

OFFICE OF THE STATE COURTS ADMINISTRATOR
OFFICE OF COURT IMPROVEMENT

Domestic Violence Injunction

Case Management Guidelines

June, 2012

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Chapter 1

Florida's Court System

Mission of the Florida Judicial Branch

The mission of the judicial branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

Vision of the Florida Judicial Branch

Justice in Florida will be accessible, fair, effective, responsive, and accountable.

- To be **accessible**, the Florida justice system will be convenient, understandable, timely, and affordable to everyone.
- To be **fair**, it will respect the dignity of every person, regardless of race, class, gender or other characteristic, apply the law appropriately to the circumstances of individual cases, and include judges and court staff that reflect the community's diversity.
- To be **effective**, it will uphold the law and apply rules and procedures consistently and in a timely manner, resolve cases with finality, and provide enforceable decisions.
- To be **responsive**, it will anticipate and respond to the needs of all members of society and provide a variety of dispute resolution methods.

Florida Supreme Court

The highest Court in Florida is the Supreme Court, consisting of seven Justices. At least five Justices must participate in every case and at least four must agree for a decision to be reached. The Court's official headquarters is the Supreme Court Building in Tallahassee.

Office of the State Courts Administrator

July 1, 1972, the Office of the State Courts Administrator (OSCA) was created with initial emphasis on the development of a uniform case reporting system to provide information on activity in the judiciary in the preparation of its operating budget and in projecting the need for judges and specialized court divisions. The State Courts Administrator serves as the liaison between the court system and the legislative branch, the executive branch, the auxiliary agencies of the Court, and national court research and planning agencies. The OSCA's legislative and communication functions are handled directly by the State Courts Administrator and her executive staff.

District Court of Appeal

Organization

The bulk of trial court decisions that are appealed are never heard by the Supreme Court. Rather, they are reviewed by three-judge panels of the district courts of appeal. Florida did not have district courts of appeal until 1957. Until that time, all appeals were heard solely by the Supreme Court. As Florida grew rapidly in the twentieth century, however, the Supreme Court's docket became badly congested. Justice Elwyn Thomas with help from other members of the Court perceived the problem and successfully lobbied for the creation of the district court system to provide intermediate appellate courts.

The Constitution now provides that the Legislature shall divide the state into appellate court districts and that there shall be a district court of appeal (DCA) serving each district. There are five such districts headquartered in Tallahassee, Lakeland, Miami, West Palm Beach, and Daytona Beach.

DCA judges must meet the same eligibility requirements for appointment to office, and they are subject to the same procedures and conditions for discipline and removal from office as Justices of the Supreme Court. Like Supreme Court Justices, district court judges also serve terms of six years and will be eligible for successive terms under a merit retention vote of the electors in their districts. In each district court, a chief judge, who is selected by the district court judges within the district, is responsible for the administrative duties of the court.

Jurisdiction

The district courts of appeal can hear appeals from final judgments and can review certain non-final orders. By general law, the district courts have been granted the power to review final actions taken by state agencies in carrying out the duties of the executive branch of government. Additionally, the district courts have been granted constitutional authority to issue the extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, as well as all other writs necessary to the complete exercise of their jurisdiction.

As a general rule, decisions of the district courts of appeal represent the final appellate review of litigated cases. A person who is displeased with a district court's express decision may ask for review in the Florida Supreme Court and then in the United States Supreme Court, but neither tribunal is required to accept the case for further review. Most are denied.

Circuit Courts

Organization

The Constitution provides that a circuit court shall be established to serve each judicial circuit established by the Legislature, of which there are twenty. Within each circuit, there may be any number of judges, depending upon the population and caseload of the particular area.

To be eligible for the office of circuit judge, a person must be a resident elector of Florida and must have been admitted to the practice of law in the State for the preceding five years. Circuit court judges are elected by the voters of the circuits in nonpartisan, contested elections against other persons who choose to qualify as candidates for the position. Circuit court judges serve for six-year terms, and they are subject to the same disciplinary standards and procedures as Supreme Court Justices and district court judges. A chief judge is chosen from among the circuit judges in each judicial circuit to carry out administrative responsibilities for all trial courts (both circuit and county courts) within the circuit.

Jurisdiction

Circuit courts have general trial jurisdiction over matters not assigned by statute to the county courts and also hear appeals from county court cases. Thus, circuit courts are simultaneously the highest trial courts and the lowest appellate courts in Florida's judicial system. The majority of jury trials in Florida take place before one judge sitting as judge of the circuit court. The circuit courts are sometimes referred to as courts of general jurisdiction, in recognition of the fact that most criminal and civil cases originate at this level.

The trial jurisdiction of circuit courts includes original jurisdiction over civil disputes involving more than \$15,000; controversies involving the estates of decedents, minors, and persons adjudicated to be incompetent; cases relating to juveniles; criminal prosecutions for all felonies; tax disputes; actions to determine the title and boundaries of real property; suits for declaratory judgments that is, to determine the legal rights or responsibilities of parties under the terms of written instruments, laws, or regulations before a dispute arises and leads to litigation and requests for injunctions to prevent persons or entities from acting in a manner that is asserted to be unlawful.

Circuit court judges are also granted the power to issue the extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, and all other writs necessary to the complete exercise of their jurisdiction.

