



THE SUPREME COURT *of* OHIO
**Ohio's New Protection
Order Forms –
LE Edition Part I: Form
10-D Notice of Existence
of Protection Order**

Judge Linda Warner
Alexandria Ruden, Esq.
Anne Murray, Esq.

Welcome



- Introductions
- Revised forms can be found at DV Program page:
<http://www.supremecourt.ohio.gov/JCS/domesticViolence/>
- This is NEW for all of us
 - There will be hiccups
 - Please send us your questions/concerns

Background



- Last revised 2014
- Encompass several changes in law
 - Dating Violence, Address Confidentiality, Wireless Service Transfer, Companion Animal Protection, Notice of Protection Order
- Clarifications to enhance communication among justice partners
- Simplified language

New and Deleted/Combined



- 10 **NEW** Forms Including:
 - Dating Violence Protection Order forms,
 - Notice of Existence of PO
 - Notice of Receipt (of deadly weapons)
 - Post-Conviction No Contact Order

6 Forms **DELETED**:

- **NEW** Universal Warning page [Form 10-C] replaces separate Warning pages for each type PO
- Instructions largely combined into the forms themselves

Objectives & Abbreviation Key



- Understand the reason behind the creation of the 10-D
- Recognize when to use the 10-D
- Be able to complete and file the 10-D
- Identify policies and procedures that should be addressed for implementation

LE = Law Enforcement/Officer
PO = Protection Order
R = Respondent or Defendant

New Form 10-D

Notice of Existence of Protection Order

NOTICE TO RESPONDENT OR DEFENDANT ABOUT EXISTENCE OF PROTECTION ORDER

THIS NOTICE IS NOT A PROTECTION ORDER. Pursuant to R.C. 2019.27(D), I am orally notifying you that a Protection Order was issued against you on _____ by _____ Court and assigned Case No. _____ for the safety and protection of the following parties: _____

Following are some of the terms in the Protection Order that may apply to you. You are advised that a violation of any of these terms may result in your arrest. You are also advised to read the Protection Order in its entirety, upon being served with it. This Notice is not the Protection Order issued against you.

- You are prohibited from abusing, harming, attempting to harm, threatening, following, harassing, stalking, forcing sexual relations upon, or committing sexually oriented offenses against the protected persons.
- The protected persons may have exclusive possession of the residence.
- You must stay away from the protected persons' residence, property, school, or place of employment.
- You are prohibited from initiating or contacting the protected persons through any means (including social media, email, text, telephone, or written communication) or through another person.
- You may have to report for electronic monitoring.
- Temporary custody of the children named in the Order may be granted to Petitioner. You must read the Protection Order to find out if the Court granted you any visitation rights.
- You may be prohibited from possessing or purchasing deadly weapons, including firearms, and ammunition.

Acknowledgement of Respondent or Defendant

I, _____, have been notified that a Protection Order has been issued against me and have also been notified of some of the terms and conditions in the Order that may apply to me. I further understand that the Protection Order is enforceable and any violation of the Order may result in my arrest.

Respondent/Defendant (signature)

Date

Respondent's/Defendant's Address

Telephone

Email

Certificate of Notice

Respondent refused to sign acknowledgment.

I hereby certify that on _____ in _____ County I gave notice to Respondent or Defendant about the existence of the Protection Order.

Officer and Badge Number

Law Enforcement Agency

Judge/Magistrate

Court

This Notice shall be returned to the Clerk of Court of the court that issued the protection order for entry into the docket as soon as possible, but no later than three business days from the date the Notice was provided.



NEW Form 10-D -Notice of Existence of Order (aka “Actual Notice”)



WHY?

- Addresses potentially dangerous time when Respondent knows about PO but has not been served
- Before change in law, LE could not charge for violation if R knew there was an order against them and violated, but R had not been formally served with the order yet

R.C. 2919.27(D):



(D) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

NEW Form 10-D -Notice of Existence of Order (aka “Actual Notice”)



Pursuant to change in R.C. 2919.27(D) in 2017:

- LE may enforce valid protection order ***even if not formally served***

IF defendant/respondent

- 1.) Knew about the order, and
- 2.) Violated the order

What notice is sufficient? Depends on who gives it:



- Notice = if **judge, magistrate, or LE *informed*** defendant that a PO or consent agreement has been issued



- Notice = if **anyone besides judge, magistrate, or LE *showed defendant a copy of the order***



Using Form 10-D



FORM 10-D: NOTICE TO RESPONDENT OR DEFENDANT ABOUT EXISTENCE OF PROTECTION ORDER

NOTICE TO RESPONDENT OR DEFENDANT ABOUT EXISTENCE OF PROTECTION ORDER

THIS NOTICE IS NOT A PROTECTION ORDER. Pursuant to R.C. 2919.27(D), I am orally notifying you that a

Protection Order was issued against you on _____ by _____
Court and assigned Case No. _____

for the safety and protection of the following parties: _____

Following are **some** of the terms in the Protection Order that may apply to you. You are advised that a violation of any of these terms may result in your arrest. You are also advised to read the Protection Order in its entirety, upon being served with it. This Notice is **not** the Protection Order issued against you.

- You are prohibited from abusing, harming, attempting to harm, threatening, following, harassing, stalking, forcing sexual relations upon, or committing sexually oriented offenses against the protected persons.
- The protected persons may have exclusive possession of the residence.

Form 10-D informs R of most common PO terms



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- You must stay away from the protected persons' residence, property, school, or place of employment.
- You are prohibited from initiating or contacting the protected persons through any means (including social media, email, text, telephone, or written communication) or through another person.
- You may have to report for electronic monitoring.
- Temporary custody of the children named in the Order may be granted to Petitioner. You must read the Protection Order to find out if the Court granted you any visitation rights.
- You may be prohibited from possessing or purchasing deadly weapons, including firearms, and ammunition.

