

# The Supreme Court of Ohio

## MEMORANDUM

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**TO:** Chief Justice Maureen O'Connor

**CC:** Stephanie Hess, Interim Administrative Director  
Stephanie Nelson, Court Services Division Director

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

**DATE:** January 25, 2022

**RE:** Advisory Committee on Domestic Violence – 2021 Annual Report

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Pursuant to Guideline 4.03 of the Operating Guidelines for the Advisory Committee on Domestic Violence (Advisory Committee), we are proud to present the Advisory Committee's 2021 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. Given the far-reaching impact of domestic violence on victims, perpetrators, their families, and communities, the advice spans more than merely criminal or civil protection order matters and includes every type of court. The group seeks to increase victim safety, hold offenders accountable, and reduce recidivism by keeping abreast of best practices in the field; recommending workable rules and standards; fostering effectiveness through multidisciplinary approach; and assisting the development and delivery of education for justice partners on issues the Advisory Committee deems necessary to assist them to best address this significant topic.

### **2021 Activities and Accomplishments**

The Advisory Committee met in 2021 via remote conferencing platform due to the coronavirus pandemic on February 19<sup>th</sup>, May 14<sup>th</sup>, August 27<sup>th</sup>, and November 19<sup>th</sup>, under the continued leadership of Judge Linda Warner from Meigs County Common Pleas Court. As discussed below, the Advisory Committee's work focused on revising and introducing updated protection order rules and forms, increasing access to courts using technology, providing input on policy matters, and supporting promising practices and education on domestic violence, dating violence, sexual assault, human trafficking, and stalking for court and justice partners.

### *Protection Order Rules and Forms*

Fulfilling one of the Advisory Committee's primary roles for the Court, this year the Advisory Committee oversaw the finalization, presentation, publication, and education regarding recently approved rules regarding standard protection orders and related forms. Last adopted in 2014, the Advisory Committee began revising the forms in 2018, working to incorporate numerous changes in law; reflect societal trends; and increase procedural justice by simplifying the forms where possible.

The proposed rules and forms garnered unprecedented attention during the public comment period in 2018, amassing nearly 4,000 public comments from national and statewide organizations. Recommendations from those comments shaped a series of further improvements, which were presented to the Court by Chair Judge Linda Warner on January 26, 2021. They were adopted and became effective April 15, 2021.

Following approval, Advisory Committee members presented a series of webinars, and distributed learning materials for the trial courts, staff, and justice partners regarding the revised forms, including a 5-part video series for law enforcement that were 10 to 15 minutes each, capable of being shown at roll-call trainings, or all at once as a traditional webinar course.

To further access for Limited English Proficient users, the Advisory Committee consulted with the Court's Language Services Section and oversaw the translation of the forms into the five most requested languages for court interpreters: Arabic, Chinese, French, Russian, and Spanish. The translated forms may be found on the [Supreme Court's website](#) with the official English version.

### *Coronavirus Response*

Courts continued to face significant challenges due to the coronavirus pandemic, how to safely maintain response to victims of violence among them. A primary focus of the Advisory Committee this year was to assist courts in that effort.

First, to benefit from each other's experiences, the Advisory Committee meetings began with members sharing updates to their local response to the pandemic, including any adaptations made to improve access for victims, funding sources, or barriers faced in implementation.

Next, the Advisory Committee oversaw two projects to address access to courts for victims during the pandemic and beyond: the placement of the standard protection orders on the legal self-help website Ohio Legal Help, allowing petitioners to find information and complete the necessary forms remotely, along with county-specific legal and advocacy information; and a remote online notary pilot program to relieve the need to find an in-person notary for the few forms still requiring notarization prior to filing.

### *Ohio Legal Help Protection Order Project*

The pandemic further strained already limited access to legal and advocacy services in many areas of the state. As part of this Court's continued effort to enhance access to courts and make forms more accessible through the effective use of technology, the Advisory Committee 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](http://www.ohiolegalhelp.org). Advisory Committee members Alexandria Ruden from the Legal Aid Society of Cleveland and Micaela Deming of the Ohio Domestic Violence Network served as expert consultants for the project.

Launched in October 2021, the Ohio Legal Help protection order tool allows users to easily find and complete the forms online, using a mobile phone, tablet, or computer, starting and stopping as needed, and saving the information as they go. In addition to the forms, the site offers educational materials about the court process and location, and referrals to legal and advocacy services in the user's county. Based on other Ohio Legal Help site traffic, it is estimated that 50,000 users will access the new feature within the year.

### *Remote Online Notary Pilot*

Although Chief Justice O'Connor relaxed rule requirements for notarizations on many forms during the pandemic, some forms -- including an affidavit regarding parenting required for petitioners seeking domestic violence protection orders with children -- still required notarization by law. Online notaries exist in Ohio, but such services are cost prohibitive for most self-representative litigants. The Advisory Committee funded a pilot program through the Cuyahoga County Domestic Relations Court Domestic Violence Center ("Center") to explore if housing a remote online notary at a court's clerk's office would improve access for victims filing protection order petitions. Funds were used to train Center staff, obtain licenses to an e-notary platform, and offer the service to petitioners at no cost during the 5-month pilot period. (A second remote online notary pilot for non-domestic violence cases was funded by the Court in the Franklin County Municipal Court.)

