

The Supreme Court of Ohio

MEMORANDUM

TO: Chief Justice Maureen O'Connor

CC: Jeffrey C. Hagler, Administrative Director
Stephanie Hess, Deputy Administrative Director
Stephanie Nelson, Court Services Division Director

FROM: Judge Linda Warner, Chair, Advisory Committee on Domestic Violence
Anne M. Murray, Policy Counsel

DATE: March 2, 2021

RE: Advisory Committee on Domestic Violence – 2020 Annual Report

Pursuant to Guideline 4.03 of the Operating Guidelines for the Advisory Committee on Domestic Violence, we are proud to present the Advisory Committee's 2020 Annual Report.

Purpose of Advisory Committee

The purpose of the Advisory Committee is to provide ongoing advice to the Supreme Court of Ohio and its staff to improve Ohio courts' response to domestic violence and related issues. The group seeks to increase victim safety and hold offenders accountable by keeping abreast of research and best practices in the field; recommending workable rules and standards; fostering effectiveness through multidisciplinary approach; assisting the development and delivery of education for judicial officers, court personnel, and justice partners on issues the Advisory Committee deems necessary to assist Ohio courts best address this important topic.

2020 Activities and Accomplishments

The Advisory Committee met via remote conferencing platform due to the coronavirus pandemic on March 20th, May 15th, August 22nd, and November 20th. As discussed below, the Committee focused on providing input on policy matters, revising the protection order rules and forms, and supporting promising practices and education on domestic violence, dating violence, sexual assault, human trafficking, and stalking for court and justice partners.

Change in Leadership

The Advisory Committee had a change in leadership in mid-year. Chair Judge Kathleen Rodenberg from Clermont Domestic Relations Court resigned her position and membership in June, 2020, after serving as a member since 2014, and chair as of January, 2019. During Judge

Rodenberg's tenure, the Committee advised on topics such as standardized protection order forms, guidelines for courts regarding domestic violence and allocation of parental rights, assessing allegations of child abuse, best practices for courts to responding to human trafficking, and federal firearms prohibitions in domestic violence cases.

Judge Linda Warner of the Meigs County Common Pleas Court was appointed Chair in August, 2020. A member of the Advisory Committee since 2013, first as a Magistrate in Gallia County, then a judge of the Meigs County Court of Common Pleas in 2018, Judge Warner also serves as Chair of the Protection Order Forms Subcommittee, and Co-Chair of the Firearms Workgroup.

Coronavirus Response

Courts faced significant challenges due to the coronavirus pandemic, among them, how to safely maintain response to victims of violence. To benefit from each other's experiences, the Advisory Committee added a section to each meeting's agenda to discuss members' local response to the pandemic and how processes were adapted to maintain access for victims.

The Advisory Committee also worked to expand access to courts for victims during the pandemic and beyond through two projects: a remote online notary pilot program, and a plan to allow users to access the standard protection orders and information online at Ohio Legal Help.

Remote Online Notary Pilot

As social distancing requirements reduced the number of offices and services open to the public, notary services were also depleted. The Chief Justice relaxed rule requirements for notarizations on forms, but some forms require notarization by law, including forms frequently filed by those seeking domestic violence protection orders. Research revealed that online notaries exist in Ohio, but such services are cost prohibitive for most self-representative litigants.

The Advisory Committee helped secure funding for a pilot remote online notary program through the Cuyahoga County Domestic Relations Court Domestic Violence Center ("Center"). Funding is being used to train Center staff, obtain licenses to an e-notary platform, and offer the service to petitioners at no cost during the pilot. Data will be collected through June of 2021, to evaluate if the project would be beneficial to other jurisdictions.

Ohio Legal Help Protection Order Project

The pandemic further strained access to legal and advocacy services in many areas of the state. The Advisory Committee has partnered with Ohio Legal Help (OLH), a statewide, nonprofit organization, to place the standardized protection order forms on the Ohio Legal Help website, www.ohiolegalhelp.org. In addition to access to the forms, the site will include educational materials about the court process, and information about legal and advocacy services in the user's county. The project is scheduled to be completed in late summer 2021. During the second phase of the project, OLH will translate the materials into Spanish. That phase is expected to be completed by Fall 2021.