Acknowledgement of Respondent or Defendant

Form 10-D includes R Acknowledgement (or refusal)



Acknowledgement of Respondent or Defendant

I, _____, have been notified that a Protection Order has been issued against me and have also been notified of **some** of the terms and conditions in the Order that may apply to me. I further understand that the Protection Order is enforceable and any violation of the Order may result in my arrest.

Respondent/Defendant (signature)

Date

Respondent's/Defendant's Address: _____

Telephone _____

Email _____

Form 10-D includes Certificate from Notifying LE or Court



Certificate of Notice

Respondent refused to sign acknowledgment.

I hereby certify that on _____ in _____ County
I gave notice to Respondent or Defendant about the existence of the Protection Order.

Officer and Badge Number

Law Enforcement Agency

Judge/Magistrate

Court

This Notice shall be returned to the Clerk of Court of the court that issued the protection order for entry into the docket as soon as possible, but no later than three business days from the date the Notice was provided.

FORM 10-D: NOTICE TO RESPONDENT OR DEFENDANT ABOUT EXISTENCE OF PROTECTION ORDER
Adopted: April 15, 2021

Form 10-D: Instructions for where to send form



Once completed, notifying LE sends completed 10-D

Where? Issuing court's clerk of court

When? No later than 3 business days after notice given

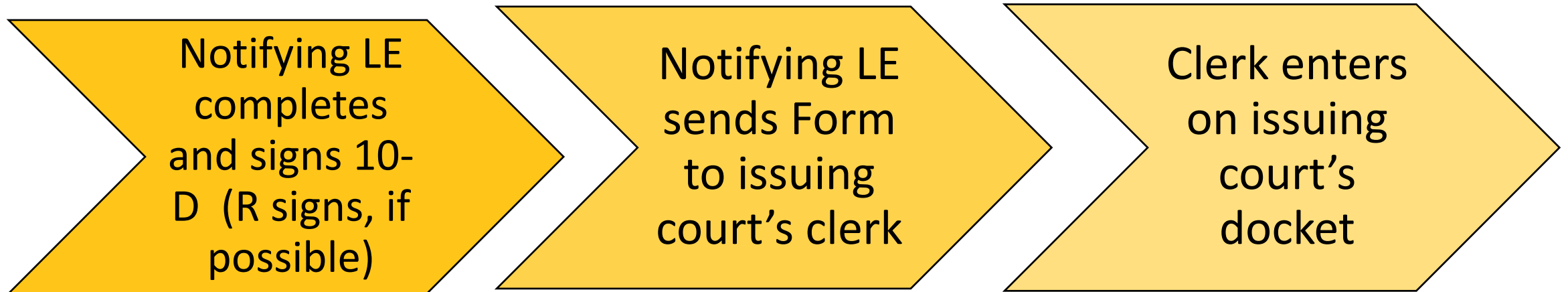
Judge/Magistrate

Court

This Notice shall be returned to the Clerk of Court of the court that issued the protection order for entry into the docket as soon as possible, but no later than three business days from the date the Notice was provided.

FORM 10-D: NOTICE TO RESPONDENT OR DEFENDANT ABOUT EXISTENCE OF PROTECTION ORDER
Adopted: April 15, 2021

Form 10-D helps LE and courts document when notice given



- This will assist with enforcement if R contacts Petitioner now that R knows about the order

NEW Form 10-D for purpose of enforcement, but service still necessary



- NOTE: Notice of existence of order form permits filing of violation of protection order if R violates BUT it does NOT replace the need for formal service
- Service must still be made in accordance with Civ.R. 65.1 for the civil protection hearing to move from *ex parte* stage to full hearing stage.
- If service of ex parte order pursuant to Civ.R. 65.1 is never completed, petitioner could not get a full order

Scenario: what informing R looks like



- Judge Hayes from Shoe Co. Domestic Relations Court grants ex parte order on Monday 4/19/21 ordering Blue Wolverine to stay away from Brutus Buckeye
- On Wednesday 4/21/21, Wolverine is stopped for speeding by Officer Gray in a neighboring county. Officer Gray sees and confirms there is a protection order, but Wolverine has not been served yet.
- Officer Gray checks to see if service deputies could serve Wolverine before the traffic stop is over. (Getting service perfected is best practice)

Scenario continued



- Officer Gray learns it will take an hour for deputies to get to the scene. Officer Gray knows LE can't detain Wolverine longer than normal traffic stop would take in order to get Wolverine served by deputies
- Officer Gray has been trained on the **NEW** Form 10-D, and gets the form
- Form 10-D guides Officer Gray by informing Wolverine that there is a protection order issued 4/19/21 by Judge Hayes in Shoe Co. that orders Wolverine to stay away from Brutus Buckeye

Questions that courts and legal advisors will have to decide:



- Can LE inform defendant/respondent over the phone?
- Who in the courthouse can inform defendant/respondent besides the judge/magistrate? Can a staff member?
- Is it sufficient to show defendant/respondent a copy of the order through pictures over text/email?
- How will officers get copies of 10-D while out on calls?
- How will officers get it to clerk w/in 3 days?
- Will court accept digital signatures on form 10-D or do they need hard copy?



Questions to be determined by LE policy and procedures:



- How will officers get copies of 10-D while out on calls?
- Will court accept digital signatures on form 10-D or do they need hard copy?
- How will officers get it to clerk w/in 3 days?



(And we know more questions will follow)

Thank you! Contact Us



Hon. Linda Warner

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