

## **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

### **Temp.Sup.R. 1.01. Definitions.**

As used in Temp.Sup.R. 1.01 through 1.08:

**(A) Civil stalking protection order**

“Civil stalking protection order” means an order issued pursuant to R.C. 2903.214.

**(B) Domestic violence**

“Domestic violence” has the same meaning as in R.C. 3113.31(A)(1).

**(C) Family or household member**

“Family or household member” has the same meaning as in R.C. 3113.31(A)(3).

**(D) Mediation**

“Mediation” has the same meaning as in R.C. 2710.01(A).

**(E) Mediation communication**

“Mediation communication” has the same meaning as in R.C. 2710.01(B).

**(F) Mediation party**

“Mediation party” has the same meaning as in R.C. 2710.01(E).

**(G) Serious physical harm**

“Serious physical harm” has the same meaning as “serious physical harm to persons” in R.C. 2901.01(A)(5).

**(H) Sexually oriented offense**

“Sexually oriented offense” has the same meaning as in R.C. 2950.01(A).

### **Temp.Sup.R. 1.02. Pilot Project Courts.**

**(A) Designation**

The Chief Justice of the Supreme Court shall designate up to twelve courts of common pleas to participate in a mediation of civil stalking protection order cases pilot project

pursuant to Temp.Sup.R. 1.01 through 1.08. Such courts shall be styled “pilot project courts.” The Commission on Dispute Resolution shall recommend to the Chief Justice courts for designation as pilot project courts. The Chief Justice shall designate a court as a pilot project court only if the court agrees to participate in the pilot project.

**(B) Mediation authority**

Notwithstanding any rule of the Rules of Superintendence for the Courts of Ohio or local rules of court to the contrary, participating judges and magistrates of a pilot project court shall be authorized to mediate civil stalking protection order cases pursuant to the requirements of Temp.Sup.R. 1.01 through 1.08.

**(C) Training**

In each pilot project court, the following individuals shall complete an orientation and training seminar on mediation of civil stalking protection order cases to be offered by the Dispute Resolution Section of the Supreme Court:

- (1) Each participating judge or magistrate of the court who will use mediated agreements in civil stalking protection order cases;
- (2) Each mediator who will be appointed to mediate civil stalking protection order cases;
- (3) Any other court personnel the participating judges deem appropriate.

**Temp.Sup.R. 1.03 Scope of Pilot Project.**

**(A) Cases eligible for mediation**

A participating judge or magistrate of a pilot project court shall accept a civil stalking protection order case for mediation if all of the following conditions are met:

- (1) The case is within the statutory jurisdiction of the court;
- (2) The petitioner and respondent have the capacity to negotiate an agreement that is satisfactory;
- (3) The petitioner and respondent are knowingly and voluntarily participating based on informed consent, in good faith, free from coercion or intimidation, and absent from coercive, controlling, or abusive conduct.

**(B) Cases not eligible for mediation**

A participating judge or magistrate of a pilot project court shall not accept a civil stalking protection order case for mediation if any of the following conditions are met:

- (1) The petitioner is a family or household member of the respondent;
- (2) The allegations in the civil stalking protection order petition involve domestic violence or a sexually oriented offense;
- (3) The mediation may result in excusing the violence or violent conduct of the respondent or would be used to negotiate any type of violence alleged in the petition;
- (4) The pattern of conduct or threat of violence from the respondent limits the petitioner from negotiating without fear, intimidation, or concern for the safety of a family or household member;
- (5) Any other circumstance that disfavors the use of mediation in the case, including but not limited to any of the following:
  - (a) Ongoing physical violence;
  - (b) Threats of serious physical harm or the threatened use of firearms;
  - (c) Coercion or intimidation based on past violence;
  - (d) The petitioner's fear of the respondent despite the implementation of safety precautions;
  - (e) Controlling or manipulative conduct or hostility from the respondent toward the petitioner or the mediation process;
  - (f) Any other circumstance deemed relevant that puts the petitioner, respondent, or mediator at risk of harm or abuse.

