

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 Kathleen M. Rodenberg, Chair, Advisory Committee on Domestic Violence
Anne M. Murray, Policy Counsel

DATE: March 12, 2020

RE: Advisory Committee on Domestic Violence – 2019 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 2019 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.

2019 Activities and Accomplishments

The Advisory Committee met at the Ohio Judicial Center on February 22th, May 17th, August 23rd, and November 8th. As discussed below, the Committee focused on providing input on policy matters, revising the protection order rules and forms, and supporting education on domestic violence, dating violence, sexual assault, human trafficking, and stalking for court and justice partners.

Input on Policy

The Advisory Committee closely monitored multiple legislative bills with potential to have an impact on court rules and practices regarding domestic violence that, if passed, could require

revisions to existing or recommended forms or rules. The topics were wide-ranging: regarding 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, juvenile human trafficking, 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, Crim.R. 46 regarding bail on criminal offenses, and the proposed adoption of Evid. R. 810 Residual Hearsay Exception.

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, based on (1) changes in legislation—e.g., dating violence civil protection order, address confidentiality program through the Ohio Secretary of State, transfer of wireless service, custody of companion animals, and knowledge of the issuance of a protection order; (2) societal trends regarding the use of social media, service instructions, and clarification of firearms disability; and (3) increased access to justice and procedural justice.

The Court released the proposed protection order rules and forms on August 12, 2018 for a 60-day public comment period. Nearly 4,000 public comments were received from national and statewide organizations, such as Ohio Domestic Violence Network, Buckeye Firearms Association, National Rifle Association, Brady Center and Brady Campaign to Prevent Gun Violence, Ohio Coalition Against Gun Violence, and ACTION OHIO Coalition for Battered Women. The vast majority of comments were directed at provisions permitting firearms surrender and return incident to the issuance of a protection order.

The Forms Subcommittee met at length to review and consider all comments, and make further recommended changes, which were approved by the Committee. The updated versions were presented to the Court for final consideration and adoption by Forms Subcommittee Chair Judge Linda Warner on June 11, 2019. The forms remain under review, however, due to pending firearms-related legislation that, if passed, would require additional revisions to the forms.

Firearms Surrender and Return Workgroup

The protection order rules and forms public comment period exposed significant concerns regarding firearms disability. Although the Advisory Committee addressed immediate concerns, it became evident that more needed to be done to fully understand the impact of firearms disability on courts, law enforcement, and the general public. To address this need, the Advisory Committee formed an ad hoc workgroup of law enforcement officers and judicial officers to explore the manner in which courts and law enforcement handle the imposition and release of firearms

restrictions. The workgroup is tasked with recommending considerations for courts when adopting rules, policies, and protocols for timely reporting of restrictions, and safe surrender and return of firearms. The workgroup met April 5th, June 6th, October 4th, and December 2nd, and 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

The Advisory Committee in partnership with the Commission on Dispute Resolution proposed an amendment to the Rules of Superintendence to allow the use of mediation in certain civil stalking protection order cases. (Mediation would remain prohibited if the case involved 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, 173 and the repeal of Temp.Sup.R. 1.01 through 1.08), followed a joint, 18-month pilot project exploring the utility and applicability of mediation in certain civil stalking protection order cases. The proposed rule went before the Court on August 6th, and went out for public comment on August 26th. The proposed amendment received public comments, which are being reviewed; once incorporated and approved by the Committee and the Commission, the revised proposed amendment will be taken to the Court for consideration.

Guidelines for Specialized Domestic Violence Dockets

The Advisory Committee in partnership with the Supreme Court's Specialized Dockets Section engaged the Center for Court Innovation (CCI), a leader in technical assistance to domestic violence courts nationally, to review the standards for specialized dockets generally and develop recommendations for best practices for specialized treatment courts that involve domestic violence offenders, such as DV drug courts. The recommendations are anticipated in early 2020. CCI has also provided training to the Commission on Specialized Dockets on the differences between domestic violence treatment and accountability courts, as well as technical assistance to courts considering creating domestic violence programs.

