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ARIZONA SUPREME COURT

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|---------------------------------|---|-------------------------------|
| In the matter of: |) | |
| |) | |
| PETITION TO AMEND RULES 3, 32, |) | Supreme Court No. R-21-_____ |
| 34, AND 42 OF THE ARIZONA RULES |) | |
| OF PROTECTIVE ORDER |) | (expedited consideration and |
| PROCEDURE |) | emergency adoption requested) |
| _____ |) | |

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to consider and adopt on an emergency basis the proposed amendments to the Arizona Rules of Protective Order Procedure (ARPOP), as reflected in the attached Appendix A. They are designed to implement new statutory provisions concerning protective orders, as enacted by Laws 2021, Chapter 273, SB 1412, and Laws 2021, Chapter 258, HB 2158. This petition also includes three unrelated technical amendments.

I. Background and Purpose of the Proposed Rule Amendments. Senate Bill 1412 and House Bill 2158 were passed in the First Regular Session of the Fifty-fifth Legislature (2021).

SB 1412 inserted subsection A.R.S. § 12-1809(S)(1)(c) into the existing statute, expanding the definition of harassment for purposes of an Injunction Against Harassment. This legislation will now allow a victim of certain types of crimes to request an Injunction Against Harassment against the person who committed the crime.

HB 2158 amends A.R.S. §§ 12-1809, 12-1810, and 13-3602. These statutes govern Injunctions Against Harassment, Injunctions Against Workplace Harassment, and Orders of Protection. The amendments clarify the Supreme Court's obligation to maintain a central protective order repository, the courts' responsibility to enter the protective order and proof of service into the repository, and the Supreme Court's duty to register served protective orders with the National Crime Information Center.

II. Contents of the Proposed Rule Amendment. The proposed rule amendments will conform the Rules of Protective Order Procedure with the statutory changes and address necessary technical amendments.

Proposals related to legislative changes include:

- Rule 3(c)—amend to add the additional definition of harassment, allowing a crime victim to file a petition for an Injunction Against Harassment against the person convicted of the crime as specified in SB 1412, and

- Rule 32(a)—amend to conform it with the changes detailed in HB 2158.

Technical amendments include:

- Rules 34(a)(2) and 42 to update statutory references.

III. Preliminary Comments. These proposed amendments have not been widely circulated to the court communities for pre-filing comments because of the short period of time since enactment of the legislation. They have been reviewed by the Honorable Wendy A. Million, Magistrate, Tucson City Court, who chairs the Supreme Court’s Committee on the Impact of Domestic Violence and the Courts (CIDVC).

IV. Request for Expedited Consideration and Emergency Adoption. SB 1412 and HB 2158 take effect on the General Effective Date, which is anticipated to be sometime in September. Petitioner therefore requests expedited consideration and emergency adoption of the proposed amended rules with a formal comment period to follow, as permitted by Supreme Court Rule 28(H).

RESPECTFULLY SUBMITTED this 11th day of June, 2021.

By /S/
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APPENDIX

(Additions are shown by underline; deletions are shown by ~~strikethrough~~.)

ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE

Rule 3. Definitions

- (a) **“Domestic violence”** means any act specified in A.R.S. § 13-3601(A) combined with any relationship listed in A.R.S. § 13-3601(A).
- (b) **“Ex parte”** means a court procedure carried out for the benefit of one party, without notice to or the presence of the other party.
- (c) **“Harassment,”** when applicable to an Injunction Against Harassment, means:
- (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 subsection, “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) through (g) [no changes]

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 ~~registered by the issuing court~~ with the National Crime Information

Center. ~~The supreme court will maintain a central repository for these types of protective orders.~~

(b) Validity. A protective order, whether or not registered, is a valid court order for one year from the date of service.

Rule 34. Jurisdiction

(a) Superior Court Jurisdiction. The superior court has exclusive jurisdiction to issue a protective order when a family law action is pending between the parties. A limited jurisdiction court must refer a plaintiff who has a pending family law action to the superior court. An action is pending if either:

- (1) an action has begun but no final judgment, decree, or order has been entered, or
- (2) a post-decree proceeding has begun but no final order determining that proceeding has been entered. *See* A.R.S. § 13-3602~~(P)~~(S).

(b) and (c) [no changes]

Rule 42. Appeals

(a) and (b) [no changes]

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~~(P)~~(S), 12-1809(O), and 12-1810(O). 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*.