**(C) Process for mediation**

- (1) A participating judge or magistrate of a pilot project court hearing a civil stalking protection order case may assess the case for mediation eligibility after the filing of the petition and before the full hearing.
- (2) Upon determining the suitability of a civil stalking protection order case for mediation, the judge or magistrate may grant an ex parte civil protection order and shall hold the mediation before the full hearing.

(3) The judge or magistrate, at the judge's or magistrate's sole discretion and for good cause shown, may continue the case and shall extend the duration of the ex parte civil protection order, if one has been granted, to allow adequate time for effective screening of the parties and scheduling and holding the mediation.

**(D) Requirements during mediation**

A civil stalking protection order case determined to be eligible for mediation shall be subject to both of the following requirements:

(1) Regardless of the expressed interest of the petitioner and respondent to mediate the civil stalking protection order case, it shall be at the sole discretion of the mediator to accept or terminate the case after assessing the capacity of the parties to mediate;

(2) The mediator shall take reasonable precautions to create a safe mediation environment.

**Temp.Sup.R. 1.04 Pilot Project Evaluation.**

The Commission on Dispute Resolution and the Advisory Committee on Domestic Violence shall collect, analyze, correlate, and interpret information and data concerning the mediation of civil stalking protection order cases from each of the pilot project courts. The Chief Justice of the Supreme Court or the Chief Justice's designee may require pilot project courts to provide any necessary information and data in order for the Commission on Dispute Resolution and the Advisory Committee on Domestic Violence to discharge this duty.

**Temp.Sup.R. 1.05 Privilege.**

**(A) General and exception**

Except as provided in R.C. 2710.05, mediation communications in connection with civil stalking protection order cases eligible for mediation are privileged pursuant to R.C. 2710.03.

**(B) Waiver**

The privilege for mediation communications in civil stalking protection order cases eligible for mediation may be waived pursuant to R.C. 2710.04.

**Temp.Sup.R. 1.06      Confidentiality.**

**(A)      General**

Mediation communications in connection with civil stalking protection order cases eligible for mediation are confidential pursuant to R.C. 2710.07. No one shall disclose such communications unless all mediation parties and the mediator consent to disclosure in writing or on the record in open court.

**(B)      Exceptions to confidentiality**

(1)      Mediation parties may share mediation communications with their attorneys and a victim advocate.

(2)      A mediator shall inform a participating judge or magistrate of a pilot court or report to the proper authorities the following mediation communications:

- (a)      Allegations of abuse or neglect of a child;
- (b)      The imminent threat of physical harm to self or another person;
- (c)      Statements to plan or hide an ongoing crime;
- (d)      Statements that reveal a felony.

**(C)      Penalties**

A participating judge or magistrate hearing a civil stalking protection order case may impose penalties for any improper disclosure made in violation of this rule.

**Temp.Sup.R. 1.07      Public Access.**

Information collected from or generated by participating judges, magistrates, mediators, court personnel, and mediation parties pursuant to mediation of civil stalking protection order cases shall not be available for public access pursuant to Sup.R. 44 through 47.

**Temp.Sup.R. 1.08      Term of Temporary Rules.**

Temp.Sup.R. 1.01 through 1.08 adopted by the Supreme Court on May 2, 2017, shall take effect June 1, 2017, and shall remain in effect through December 31, 2018, unless extended, modified, or withdrawn by the Supreme Court prior to that date. Any mediation of a civil stalking protection order case pending after the term of these temporary rules shall continue pursuant to the requirements of the rules until final disposition thereof.

**RULE 99. Effective Date.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

| (BBB) New Temp.Sup.R. 1.01 through 1.08, adopted by the Supreme Court of Ohio on May 2, 2017, shall take effect on June 1, 2017.