Domestic Violence Education

The Advisory Committee serves as the Collaboration Board for the Supreme Court's Violence Against Women Act (VAWA) Grant Program activities. In this capacity, the Committee oversaw the Court's operation of the grants, and provided input, as appropriate, on grant activities. In 2019, the Court administered nearly \$160,000 in VAWA funds. The monies primarily focused on bringing training and resources to local courts to meet the needs of the courts. Through this effort, eight courts -- Akron Municipal Court, Ashtabula Municipal Court, Cuyahoga County Court of Common Pleas, Cuyahoga County Domestic Relations Court, Fairfield County Domestic Relations Court, Franklin County Domestic Relations/Juvenile Court, Franklin County Municipal Court, Licking County Domestic Relations Court -- received technical assistance to strengthen the courts' response to domestic violence. Five VAWA-funded trainings at the local level provided a platform to foster judicial leadership and increase coordination between the local court and its justice partners.

The Advisory Committee also supported the use of VAWA funds in statewide educational opportunities for courts and judicial personnel, including speakers on domestic violence issues at the Pretrial Summit, the Dispute Resolution Conference, and Specialized Docket Conference; a training on trauma for court interpreters; and Judicial College courses for probation on strangulation and supervising cybersex offenders, and screening for domestic violence for guardians ad litem (GALs).

Additionally, the Advisory Committee partnered with the Commission on Dispute Resolution on the creation of an on-line course on domestic abuse issues for mediators. An update to previous courses, the project was developed by subject matter expert Gabrielle Davis of the Battered Women's Justice Project (BWJP) and the Ohio Judicial College instructional designer, in consultation with state and national domestic violence and mediation experts. Scheduled to launch in March 2020, the 2-hour course may be taken alone or as a prerequisite to attending the in-person Domestic Abuse Issues in Mediation (DAI), required for court mediators per Sup.R.16.23. It will be available through the Court learning management system.

2020 Anticipated projects

In 2020, 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 this year. 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 oversee the translation of the forms into the top five foreign spoken languages most used in Ohio courts —Arabic, French, Mandarin Chinese, Russian, and Spanish. These languages were 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

The Advisory Committee in partnership with the Commission on Dispute Resolution will continue to work on the proposed amendment to the Rules of Superintendence to allow the use of mediation in certain civil stalking protection order cases. Once public comments are incorporated and approved by the Committee and the Commission, the revised proposed amendment will be

taken to the Court for consideration. The Advisory Committee will jointly participate in the development of forms and other tools, as necessary, in support of the implementation of the amended rule, once adopted.

Pretrial Services Workgroup

In light of the proposed amendment to Crim.R. 46, as well as the national conversation surrounding the need for criminal justice reform and lower incarceration rates, the Advisory Committee recognized the need to explore the burgeoning topic of pretrial practices and which best address the needs of domestic violence victims and offenders. To that end, the Committee has recommended creating an ad hoc workgroup of judicial officers, law enforcement, probation, domestic violence experts and defense to explore and recommend best practices for courts using pretrial services in domestic violence cases.

Guidelines for Domestic Violence Court Programs

In addition to the recommendations for best practices for specialized dockets that involve domestic violence offenders, such as DV drug courts, the Advisory Committee will work with the Center for Court Innovation (CCI), to recommendation best practices specific to DV accountability courts, as well as offer technical assistance to courts considering creating domestic violence programs.

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. In this capacity, it is tasked with ensuring the funded requests stay within the parameters of the grants to maximize capacity and project impact. In 2020, the Advisory Committee will continue to support requests for technical assistance as it believes that local courts are best suited to determine the needs of their community to effectively respond to dating violence, domestic violence, sexual assault, and stalking. Additionally, the Advisory Committee will prioritize projects that elevate judicial officers' and court personnel's knowledge about these issues.

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