

# The Supreme Court of Ohio

## MEMORANDUM

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

**CC:** Michael L. Buenger, Administrative Director  
Stephanie Graubner Nelson, Manager, Children & Families Section

**FROM:** Judge John T. Rohrs III, Chair, Advisory Committee on Domestic Violence  
Diana L. Ramos-Reardon, Policy Counsel

**DATE:** January 3, 2017

**RE:** Advisory Committee on Domestic Violence – 2016 Annual Report

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Pursuant to Guideline 4.03 of the Operating Guidelines for the Advisory Committee on Domestic Violence, Judge Rohrs of the Defiance Municipal Court, Chair of the advisory committee, and Diana Ramos-Reardon, Policy Counsel and staff liaison to the advisory committee, hereby submit the advisory committee's 2016 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 regarding statewide rules and uniform standards concerning the establishment and operation of domestic violence programs in Ohio courts; the development and delivery of services to Ohio courts on matters involving domestic violence, including education for judicial officers, court personnel, and justice partners; and the consideration of any other issues the advisory committee deems necessary to assist Ohio courts improve their response to domestic violence.

### **2016 Activities and Accomplishments**

The advisory committee met at the Ohio Judicial Center on March 18<sup>th</sup>, May 13<sup>th</sup>, August 26<sup>th</sup>, and held a conference call on November 17<sup>th</sup>. As discussed in further detail below, the advisory committee primarily focused on enhancing domestic violence resources and providing input on policy matters.

## *Domestic Violence Resources*

### Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide

The advisory committee finalized the **Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide**. This project was pursued in response to concerns from Ohio courts on gauging how prior or current domestic violence in the family impact future parent-child relationships. As contemplated, the court-specific guide enhances and increases the tools available to the judiciary when domestic violence and the allocation of parental rights and responsibilities intersect. The guide is organized in three succinct parts: research-based dangerousness factors, statutory best interest factors examined through a domestic violence lens, and a parenting plan continuum aligned with domestic violence indicators to maximize the success of a particular plan.

The guide has been widely disseminated to Domestic Violence and Juvenile Courts judicial officers, including during New Judges Orientation. Additionally, the guide has garnered national attention and was featured in the Center for Court Innovation's National Domestic Violence Courts Technical Assistance Bulletin.

### Domestic Violence Online Course

In partnership with the Ohio Judicial College, the advisory committee provided technical assistance in the conceptualization and development of an online, asynchronous course on a one-hour domestic violence course. Rather than presenting fundamental education to judicial officers on domestic violence, the course presumes a high register knowledge-base and examines the dynamics of domestic violence, issues around offender accountability and batterer intervention treatment, and firearms disabilities relative to domestic violence offenders. The course was released in December 2016, and it is available through the Judicial College's eCademy to Ohio judicial officers.

### Protection Order Forms

In furtherance of its mission, the advisory committee reactivated the Forms Subcommittee to begin an examination of the current protection order forms. Amendments to the protection order forms are based on statutory changes and known best practices. Hence, the subcommittee considered the extent to which recent legislation (e.g., the address confidentiality program through the Ohio Secretary of State, transfer of cellular service, and custody of companion animals) affected the specific language in the forms. It also considered new forms such as a form for dismissal of civil protection order petitions, per suggestions from the field. Although definite progress was made based on the issues presented to the subcommittee, the Forms Subcommittee will remain active to consider any other legislative changes, particularly amendments to the protection order statutes.

## *Input on Policy*

The advisory committee monitored several legislative measures—including House Bill 151, which clarifies menacing by stalking and telecommunication harassment, House Bill 359, which establishes an address confidentiality program through the Secretary of State’s Office for domestic violence and human trafficking victims amongst others, House Bill 392, which codifies dating violence, and Senate Bill 76, which addresses service concerns relative to protection orders emanating from *State v. Smith*, 136 Ohio St.3d 1, 2013-Ohio-1698—due to their possible impact on local courts’ response to domestic violence or stalking cases. Because the issues around service of protection orders are of serious concern to the efficacy and validity of protection orders, the advisory committee provided comments in support of Senate Bill 76.