Input on Policy

The Advisory Committee closely monitored multiple legislative bills addressing issues relating to domestic violence that, if passed, could require revisions to existing or recommended forms, rules, or practices. The topics were wide-ranging: creating emergency protection orders, requiring law enforcement use lethality assessments on victims, making strangulation of a family or household member a felony, granting testimonial privilege to victim advocates, removing firearms from persons subject to protection orders or convicted of domestic violence, enhanced reporting requirements for domestic violence warrant and protection orders, changes to sexual assault statutes of limitations and removal of the spousal rape exception, use of risk assessments with bond schedules, victims' rights, and address confidentiality.

Additionally, the Advisory Committee monitored proposed amendments to Sup.R. 16.30 through 16.32, regarding mediation of certain Civil Stalking Protection Order Cases; Sup.R. 36, revising the rules pertaining to Specialized Dockets; and revisions to Crim.R. 46, regarding pretrial release and detention on criminal offenses.

Protection Order Forms

One of the Advisory Committee's main roles is to recommend updates to the standard protection order rules and forms as needed. In 2018, the Committee began the process of revising the current forms, last revised in 2014, with the goals of incorporating changes in legislation; reflecting societal trends; and increasing procedural justice.

Following a 60-day public comment period in August, 2018, during which nearly 4,000 public comments were received from national and statewide organizations, the Advisory Committee made further changes. The revised rules and forms were presented to the Court for consideration and adoption by Forms Subcommittee Chair Judge Linda Warner in June, 2019. Due to pending firearms-related legislation that, if passed, would require additional revisions, the forms remain under review.

Firearms Surrender and Return Workgroup

The ad hoc Firearms Surrender and Return workgroup continued to review promising practices for timely reporting of restrictions, and safe surrender and return of firearms, as well as legislation that could require modifications to protection order forms and practice. The workgroup met in person January 10th, March 6th, and remotely on June 5th, October 9th, and December 2nd.

Following a conference between Ohio stakeholders and staff of the National Instant Criminal Background Check System (NICS), part of the Federal Bureau of Investigation, the workgroup began working on tools to encourage courts to specify the relationship of the parties involved in a domestic violence case for which there is a conviction. Greater clarity would reduce the waiting time for those who are not federally prohibited from purchasing firearms. The workgroup will continue to monitor the progress of proposed legislation regarding firearms to incorporate any changes into the forthcoming recommendations.

Mediation of Civil Stalking Protection Order Cases

Following a joint, 18-month pilot project exploring the utility and applicability of mediation in certain civil stalking protection order cases, the Advisory Committee in partnership

with the Commission on Dispute Resolution (“Commission”) proposed an amendment to the Rules of Superintendence and forms to allow the use of mediation in certain civil stalking protection order cases that do not involve family violence, a sexually oriented offense, serious physical harm, or a pending criminal action. The proposed rules and forms (amendments to Sup.R. 16.14 and 16.2, new Sup.R. 16.30 through 16.32, and the repeal of Temp.Sup.R. 1.01 through 1.08) went for public comment in August, 2019. Additional changes made to incorporate the public comments have been approved by the Commission on the Rules of Superintendence, and the proposed rules and forms will be taken to the Court for consideration in early 2021.

Guidelines for Specialized Domestic Violence Dockets

The Advisory Committee partnered with the Supreme Court’s Specialized Dockets Section to engage the Center for Court Innovation (CCI), a leader in technical assistance to domestic violence courts nationally, to develop recommendations for best practices for specialized treatment courts that involve domestic violence offenders, such as domestic violence drug courts, as well as for court programs to supervise domestic abuse offenders without the treatment certification, known as “accountability courts”. In November, 2020, CCI presented a series of webinars best practices for specialized dockets when a participant is involved in domestic abuse; introduction of the new domestic violence drug court guidelines; and promising practices for domestic violence accountability courts.

CCI has also provided technical assistance to courts considering creating domestic violence programs.

Domestic Violence Education

In its role as the Collaboration Board for the Supreme Court’s Violence Against Women Act (VAWA) Grant Program activities, the Advisory Committee guided the Court’s management of nearly \$170,000 in VAWA funds. The monies primarily focused on bringing training and resources to meet the needs of the courts.