Unified Family Courts

Unified family court is a fully integrated, comprehensive approach to handling all cases involving children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner. The unified family court concept began in Florida in 1991,

when the Legislature's Commission of Family Courts issued its report pursuant to a legislative directive to: develop specific guidelines for the implementation of a family law division within each judicial circuit; provide recommendations for statutory, rule and organizational changes; and recommend necessary support services.

Between 1991 and 2001 three Florida Supreme Court opinions were issued emphasizing the need for a family court system which would provide better protection for children in court and an improved method for resolution of family problems. In May 2001 the Supreme court issued a fourth and unanimous opinion citing twelve guiding principles of a family court as a foundation for defining and implementing a model family court, including:

- Children should live in safe and permanent homes.
- Needs and best interests of children are primary considerations.
- All persons should be treated with objectivity, sensitivity, dignity and respect.
- Cases with inter-related family issues should be consolidated or coordinated.
- The court is responsible for managing its cases.
- A means of differentiating cases should be available.
- Parties should be empowered to select ways to address their individual case.

The May 2001 supreme court opinion also discussed the critical components of the model family court including court case management to monitor case progress, evaluate each case at the onset to determine the appropriate resources and the appropriate way to handle the case, and coordinate multiple cases involving one family. Furthermore, the Supreme Court called for collaboration between the judiciary, stakeholders, and the community to provide access to an array of services for families.

In addition to case management, the coordination of related cases and access to services, other critical components of unified family court are: adequate and sufficient security personnel and equipment to ensure safe court environments; continuing education for judges and court staff; technology; the family law advisory group; and, alternative dispute resolution.

Domestic Violence and Unified Family Court

Domestic violence is a type of family court case (i.e., injunctions) and a legal issue that cuts across all types of family court cases, including dependency, dissolution, delinquency, and child support cases. Families experiencing domestic violence incidents may be involved in the court system through civil domestic violence injunction cases, other family cases such as dependency or dissolution, and criminal cases. Though this document addresses best practices for managing domestic violence injunction cases, it is designed to foster and enhance coordination and collaboration among key participants in the court system process in both family and criminal courts. The domestic violence injunction case management best practices contained here reflect and support the framework of Florida's Unified Family Courts.

In addition to domestic violence cases, the courts also deal with other types of injunctions for protection. The other types include dating, sexual, and repeat violence. *See Appendix 3 for more information.* Except for some instances of sexual violence, these additional types of injunctions do not deal with family violence but are generally focused on other types of relationships or no relationship at all.

County Courts

Organization

The Constitution establishes a county court in each of Florida's 67 counties. The number of judges in each county court varies with the population and caseload of the county. To be eligible for the office of county judge, a person must be an elector of the county and must have been a member of The Florida Bar for five years; in counties with a population of 40,000 or less, a person must only be a member of The Florida Bar.

County judges are eligible for assignment to circuit court, and they are frequently assigned as such within the judicial circuit that embraces their counties. County judges serve six-year terms, and they are subject to the same disciplinary standards, and to the jurisdiction of the Judicial Qualifications Commission, as all other judicial officers.

Jurisdiction

The trial jurisdiction of county courts is established by statute. The jurisdiction of county courts extends to civil disputes involving \$15,000 or less. The majority of non-jury trials in Florida take place before one judge sitting as a judge of the county court. The county courts are sometimes referred to as "the people's courts," probably because a large part of the courts' work involves voluminous citizen disputes, such as traffic offenses, less serious criminal matters (misdemeanors), and relatively small monetary disputes.

Domestic Violence Injunction Cases – Guiding Values

- Judicial responses in cases involving domestic violence should reflect an understanding of the dynamics of family violence, victim and perpetrator behaviors, and the effects on children of exposure to violence; provide fairness to all parties; promote perpetrator accountability; and promote the safety of the parties and their children.
- Safety of the family should be a priority over the court docket, case management, attorney obligations, local court practices, and the court's convenience.
- The court system should be an integral part of a coordinated community response to domestic violence.
- Judges should assume a leadership role in improving the administration of justice for domestic violence cases.
- These same values apply, as appropriate, to the other three orders for protection offered by the courts.

Chapter 2

Case Management

A General Overview

The overall function of the court is to carry out justice, resolve disputes, protect individuals, deter and punish crime, ensure fair access, provide for restitution, and generally uphold the law. An effective caseflow management system should ensure the function of the court is accomplished. Additionally this system should provide for fair treatment of all litigants by the court, ensure that the time established for disposition is consistent with the nature of the case, enhance the quality of the litigation process, and instill public confidence in the court.

Caseflow management is the court supervision of the case progress of all cases filed in that court. It includes management of the time and events necessary to move a case from the point of initiation (filing, date of contest, or arrest) through disposition, regardless of the type of disposition. Caseflow management is an administrative process; therefore, it does not directly impact the adjudication of substantive legal or procedural issues.

Caseflow management includes early court intervention, establishing meaningful events, establishing reasonable timeframes for events, establishing reasonable timeframes for disposition, and creating a judicial system that is predictable to all users of that system. In a predictable system, events occur on the first date scheduled by the court. This results in counsel being prepared, less need for adjournments, and enhanced ability to effectively allocate staff and judicial resources.

