



**IT IS ORDERED** adopting the proposed rule amendments, as shown in the attachment to this order, on a permanent basis, effective January 1, 2021.

DATED this 15<sup>th</sup> day of December, 2020.

\_\_\_\_\_/s/\_\_\_\_\_  
ROBERT BRUTINEL  
Chief Justice

TO:

Rule 28 Distribution  
David K Byers

## ATTACHMENT<sup>1</sup>

### ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE

#### Rule 23. Order of Protection

(a) through (g) [No change]

(h) **Relief.** When issuing an Order of Protection, *ex parte* or after a hearing, a judicial officer may:

(1) prohibit the defendant from having any contact with the plaintiff or other protected persons, with any exceptions specified in the order. *See* A.R.S. § 13-3602(G)(3).

(2) grant the 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 moves out of the residence while the order is in effect, the plaintiff must file a written notice with the court within five days after moving. Upon receipt, the court must provide a copy of the notice to the defendant and advise of the right to request a hearing pursuant to A.R.S. § 13-3602(L).

(A) A plaintiff who is not the owner of the residence may be granted exclusive use for a limited time.

(B) The defendant may be permitted to return one time, accompanied by law enforcement, to pick up personal belongings.

(C) At a contested hearing, a judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use.

(3) through (5) [No change]

(i) through (k) [No change]

\* \* \*

#### Rule 38. Contested Hearing Procedures

(a) **Requesting a Hearing.** At any time while a protective order or a modified protective order is in effect, a defendant may request one hearing in writing. *See* A.R.S. §§ 13-3602~~(H)~~(L), 12-1809(H), 12-1810(G).

---

<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike through~~.

**(b) Scheduling the Hearing.** A judicial officer must hold the hearing at the earliest possible time.

(1) If an Order of Protection grants exclusive use of the residence, a judicial officer must hold a hearing within ~~five~~ 5 court business days of the request. If exclusive use of a residence is awarded to the plaintiff, the court, on written request of a party, may hold additional hearings at any time if there is a change in circumstances related to the primary residence. See A.R.S. § 13-3602(L).

(2) For all other protective orders, a judicial officer must hold a hearing within 10 court business days of the request unless the judicial officer finds good cause to continue the hearing for a longer period of time.

(c) through (i) [No change]