In addition to supporting the remote online notary pilot, Ohio Legal Help project, and the CCI specialized docket work, VAWA funds were used to create an online course on domestic abuse issues for mediators. The online domestic abuse issues for mediators course was developed by subject matter expert Gabrielle Davis of the Battered Women’s Justice Project (BWJP) and the Ohio Judicial College instructional designer, in partnership with the Domestic Violence Program and the Dispute Resolution Section. The new course launched in August 2020, and is an independent learning opportunity, and serves as the required prerequisite to attending the synchronous Domestic Abuse Issues in Mediation (DAI), per Sup.R.16.23. The DAI synchronous course curriculum is being revised to amplify the online course lessons, as well as create video modules that can be viewed as pre-course work or used during the trainings themselves. The revised DAI will be piloted in May and August, 2021.

The Advisory Committee also supported the use of VAWA funds in statewide educational opportunities for courts and judicial personnel, including two, full-day remote trainings by Alliance for HOPE, the national experts in non-fatal strangulation. The first day was offered to court personnel and justice partners; the second day was specifically targeted to judicial officers. VAWA funds were also used to bring national experts for Judicial College courses on elder abuse and cyberstalking.

Finally, VAWA funds supported two innovative judicial leadership projects this year. The Defiance County Court of Common Pleas is piloting a case management system for the local victim witness to ensure the court has the most accurate, comprehensive information even if advocates are working remotely. Tuscarawas Court of Common Pleas is receiving funding to create videos in Spanish about the court process and protection orders. These projects provided a platform to foster judicial leadership and increase coordination between the local court and its justice partners.

2021 Anticipated projects

In 2021, the Advisory Committee will continue to assess progress on identified goals and objectives and pursue activities consistent with its mission. The Committee anticipates working on the following projects:

Standard Protection Order Rules and Forms

The Advisory Committee will present its final recommendations on amendments to the protection order rules and standard forms to the Court. Once adopted, the revised forms will be organized by type of proceeding and available on the Domestic Violence Program web page to promote access to justice. Ohio protection order forms have garnered national distinction for being robust and comprehensive. The Advisory Committee will work diligently to ensure Ohio protection order forms continue to deserve such a distinction.

Translation of Standard Protection Order Forms

Upon the Court's adoption of the revised protection order forms, the Advisory Committee will coordinate with the Language Services Program to oversee the translation of the forms into the top five foreign spoken languages most used in Ohio courts to be identified based on local courts' experiences and demand for court interpreting services. The translated forms will be organized by type of proceeding and available on the Domestic Violence Program web page to promote access to justice.

Mediation of Civil Stalking Protection Order Cases

Once proposed amendment to the Rules of Superintendence to allow the use of mediation in certain civil stalking protection order cases is approved and adopted by the Court, the Advisory Committee will help create a training module on stalking for mediators, and other tools, as necessary, in support of the implementation of the amended rule.

Bench Card on Strangulation

The Advisory Committee in partnership with the Alliance for HOPE will create a bench card for judicial officers on non-fatal strangulation including relevant statutes, caselaw, bail considerations, and signs and symptoms.

Pretrial Workgroup

In light of the recent amendment to Crim.R. 46, as well as the ongoing national conversation surrounding the need for criminal justice reform and lower incarceration rates, the

Advisory Committee will continue to explore the burgeoning topic of pretrial release supervision practices which best address the needs of domestic violence victims and offenders.

Guidelines for Domestic Violence Court Programs

As courts use the newly created guidance on domestic violence drug courts and for courts considering creating domestic violence programs, the Advisory Committee will continue to work with the Commission on Specialized Dockets and the Center for Court Innovation (CCI) to offer technical assistance.

Technical Assistance

As the Collaboration Board overseeing the Court's VAWA grants activities, the Advisory Committee will continue to provide leadership and direction for the Supreme Court on VAWA funded-activities to maximize capacity and project impact.

As always, the dedicated members of the Advisory Committee on Domestic Violence will continue to strive to provide valuable service to the courts and the Supreme Court of Ohio.