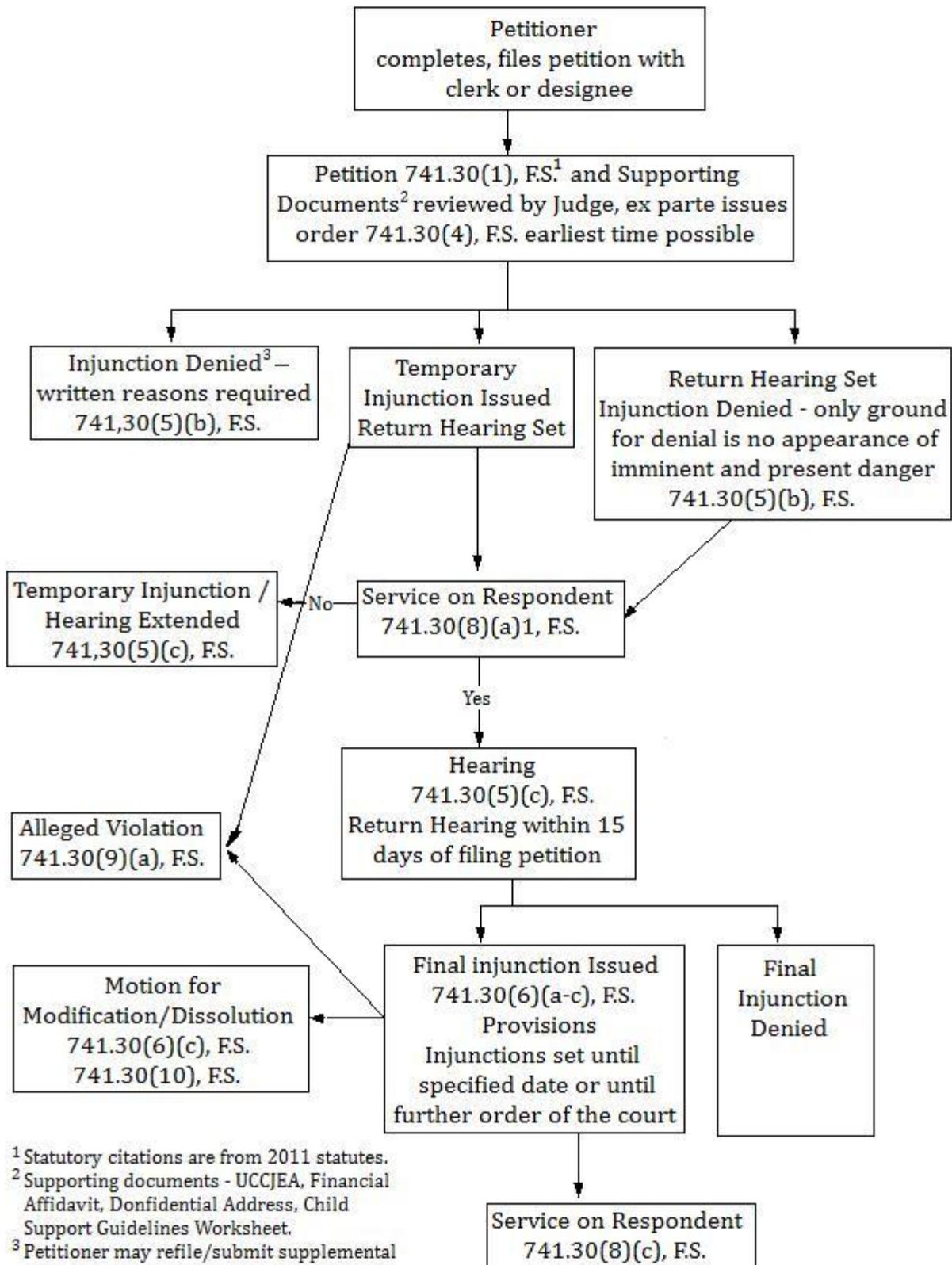
Adapted from "Caseflow Management Guide"
Michigan State Court Administrative Office
Lansing, MI

A review of the legal basis for case management in Florida can be found in Appendix 1.

Domestic Violence Case Flowchart

The following flow chart provides a helpful graphic overview of the entire domestic violence injunction process. Please note, however, that it does not reference post-injunction filings and compliance (issues covered in later chapters).

CHAPTER 741 INJUNCTION FLOW CHART



¹ Statutory citations are from 2011 statutes.

² Supporting documents - UCCJEA, Financial Affidavit, Confidential Address, Child Support Guidelines Worksheet.

³ Petitioner may refile/submit supplemental affidavit.

Chapter 3

Dynamics of Domestic Violence

What is Domestic Violence?

www.fcadv.org/about/what-is-domestic-violence

The Florida Coalition Against Domestic Violence defines domestic violence as a pattern of controlling behaviors – violence or threats of violence – that one person uses to establish power over an intimate partner in order to control that partner’s actions and activities. Domestic violence is not a disagreement, a marital spat, or an anger management problem. Domestic violence is abusive, disrespectful, and hurtful behaviors that one intimate partner chooses to use against the other partner.

A person may be experiencing domestic violence if their partner is doing any of the following or other unwanted behaviors:

- physically hurting – slapping, hair pulling, strangling, hitting, kicking, grabbing, excessively squeezing or shaking, twisting arms, burning, or intentionally injuring in any way
- using children as weapons
- name calling and/or other emotional attacks
- harming pets
- acting with extreme jealousy and possessiveness
- isolating from family and friends
- threatening to commit suicide or murder
- controlling money
- withholding medical help
- stalking
- demanding sex or unwanted sex practices
- withholding medical help
- hiding assistive devices
- minimizing the destructive behavior
- threatening to “out” those who are lesbian, gay, bisexual, transsexual or transgendered
- controlling with certain looks and/or gestures

Statutory Definition

"Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. § 741.28 (2), Florida Statute.

"Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. §741.28 (3), Florida Statutes.

Tactics of Power and Control

www.theduluthmodel.org/training/wheels.html

Why was the Power and Control Wheel created?

In 1984, staff at the Domestic Abuse Intervention Project (DAIP) began developing curricula for groups for men who batter and victims of domestic violence. We (DAIP) wanted a way to describe battering for victims, offenders, practitioners in the criminal justice system and the general public. Over several months, we (DAIP) convened focus groups of women who had been battered. We (DAIP) listened to heart-wrenching stories of violence, terror and survival. After listening to these stories and asking questions, we (DAIP) documented the most common abusive behaviors or tactics that were used against these women. The tactics chosen for the wheel were those that were most universally experienced by battered women.

Why did you call it the Power and Control Wheel?

Battering is one form of domestic or intimate partner violence. It is characterized by the pattern of actions that an individual uses to intentionally control or dominate his intimate partner. That is why the words "power and control" are in the center of the wheel. A batterer systematically uses threats, intimidation, and coercion to instill fear in his partner. These behaviors are the spokes of the wheel. Physical and sexual violence holds it all together—this violence is the rim of the wheel.

Why isn't the Power and Control Wheel gender neutral?

The Power and Control Wheel represents the lived experience of women who live with a man who beats them. It does not attempt to give a broad understanding of all violence in the home or community but instead offers a more precise explanation of the tactics men use to batter women. We (DAIP) keep our focus on women's experience because the battering of women by

men continues to be a significant social problem--men commit 86 to 97 percent of all criminal assaults and women are killed 3.5 times more often than men in domestic homicides.

When women use violence in an intimate relationship, the context of that violence tends to differ from men. First, men's use of violence against women is learned and reinforced through many social, cultural and institutional avenues, while women's use of violence does not have the same kind of societal support. Secondly, many women who do use violence against their male partners are being battered. Their violence is primarily used to respond to and resist the controlling violence being used against them. On the societal level, women's violence against men has a trivial effect on men compared to the devastating effect of men's violence against women.

Battering in same-sex intimate relationships has many of the same characteristics of battering in heterosexual relationships, but happens within the context of the larger societal oppression of same-sex couples. Resources that describe same-sex domestic violence have been developed by specialists in that field such as The Northwest Network of Bi, Trans, Lesbian and Gay Survivors of Abuse, www.nwnetwork.org

Making the Power and Control Wheel gender neutral would hide the power imbalances in relationships between men and women that reflect power imbalances in society. By naming the power differences, we can more clearly provide advocacy and support for victims, accountability and opportunities for change for offenders, and system and societal changes that end violence against women.

Other Related Issues

Articles dealing with children, elders, and substance abuse can be found in Appendix 2.



DOMESTIC ABUSE INTERVENTION PROJECT

202 East Superior Street
Duluth, Minnesota 55802
218-722-2781
www.duluth-model.org

Chapter 4

Petitioner Issues: The Roles of Court Case Managers and Domestic Violence Advocates

The domestic violence case flowchart in Chapter 2 provides a graphic illustration of the domestic violence injunction case process from the court system's perspective. However, victims of domestic violence often must deal with a number of legal, safety, logistical, and emotional issues in addition to the court processes involved in petitioning the court for protection from domestic violence. Because no single system can adequately address all the needs of families experiencing domestic violence, it is important for those legal and societal systems involved in dealing with domestic violence to collaborate and coordinate in order to provide effective services to families in need.

This chapter describes and highlights the importance of the divergent yet complementary roles played by court case managers and domestic violence advocates. Using the stages of the injunction process, this chapter identifies the range of issues domestic violence victims frequently must deal with and then describes the ways in which court case managers and domestic violence advocates can assist at each stage of the process.

Stage 1: File Petition for Protection from Domestic Violence

Petitioner Issues

Access to the court may be difficult due to the following factors:

- Employment - taking time off from work, possibly losing pay or jeopardizing continued employment.
- Children - finding available, affordable childcare or having to take children to the courthouse to complete paperwork and file petition.
- Transportation - affordable, timely transportation from home or work to the courthouse and back.
- Office hours – limited office hours at the courthouse may further complicate or limit a victim's efforts to seek help from the court.

Completion of **forms**, usually pro se, may be complicated by:

- Lengthy, confusing forms using legal language often unfamiliar to the general public.
- Lack of proficiency in English.
- Literacy issues.
- Denial and/or minimization of abuse (survival strategy) can make recalling and/or describing the violence difficult.

There are **safety** issues:

- Victims and their children are often in the most danger when they attempt to leave the violent relationship.

There are **emotional** issues:

- Domestic violence victims have experienced a profound betrayal of trust through the violence inflicted by a loved one or family member.
- Fear is often accompanied by guilt, sorrow, and love for the abusive partner.
- Victims often believe that the court will not help.

Role/Responsibilities of Intake Staff

Provide **forms, assistance and privacy** to petitioners:

- Appropriate petition based on circumstances (i.e., domestic violence, repeat violence, dating violence, sexual violence).
- Other supporting forms, documents as needed (financial affidavit, UCCJEA, etc.).
- Information about court rules, procedures, and operations.
- Instructions on how to complete forms.
- Referrals to community resources.
- Information regarding enforcement and violations.
- Information regarding court processes and procedures, the scheduling of case events, forms and instructions to all parties, including petitioners, respondents, and their legal representatives.