The program revealed that remote online notary with existing requirements is not practicable for courts or protection order clients. The service was cumbersome and inefficient even for the most technologically savvy parties, and frustrating and upsetting to those unable to navigate the system despite considerable help. That said, pilot staff suggested the service could be beneficial with a simplified format and authentication process more akin to in-person notary requirements.

Recommendations from the pilot have been forwarded to the Ohio Secretary of State's Office. In addition, the Supreme Court's Task Force on Improving Court Operations Using Remote Technology (iCOURT) Report includes a recommendation for the creation of a procedure specific to court-related processes that would address the issues pilot staff experienced using remote authentication procedures. [Report and Recommendations of the Supreme Court Task Force on Improving Court Operations Using Remote Technology \(iCOURT\), Vol. I](#) (2021), Recommendation #68 (pp.57-8).

### *Mediation of Civil Stalking Protection Order Cases*

This year, the Advisory Committee and 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. Following public comment and approval by the Commission on the Rules of Superintendence, the Court approved 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, and related forms were adopted, and became effective April 15, 2021.

Advisory Committee and Commission on Dispute Resolution members prepared and presented a webinar for judicial officers and mediators to introduce the rules and forms. The forms and guidance information for courts and may be found on the [Supreme Court website](#).

### *Input on Policy*

#### *Legislation*

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, amending processes and procedures relative to the rights of crime victims consistent with the constitutional amendment known as “Marsy’s Law”, altering the factors for analysis for parental rights and responsibilities, changing the statutes of limitations for sexual assault and removal of the spousal rape exception, allowing concealed carry of weapons without a permit in certain circumstances, use of risk assessments with bond schedules, and modifications to eligibility to the Crime Victims Compensation Fund.

#### *Enhanced reporting requirements for domestic violence warrant and protection orders*

The Advisory Committee convened a group of court stakeholders for a series of meetings to offer feedback to the Ohio Department of Public Safety about the potential impact on courts and parties of a proposed web-based system developed to enhance reporting requirements for domestic violence warrant and protection orders, known as “eWarrants.” Key feedback included the importance of engaging the multiple types of courts in each county that issue protection orders, and how certain configurations of a public-facing function for petitioners could affect court processes and unintentionally impact petitioner safety.

### *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 caselaw and legislation that could require modifications to protection order forms and practice.

The workgroup met remotely on January 15<sup>th</sup>, March 5<sup>th</sup>, June 4<sup>th</sup>, and December 3<sup>rd</sup>. In addition, members were invited by the Cuyahoga Firearms Task Force to attend a presentation by Battered Women's Justice Project in July regarding national best practices regarding safe surrender and safe return of firearms related to domestic violence and protection orders.

Looking forward, the Firearms workgroup and the Advisory Committee will review its publications to determine if updates are necessary to conform with the recent *State ex rel. Suwalksi v. Peeler*, 2021-Ohio-4061, decided November 18, 2021, or legislation passed at the end of the legislative session.

#### *Continued Guidance for Specialized Domestic Violence Dockets*

The Advisory Committee continued to partner 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 offer technical assistance to the Ohio specialized treatment courts that involve domestic violence offenders, such as domestic violence drug courts, relating to the recommendations for best practices developed last year.

This year, CCI facilitated two, joint remote meetings for the certified specialized domestic violence drug court treatment teams, on April 13<sup>th</sup> and October 28<sup>th</sup>. In addition to offering education from national mentor domestic violence drug courts, and an overview on risk assessments, these meetings allowed the cohort to learn promising practices and strategies for overcoming barriers from each other. CCI also provided individual technical assistance to the domestic violence drug courts as requested.

#### *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. In addition to supporting the Ohio Legal Help project, the remote online notary pilot, and the CCI specialized docket work highlighted above, the monies enabled several projects to provide training and resources to meet the needs of the courts. All trainings were presented remotely.

#### *Domestic Abuse Issues in Mediation*

VAWA funds supported the completion and presentation of a revised curriculum for an advanced, synchronous course offered by the Dispute Resolution Section for the Court for mediators of parenting plans. Designed to amplify lessons from the online *Domestic Abuse Issues in Mediation* course developed in 2019 using VAWA funds, the synchronous course teaches attendees how to appropriately screen parents and safely mediate parenting plans or terminate sessions involving families that have experienced domestic violence. The new curriculum includes video modules that can be viewed as pre-course work or used during the trainings themselves. The curriculum was piloted in May and August 2021 and was well-received by attendees.

### *Domestic Violence and Risk Assessment*

A continuing topic of interest in the justice system, VAWA funded a four-part learning series on Domestic Violence and Risk Assessments for courts and justice partners. The Center for Court Innovation presented three of the webinars bringing national experts on a variety of topics: an overview on evidence-based risk assessments – what they were developed to measure and how they do or do not assess domestic violence risk specifically; risk assessments used by domestic violence drug courts; and risk assessments and domestic violence considerations pretrial. Building upon what CCI presented, national domestic violence probation expert James Henderson presented one part of the series on risk assessments and considerations for probation officers supervising domestic violence probationers.

