liberty, property, and parental rights conform to the **History and Tradition** of the United States and the foundational principles of **Common Law**. These amendments do not diminish public safety; rather, they restore the peace. Historically, the American legal tradition utilized **Peace Bonds** (surety of the peace) to restrain individuals who posed a "credible threat" to others.

Rule 25. Injunction Against Harassment

17B A.R.S. Rules Protect.Ord. Proc., Rule 25(g)

Formerly cited as AZ ST RPOP Rule 6

(g) Firearms. The judicial officer may ask the plaintiff about the defendant's use of or access to firearms. ~~If necessary to protect the plaintiff or any other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing, or receiving firearms for the duration of the order.~~

Strike (g): ~A judicial officer may only prohibit from possessing, purchasing, or receiving firearms upon a specific finding, supported by clear and convincing evidence on the record, that they pose a credible threat of physical violence. This finding must be consistent with the History and Tradition of the United States (1791/1868) regarding the disarmament of persons proven to be dangerous to the public peace.

[Proposed Addition]: <u>(2) Record Preservation. Any order for the surrender of firearms must be supported by a verbatim record of the evidence presented. This record must be maintained pursuant to Rule 44.

Rule 6. Court Availability for Protective Orders

17B A.R.S. Rules Protect.Ord. Proc., Rule 6

Formerly cited as AZ ST RPOP Rule 1

(a) Court Hours...

(b) Access to the Court for *Ex Parte* Hearing.

(1) A judicial officer must allow a victim advocate, if identified as such, to accompany the plaintiff during the *ex parte* hearing.

(2) The presence of a minor child or children does not constitute grounds to deny a plaintiff access to the court for the purposes of requesting an *ex parte* protective order.

[Proposed Addition]: <u>(3) Mandatory Record of Ex Parte Evidence.To satisfy the History and Tradition of the United States, any *ex parte* testimony used to deprive a respondent of liberty, property, or parental rights must be recorded verbatim. The court shall not rely on unrecorded "informal" statements that cannot be challenged by the respondent in a subsequent hearing.</u>

(c) Where to File a Petition....

(d) Designated Court. Courts located within a one-mile proximity may agree to designate a court for issuance of protective orders. ~~If courts enter into such an agreement, the referring court must provide written or verbal information and directions regarding the designated court and, prior to referral, must ensure that the designated court is open to issue an order that day. If the designated court is not available to issue orders, the referring court must conduct the individual hearing with the plaintiff.~~

[Proposed Addition]: <u>(1) Record Continuity.</u> <u>Any court that enters into a designation agreement must ensure that the "Designated Court" maintains the record in accordance with Rule 44. The

referring court retains an independent duty to verify that a verbatim record was created to satisfy the History and Tradition of a "Court of Record."

(2) Jurisdictional Accountability. A referral to a designated court shall not be used to circumvent the historical requirement of venue and vicinage. The respondent must be notified of the exact location where the record of the ex parte hearing is being held.

(e) Courts with Part-time Judicial Officers. A court having only a part-time judicial officer must provide coverage for the court, ~~or court staff must direct a person requesting a protective order to the appropriate court location after ensuring a judicial officer is available.~~

[Proposed Addition]:(1) Constitutional Availability. A lack of a full-time judicial officer does not alleviate the State's burden to provide a neutral magistrate who can weigh the historical necessity of an order. No "Emergency" order may be issued by non-judicial staff, as the History and Tradition of the United States (1791) requires the intervention of a detached and neutral judicial mind before the deprivation of liberty or property.

Rule 12. Party Addresses

17B A.R.S. Rules Protect.Ord. Proc., Rule 12

Formerly cited as AZ ST RPOP Rule 1; AZ ST RPOP Rule 3

(a) Change of Address. Each party must report any change of address or telephone number to the court to permit notification of any scheduled hearing. If

the plaintiff's address and telephone number are protected, any changes must also be protected.