Role of Domestic Violence Advocates

- Maintain confidentiality of communications with victims.
- Provide emotional support and counseling need to allow petitioner to think clearly about the situation.
- Provide risk assessment and safety planning.
- Access to/screening for safe shelter at a domestic violence center.
- Assist with transportation and child care.
- Assist as needed with completing and filing petition and other forms – the petition and other forms may be downloaded from www.flcourts.org and completed at a time and place that is safe and comfortable for the petitioner.
- The advocate or trusted other person may file the petition at the courthouse/Clerk's office on behalf of the petitioner (petition must be completed, signed, and notarized).

Stage 2: Court Issues Ex Parte Order Granting or Denying Temporary Injunction – Return Hearing Set

Petitioner Issues

- **Increased danger** - In cases where a return hearing is set, the respondent is served with a copy of the petition, the notice of hearing, and a copy of the temporary injunction, if issued. This often produces a very angry reaction from the respondent and may substantially increase danger.
- This situation is particularly dangerous when a **return hearing** is scheduled without the issuance of a temporary injunction; the petitioner is likely still sharing a residence with the respondent, and has no injunctive protection against further acts of violence.

Role/Responsibility of Court Case Mangers

- Ensure that the petitioner has copies of ex parte order/injunction, including information on violations.
- Ensure the petitioner is aware of time/place of hearing as well as the importance of attending and the consequences for not attending.
- Obtain relevant information on parties for court case file:
 - ✓ past or current family cases – type and status
 - ✓ other past or current civil cases – type and status
 - ✓ pending criminal charges
 - ✓ criminal history record.
- Determine whether service on respondent has been accomplished.
- Provide information regarding court processes and procedures, the scheduling of case events, forms and instructions to all parties, including petitioners, respondents, and their legal representatives.
- Establish the need for an interpreter and follow circuit procedures for obtaining interpreter services if needed.

Role of Domestic Violence Advocates

- Maintain confidentiality of communications with victims.
- Continue to provide emotional support and counseling as needed.
- Provide access to safety or safe shelter.
- Referrals to community resources as needed.
- Provide continued social service case management and coordination of shelter and community services.

Stage 3: Court Holds Return Hearing

Petitioner Issues

Access to the court may be difficult due to the following factors:

- Employment - taking time off from work, possibly losing pay or jeopardizing continued employment.
- Children - finding available, affordable childcare or having to take children to the courthouse to attend return hearing.
- Transportation - affordable, timely transportation from home or work to the courthouse and back.

Safety of the petitioner and children may be further threatened by:

- Respondent's violence or threats of violence to coerce petitioner to drop the case.
- Courthouse/courtroom safety issues.
- Respondent's access to children through parental time sharing or unsupervised visitation.
- Respondent's possession of firearms.

Family Support - the continued safety and economic survival of the family may depend heavily upon:

- Time sharing and visitation provisions.
- Child support/alimony.
- Court-ordered treatment for respondents (BIP).
- The availability of counseling, shelter, and other services for victim and children.

Role/Responsibility of Court Case Mangers

- Provide the court with all necessary form orders at the time of the hearing.
- Provide litigants with:
 - ✓ a copy of the court's order at the conclusion of the hearing
 - ✓ referrals regarding services and resources in their community, including those programs in which the respondent is ordered to participate
 - ✓ the terms of the injunction
 - ✓ information regarding what to do if the injunction is violated
 - ✓ information regarding what to call concerning other problems or issues related to the injunction
- Provide information regarding court processes and procedures, the scheduling of case events, forms and instructions to all parties, including petitioners, respondents, and their legal representatives.

Role of Domestic Violence Advocates

- Maintain confidentiality.
- Continue to provide emotional support and counseling as needed, including accompanying the victim/petitioner.
- Provide continued safety planning regardless of but specific to whether the injunction was granted.
- Provide referrals to community resources as needed.
- Provide continued social service case management and coordination of shelter and community services.

Stage 4: Enforcement

Petitioner Issues

Safety provisions in the injunction

- No contact.
- No violence.
- Surrender firearms.

Treatment and **family support** provisions

- BIP/other treatment for respondent.
- Time sharing and visitation.
- Child support/alimony.

Role/Responsibility of Court Case Mangers

- Monitor compliance (See Chapter 6).
- Enforce compliance with injunction orders.

Role of Domestic Violence Advocates

- Maintain confidentiality.
- Continue to provide emotional support and counseling as needed.
- Provide assistance in documenting violations and filing affidavit as needed.
- Provide advocacy.
- Provide continued social service case management and coordination of shelter and community.

Chapter 5

Intake

Introduction

These guidelines explicitly recognize that intake for domestic violence injunction cases is designated to the clerks of the court, according to § 741.302(2)(c), Florida Statutes. Instances do exist where court administration staff or advocates have been engaged by the clerk of the court to perform intake functions. The procedures and practices outlined here are intended to provide direction and guidance on intake regardless of the agency providing these services.

Filing Fees

There is no filing fee for domestic violence cases in Florida.

Appropriate Training

Intake services should be provided by courteous, informed, well- trained staff. Training for intake staff should include the following topics:

- dynamics of domestic violence
- domestic violence related laws, rules, and forms
- court policies and procedures
- victim safety/batterer tactics
- ethics.
- unauthorized practice of law
- cultural competence/understanding when working with persons of different cultures
- local resources and programs for domestic violence victims and their families

Protocols

Intake staff should have written protocols for case processing of petitions, including:

- Designation of the individual who will deliver the completed petition and supporting information to the judge and how it will be delivered.
- Procedures for delivering the completed order or temporary injunction to the clerk or, after hours, to the designated agency.
- Procedures for providing the completed order or temporary injunction to the petitioner.