### *Battering Intervention Program Technical Assistance*

Recognizing the necessity of effective programs for courts to refer probationers who have committed domestic violence crimes, the Advisory Committee engaged CCI to conduct technical assistance on the status of battering intervention programming in Ohio. Following a webinar overview of current best practices nationwide, CCI conducted a series of listening sessions with rural area and suburban/urban Ohio court partners to learn the obstacles and successes of local programming across the state. CCI then engaged national experts to present on the topics the Ohio court partners raised most frequently: how to effectively handle the intersection of substance use, mental health issues, and domestic violence; and ways to safely address contact with children/parenting after abuse. The Advisory Committee anticipates continuing the work with Ohio courts on this subject.

### *Partner Inflicted Brain Injury and the Courts*

The Advisory Committee engaged the Ohio Domestic Violence Network's Center on Partner-Inflicted Brain Injury to present a three-part webinar series on emerging research surrounding partner inflicted brain injuries and the potential impact on courts. The series presented the established research regarding the signs, symptoms, and impact of brain injury from domestic violence and how it might affect individuals' ability to access court systems; best practices and materials developed for domestic violence service providers working with those experiencing brain injuries, and whether court adoption of similar practices could improve services to and participation from survivors; and how a coalition of justice partners in Arizona changed practices following education about partner inflicted brain injuries, and the impact of those changes to date.

### *Courses Requested by Local Judges for Their Communities*

VAWA funds fulfilled two requests for training by local judges for their communities this year.

At the request of Judge Sherrie Miday of the Cuyahoga County Common Pleas High Risk Domestic Violence Court, the Advisory Committee brought the Alliance for HOPE, national experts in non-fatal strangulation, to provide two virtual, day-long trainings for Cuyahoga County justice partners in June. The first day focused on medical signs and symptoms, investigation and evidence best practices, and an Ohio criminal case

study; the second day focused on court and probation considerations, and next steps to enhance collaboration in Cuyahoga County.

At the request of Judge Renee DiSalvo of the Youngstown Municipal Court, the Advisory Committee brought the Center for Court Innovation to conduct two virtual webinars in November for her GRACE Court human trafficking specialized docket treatment team and Mahoning County justice partners. The first presentation centered on the intersection of domestic violence, sexual assault, and human trafficking, and identifying trafficking victims; the second provided information on best practices for court processes to encourage participation and reduce unintended consequences for participants.

These projects provided a platform to foster judicial leadership and increase coordination between the local court and its justice partners.

#### *Judicial Education Scholarships*

VAWA funds provided scholarships toward registration for 35 judicial officers to attend the 2021 Association of Family and Conciliation Courts (AFCC) regional conference in Cincinnati in November 2021. The scholarships supported attendance at domestic violence related workshops: Judicially Managed Team Approach to Custody Disputes (addressing handling allegations with the convergence of domestic, child abuse and substance use); Working with Child Custody Evaluations (focusing on Ohio's standards for child custody evaluation and AFCC *Guidelines for Examining Intimate Partner Violence*); What's a Judge to Do When Allegations of Abuse and Alienation Arise; and Technology-Based Hearings (including the impact on vulnerable populations such as domestic abuse victims and non-English speakers).

## **2022 Anticipated projects**

In 2022, the Advisory Committee will continue to assess progress on identified goals and objectives and pursue activities consistent with its mission. The Advisory Committee anticipates working on the following projects:

#### *Translation of Standard Protection Order Forms into American Sign Language*

In what is believed to be the first project to translate protection order forms for Deaf/Hard of Hearing individuals, the Advisory Committee has coordinated with the Language Services Section to begin the translation of the revised protection order forms and instructional information into American Sign Language (ASL). Consultation has begun with the two recognized statewide service providers for Deaf/Hard of Hearing victims of domestic violence to determine what would be most useful for their clients. Next, the Advisory Committee will partner with the Ohio Government Channel to record videos of ASL interpreters signing the selected forms and instructional materials. The videos will be available on the Supreme Court website with the official English forms.

### *Guidance for Courts on Brain Injury and Strangulation*

The Advisory Committee in partnership with the Center for Partner-Inflicted Brain Injury and the Alliance for HOPE will create guidance documents for judicial officers on handling cases involving partner inflicted brain injury and non-fatal strangulation including relevant statutes, caselaw, bail considerations, and signs and symptoms as they relate to three court areas: criminal, domestic relations, and juvenile cases. Materials will be printable and available online.

### *Pretrial Workgroup*

Considering the recent amendment to Crim.R. 46, as well as pending legislation on bail reform, the Advisory Committee will continue to explore the vital topic of pretrial release supervision practices which best address the needs of domestic violence victims and offenders.

### *Continued Guidance for Domestic Violence Court Programs*

The Advisory Committee will work with the Commission on Specialized Dockets and the Center for Court Innovation (CCI) to offer individual technical assistance to those courts preparing recertification applications for opportunities to achieve best practices outlined in the newly created guidance on domestic violence drug courts.

### *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 Ohio courts and the Supreme Court of Ohio.