Additionally, the advisory committee took special note of the work of the Ohio Criminal Recodification Committee. As conceptualized by the Legislature, the Recodification Committee was established to review the criminal code and make recommendations to modernize and simplify it. However, the work of the Recodification Committee has expanded beyond criminal matters to significantly re-engineer civil protection order proceedings in Ohio. Given the breadth of the amendments to the protection order statutes, the advisory committee provided comments to the Recodification Committee and underscored discrepancies between the proposed amendments and federal mandates, best practices, or case law.

Another important policy matters which the advisory committee discussed was Civ.R.4.4. As amended, this rule appears to allow service by posting only if the petitioner is indigent. Such a requirement appears inconsistent with civil protection order statutes, which prohibits assessing any fees or costs to petitioners. In other words, a petitioner’s ability to pay should not foreclose a particular method of service. Hence, the advisory committee proposed a technical amendment to clarify further service by posting in civil protection order proceedings. The Commission on Rules of Practice and Procedures will address this issue in 2017.

The advisory committee also collaborated with the Commission on Dispute Resolution regarding proposed amendments to Sup.R.16 to relax or eliminate the strict prohibition to mediation in protection order proceedings. Although the advisory committee maintains a firm belief that domestic violence civil protection order proceedings are not amenable to mediation, there may be some types of relationships for which mediation in civil protection order proceedings may be appropriate. Much of the discussions in 2016 focused on identifying those relationships.

Lastly, the advisory committee continued to focus its attention in 2016 to strengthen local courts’ understanding of domestic violence offenders. To this end, Violence Against Women Act grant funds were used to co-host with the Specialized Docket Section a one-day presentation that explored trauma and provided practice tips to become trauma-competent courts. This presentation was very well received, drawing nearly 200 court professionals and justice partners.

## **2017 Anticipated projects**

In 2017, the advisory committee will continue to assess progress on identified goals and objectives and pursue activities consistent with its mission. As always, the dedicated members of this committee will continue to strive to provide valuable input to the Supreme Court.

The advisory committee anticipates working on the following projects:

### *Domestic Violence in Child Abuse, Neglect, and Dependency Cases*

The advisory committee will oversee the formulation and implementation of an online, asynchronous course on domestic violence based on the Safe & Together model, which is the framework used in Ohio to assess allegations of domestic violence in child welfare cases. This project is being pursued in response to feedback from juvenile courts to build capacity amongst guardian ad litem (GALs). Additionally, this course will expand offerings available for GALs in the Ohio Judicial College's eCademy. As a companion to this course, a bench card for juvenile court on this topic will be rolled out in 2017.

### *Standard Protection Order Forms*

The advisory committee will continue its methodical review of the existing protection orders and recommend any new forms only if such forms are necessary to foster the fair administration of justice. The committee has moved with extraordinary caution in regards to this activity due to the impending legislation to amend drastically the civil and criminal protection order statutes. The Criminal Recodification Committee has put forth recommendations that will significantly alter protection order proceedings and, consequently, the forms. The advisory committee will continue to monitor the evolution of these recommendation so that any revision to the existing protection order forms is grounded on the law and best practices. Ohio's protection order forms are recognized as national models. The advisory committee will make every effort to make sure Ohio forms continue to deserve such a distinction.

### *Mediation of Civil Protection Order Cases Pilot Project*

In 2017, the advisory committee in partnership with Dispute Resolution Section will pilot practices and procedures to allow mediation of certain civil protection order proceedings. This project will entail drafting universal protocols (i.e., applicable to common pleas courts in all counties), selecting courts to pilot the protocol, and developing tools to facilitate identification and screening of appropriate cases for mediation. In furtherance of this project, the advisory committee will reach out to the Center for Court Innovation for national technical assistance. The results of this project will shape the advisory committee's recommendations regarding mediation of civil protection order proceedings.

### *Human Trafficking Subcommittee*

The advisory committee recognizes the many points of intersection between domestic violence, sexual assault, and human trafficking. The advent of recent legislation coupled with emerging best practices puts human trafficking issues front and center of municipal courts and general division of common pleas courts. To promote best practices, the advisory committee will appoint a subcommittee to study these issues and, at a minimum, recommend a bench card to address the needs of adult human trafficking victims, highlight Ohio and federal laws, and suggest best practices.