After-Hours Procedures

Intake should be available 24 hours/ seven days a week including weekends and holidays. Each circuit/county is responsible for developing procedures for after-hours access to the courts based upon local procedures, needs, and resources. Various approaches taken by circuits are shown below.

Options for Obtaining, Completing, and Filing a Petition

The petitioner may obtain and file an after-hours petition with:

- The clerk's afterhours facility/office;
- The designated court administration contact;
- The local certified domestic violence center; or
- The local sheriff or police department.

Conveying the Petition and Other Filings to the Duty Judge or After-Hours Judge

Once signed by the petitioner and notarized, the petition and other filings may be conveyed to the duty judge or after-hours judge in person or via fax by the entity performing intake (the clerk, court administration, law enforcement, or the domestic violence center).

Documentation/Service of Court Order

Once the judge has issued a ruling in response to the petition, a copy of the order may be faxed or delivered to the sheriff's department for service on the respondent (when a temporary injunction is issued and/or hearing is scheduled), another copy provided to the petitioner, and the original copy is to be delivered to the clerk's office to be filed. In some jurisdictions, an emergency service packet is provided to petitioners who carry it with them in the event that the respondent comes to the residence, workplace, school, etc. Presentation of this packet to the respondent effects service and so can be a solution to service problems. This should always be a last resort, however, because of the priority of petitioner safety.

The Safety and Privacy of Petitioners

(See next section on Safety and Privacy as well as Appendix 4 for further details.)

The intake provider should ensure the safety and privacy of petitioners during the intake process to the greatest extent possible. This issue is particularly important after-hours.

Safety and Privacy

The intake provider should ensure the safety and privacy of petitioners during the intake process to the greatest extent possible. Safety and privacy concerns during intake may be addressed in several ways.

- The presence or availability of law enforcement or security officers in the intake area.
- A separate office with secure entry for those wishing to file for injunctions.
- A separate, private area within the clerk's office or other secured area designated for injunction intakes.

Information and Assistance for Parties

Intake staff and case managers should provide upon request information regarding court processes and procedures, the scheduling of case events, and forms and instructions to all parties, including petitioners, respondents, and their legal representatives. The Office of Court Improvement (OCI) provides brochures and videos explaining the injunction process designed for both petitioners and respondents. *Please contact OCI for further information.*

Eligibility for Domestic Violence Injunctions

If a person is a victim of any act of domestic violence or has reasonable cause to believe that he/she is in imminent danger of becoming a victim of domestic violence, they can use the petition form to ask the court for a protective order prohibiting domestic violence. **Domestic violence includes:** assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any other criminal offense resulting in physical injury or death to petitioner by any of petitioner's family or household members.

The domestic violence laws apply to the petitioner's situation if the respondent is:

- Spouse.
- Former spouse.
- Related to petitioner by blood or marriage.
- Living with petitioner now or has lived with petitioner in the past as if living as a family.
- The other parent of petitioner's child(ren) whether or not the parties have ever been married or ever lived together.

With the exception of persons who have a child in common, the family or household members must be currently residing together or have in the past resided together in the same single dwelling unit.

If the petitioner is under the age of eighteen and has never been married or had the disability of nonage removed by a court, then one of the petitioner's parents or legal guardian must sign the petition with the petitioner.

If the petitioner's situation does not appear to fit within the domestic violence definitions shown in 1 and 2 above, the intake staff should provide to the petitioner information regarding repeat, dating, and sexual violence injunctions to enable the individual to determine whether another type of injunction would be appropriate for his/her situation. **However, in no instance**

should provision of a form be denied to any individual based upon the intake person's understanding of the petitioner's eligibility for relief.

See Appendix 3 for a sample information form describing the various types of injunctions for petitioners.

Assistance with Filing/Completion of Forms

The petition should be typed or printed in black ink. On-line fillable forms are available at: (use the "web form" link) http://www.flcourts.org/gen_public/family/forms_rules/index.shtml#980

Confidentiality

If the Petitioner fears that disclosing his/her address would put him/her in danger, the petitioner should write "confidential" in the space provided on the petition, and complete the **Petitioner's Request for Confidential Filing of Address** - Florida Supreme Court Approved Family Law Form 12.980(h) - and file it along with the petition with the clerk of the circuit court.

If the petitioner inadvertently recorded his/her address on the petition form but wants to request confidential filing of address, be sure that the address information on the petition is completely obliterated (one coat of correction fluid will not cover it or conceal the information if the page is held up to the light).

Court staff and clerks should take appropriate steps to ensure that confidential address and contact information remain strictly confidential in all court documents that are public record. Many clerks' offices place the request for confidential filing of address form into a sealed envelope within the case file to prevent access to or duplication of that information.

Be sure to let the petitioner know that if the court issues a temporary injunction or orders a hearing, the respondent will receive a copy of the petition along with the injunction or notice of hearing.

Verification of Petitioner's Understanding

Verify that petitioner understands the petition form. It may be helpful to explain that the petition will provide the judge with the information needed to decide whether to issue an injunction.

Provision of Information and Definitions

Provide information and definitions when requested by petitioner or when you determine that assistance may be needed in order for the petition to be completed. Show the petitioner the source of the information or definition being provided (statute, petition form, etc.) and avoid interpretation or giving advice.