(b) Continuing Duty to Provide Current Address. Any person whose address is protected from disclosure has a continuing duty to provide the clerk of the court with a current and correct mailing address where the person can be served or notified.

[Proposed Addition]: ~~<u>~~**(c) Due Process Verification.** The Clerk shall verify the accuracy of the provided mailing address at each stage of the proceedings. In accordance with the History and Tradition of the 14th Amendment, no order shall be modified or extended without an affirmative finding on the record that the State has utilized the "best notice practicable" to reach the Respondent.

(d) Record of Testimony. Because ex parte proceedings lack the historical safeguard of cross-examination, the court must create a verbatim record of all testimony provided. This record must be preserved pursuant to Rule 44 to allow the Respondent a meaningful opportunity to challenge the historical and factual basis of the order

Rule 3. Definitions

17B A.R.S. Rules Protect.Ord. Proc., Rule 3

Formerly cited as AZ ST RPOP Rule 1

(d) “**Harassment,**” when applicable to an Injunction Against Workplace Harassment, means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be ~~seriously alarmed or annoyed~~. Placed in reasonable fear of substantial physical injury or significant property damage. See A.R.S. § 12-1810(S)(2).

[Proposed Addition]: <u>1. **Historical Consistency.** To satisfy the History and Tradition of the United States, an injunction shall not issue based on conduct that is merely annoying or offensive, as such standards were unrecognized as a basis for liberty restrictions at the time of the adoption of the Bill of Rights or the 14th Amendment.

(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 mentally distressed~~, placed in reasonable fear of imminent physical injury or death and the conduct in fact ~~seriously alarms, annoys, humiliates or mentally distresses the person~~ constitutes a credible threat of violence consistent with the historical tradition of Peace Bonds See A.R.S. §§ 13-2921, 13-3601(A), and 13-3624(C).

(f) “**Legal decision-making**” means the legal right and responsibility of a parent to make major decisions for a child. ~~Legal decision-making may be either joint with both parents or sole with one parent.~~ See A.R.S. § 25-401(3).

[Proposed Addition]: <u>1. Historical Primacy. In accordance with the History and Tradition of the United States (1791/1868), the right of a parent to legal decision-making is a fundamental liberty interest. The state bears the burden of proving that any restriction on this right is consistent with the historical tradition of *Parens Patriae*, which traditionally required a finding of clear and present danger or total abandonment

(g) “Protective order,” as used in Rules 1 and 4 through 42, means an Order of Protection, an Emergency Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment, except that “protective order” as used in Rules 1 and 4 also includes an Order for Lifetime No-Contact Injunction issued under A.R.S. § 13-719(D).

Rule 1. Scope and Applicability

Rules 2 through 42 govern procedures in Arizona courts for any case brought under Arizona Revised Statutes (“A.R.S.”) § 13-3602, Order of Protection; A.R.S. § 13-3624, Emergency Order of Protection; A.R.S. § 12-1809, Injunction Against Harassment; or A.R.S. § 12-1810, Injunction Against Workplace Harassment. Rules 3, 4, 42, and 43 govern procedures for any petition filed under A.R.S. § 13-719(D) for an Order for Lifetime No-Contact Injunction. Rule 44 applies to all protective order cases.

[Proposed Addition]: <u>(a) Historical Consistency. All rules herein must be interpreted to align with the History and Tradition of the United States. The state must prove that any restriction on a respondent's fundamental rights (liberty, property, or parental autonomy) has a

well-established representative historical analogue in the American legal tradition.

Rule 44. Retention and Disposition of Evidence and Illustrative AIDS

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence; which shall be marked for identification and preserved as part of the permanent record for appellate review

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence, including digital reconstructions or historical charts used to establish "History and Tradition."

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

~~(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.~~

[Proposed Addition]: <u>Digital exhibits in protective order cases must be maintained for no less than 5 years. The clerk must provide 30 days’

notice to all parties before any deletion to preserve the historical record for constitutional review.

/s/Ashley J Florian

February 9th, 2026