Complete and Accurate Forms

Ensure that the petition is filled out completely and accurately. Check each section of the form to be sure that all applicable blanks have been completed.

- Sections I and II **must be completed** with all requested information about the petitioner and the respondent. (Note: the petitioner may request confidential filing of address and omit his/her current address from the petition form.)
- Section III deals with the case history and reason for seeking an injunction. This section **must be completed**. Verify that the questions regarding past or pending cases have been answered and that the petitioner has provided a narrative description of the most recent violence or threat of violence (question #4). You may wish to read aloud the petitioner's narrative account of the violent incident so that he/she can verify that it describes the situation or incident as the petitioner intended. Ensure that any additional information requested in question 5 is provided.
- Section IV addresses the temporary exclusive use and possession of the home. This section should be completed only if the petitioner is requesting the court to provide exclusive use and possession of the home shared with the respondent.
- Section V addresses temporary parenting plans with regard to minor children and must be completed if the petitioner is seeking a temporary parenting plan, including a temporary time-sharing schedule with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party. If the petitioner is asking the court to provide a temporary parenting plan, including a temporary time-sharing schedule with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party, you must also complete and file a **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit**, Florida Supreme Court Approved Family Law Form 12.902(d).
- Section VI addresses temporary financial support and must be completed if the petitioner is seeking temporary financial support and/or temporary child support.
 - ✓ Petitioners requesting temporary child support are required to complete and file:
 - The Notice of Social Security Number, Florida Supreme Court Approved Family Law Form 12.902(j);
 - The Family Law Financial Affidavit, Florida Supreme Court Approved Family Law Form 12.902(b) or (c); and
 - The Child Support Guidelines Worksheet, Florida Supreme Court Approved Family Law Form 12.902(e).
 - ✓ Petitioners requesting temporary financial support are required to complete and file the Family Law Financial Affidavit (Form 12.902 above).
 - ✓ Respondents will often require assistance in filing the necessary financial documents.
- Section VII of the petition summarizes what relief the petitioner is asking the court to include in the injunction; this section **must be completed**.

- Once intake staff has verified the completion of the petition as described above, the petitioner should sign it in front of a notary public or the clerk's staff and submit the petition and any supporting documents to the clerk of the circuit court.

Related Cases

According to Florida Rules for Judicial Administration 2.545(d), petitioners in family cases are required to file with the court a notice of related cases, if related cases are known or reasonably ascertainable. A case is related when:

- It involves any of the same parties, children, or issues and it is pending at the time the party files a family case;
- It affects the court's jurisdiction to proceed;
- An order in the related case may conflict with an order on the same issues in the new case;
- An order in the new case may conflict with an order in the earlier litigation.

The notice of related cases shall be filed with the initial pleading by the petitioner or his/her attorney.

The notice of related cases shall be served on all parties in the related cases, the presiding judges, and the chief judge or family law administrative judge.

Each circuit may have a local administrative order that outlines the circuit's preferred practices for complying with this rule. The administrative order may also provide a Notice of Related Case(s) Form. Domestic violence case managers should check their circuits' administrative orders to ascertain the circuit's practices for filing the notice of related cases and whether there is a local Notice of Related Case(s) Form. *A model form can be found in Appendix 5.*

Florida Rule of Judicial Administration 2.545(d) can be found at:

[http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/F854D695BA7136B085257316005E7DE7/\\$FILE/Judicial.pdf?OpenElement](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/F854D695BA7136B085257316005E7DE7/$FILE/Judicial.pdf?OpenElement)

Court Process

Explain the court process to the petitioner.

The clerk or court administration staff member delivers the petition and any additional documents (UCCJEA, etc.) to the judge designated to review domestic violence injunction petitions.

Once the court has reviewed the petition, it will take one of the following actions:

- Grant the petition, issue a temporary injunction for protection against domestic violence, and schedule a court date for a hearing (#3 below);
- Deny the petition for the temporary injunction and schedule a court date for a hearing (#4 below); or

- Deny the petition without scheduling a court date for a hearing (#5 below).

If the facts contained in the petition convince the judge that the petitioner is a victim of domestic violence or that an imminent danger of domestic violence exists:

- The judge will sign an order granting an immediate Temporary Injunction for Protection Against Domestic Violence.
- The clerk will give the petition, the temporary injunction, and any other papers filed with the petition to a law enforcement officer for personal service on the respondent. The temporary injunction will take effect immediately after the respondent is served with a copy of it. Until the respondent is served by law enforcement with the temporary injunction, he or she will not be aware of or limited by the restrictions ordered in the injunction.
- The temporary injunction is in effect for a fixed period of time no longer than 15 days. A full hearing will be set for a date within the 15-day timeframe. The court may re-schedule the hearing and extend the temporary injunction beyond 15 days for a good reason, including failure to obtain service on the respondent. The temporary injunction shows the date and time of the court hearing.
- At that hearing, the petitioner will be expected to testify about the facts in the petition. The respondent also will be given the opportunity to testify at this hearing. At the hearing, the judge will decide whether to issue a Final Judgment of Injunction for Protection Against Domestic Violence. If the court issues a Final Judgment of Injunction, it will remain in effect for a specific time period or until modified or dissolved by the court.
- If the petitioner and/or the respondent do not appear at the hearing, the temporary injunction may be continued in force, extended, or dismissed, and/or additional orders may be granted.
- If the judge signs a temporary or final injunction, the clerk will provide the parties with the necessary copies.
- The petitioner should be advised to make sure that he/she keeps one certified copy of the injunction with him/her at all times.

If the petition is denied on the grounds that it appears to the court that no imminent danger of domestic violence exists:

- The court will set a full hearing on the petition at the earliest possible time.
- The respondent will be notified by personal service of the petition and the hearing.
- In this situation, the petitioner may file a Supplemental Affidavit in Support of Petition for Injunction for Protection, Florida Supreme Court Approved Family Law Form 12.980(g), to amend the petition and provide additional information to the court prior to the hearing. Any information provided in the supplemental affidavit will be considered by the court in determining whether an injunction should be issued. The intake staff person should explain this process to the petitioner as well as provide the supplemental affidavit form and assistance. When the petitioner chooses to complete the supplemental affidavit, intake

staff should ensure that the supplemental affidavit and any additional verified pleadings are placed in the case file as soon as possible to ensure judicial consideration of that information.

- It is crucial for intake staff to inform the petitioner that there is no injunctive protection in place during the time prior to the hearing.

If the petition is denied:

- The judge will issue a written order showing the legal reasons for denial of the petition.
- The clerk or other court staff will provide the petitioner with a copy of this order.
- The petitioner may file a Supplemental Affidavit in Support of Petition for Injunction for Protection, Florida Supreme Court Approved Family Law Form 12.980(g), sometimes referred to as a “Motion for Reconsideration” to amend the petition and provide additional information to the court. Any information provided in the supplemental affidavit will be considered by the court in determining whether an injunction should be issued. The intake staff person should explain this process to the petitioner as well as provide the supplemental affidavit form and assistance. It should be noted that in some larger jurisdictions, the judge reviewing the supplemental affidavit may not be the same judge who ruled on the initial petition and so will often make his or her decision without consultation with the other judge.
- In the event the petitioner files a supplemental affidavit, the intake staff member should convey the affidavit to the court as soon as possible.
- If the court schedules a hearing on the amended petition, the petitioner should be informed of the need to attend the hearing and be prepared to present the facts that support the petition.

Domestic Violence Advocates

Whenever available, intake staff should offer petitioners access to domestic violence advocate who may assist petitioners to assess the risk/lethality of their situation; develop a safety plan for themselves and their children; and obtain access to services, support, and shelter available from the local certified domestic violence center. A number of domestic violence centers provide court advocates (on-site at intake or on-call) to assist petitioners in the intake process.

Referrals

Petitioners should be provided with information about and referrals to available community resources, legal services, and support systems and community resources, including certified domestic violence centers. The local resource directory developed by the Family Law Advisory Group (FLAG) may provide appropriate information on community resources, though some circuits have chosen to develop separate community resource listings specifically for families experiencing domestic violence.

When available, information regarding community services and resources should be available in all languages appropriate to the community.

Interpreters

Interpreters should be provided whenever needed. Interpreters are crucial for non-English speakers or those not proficient in English and those with hearing impairments so that they may fully understand and participate in the court process and proceedings. Intake staff should be aware of their circuit's procedures for obtaining or contacting interpreters and utilize those procedures as the need arises.

Chapter 6

Pre-hearing Case Management (post ex parte)

The following guidelines apply to those cases where the court has ordered a domestic violence injunction hearing based upon review of the petition, regardless of whether a temporary injunction was issued.

Related Cases

In accordance with the May 2001 Supreme Court's opinion regarding unified family courts, judges handling injunction cases should have access to and consider information about any related court cases, past or pending, in all other divisions of the court system so that coordination of services, judicial economy, and avoidance of conflicting court orders may be addressed. Likewise, case managers handling other family and domestic violence criminal cases should have access to all related case information.

Identify Cases

Case managers should identify past and pending family, civil, and criminal cases involving the litigants in the domestic violence injunction case.

- Note any cases identified in the petition itself.
- Note related cases identified on the related cases form filed with the petition.
- To the extent possible, search the clerk's/court's database (or request clerk's staff to conduct the search) to identify all cases involving the litigants, including those noted by the petitioner.
- Using a companion case management form, record the following information for each case:
 - ✓ Type of case and case number
 - family law cases, including dissolution, domestic violence, paternity, dependency, child support, etc.
 - criminal cases
 - civil cases.
 - ✓ Status of the case (pending, final disposition).
 - ✓ Scheduled court dates for pending cases.

The companion case management form is to be placed into or attached to the front of the domestic violence injunction case file for the judge's review.

See Appendix 5 for an example of a companion case management form for recording the above information.

Service

Case managers should verify service on the respondent prior to the hearing.

- Determine whether accomplishment of service is documented in the case file, usually indicated by the law enforcement agency's signed service documentation indicating the date and time service was accomplished.
- If there is no documentation of service in the case file, the case manager should utilize whatever automated system is available to determine whether service has in fact been accomplished but hard copy documentation hasn't yet been placed into the file.
 - ✓ Depending upon the technology and procedures in each county and circuit, the case manager may be able to access automated information regarding service directly, or he/she may need to request the clerk's staff to access such information.
 - ✓ If service has been accomplished, the case manager should document which law enforcement agency accomplished service, as well as the date and time service was accomplished, and include that information in the case file.
- When service on the respondent cannot be verified, several approaches are taken by various circuits.
 - ✓ The case remains on the docket as scheduled; if service has not been accomplished and the respondent does not appear, the case hearing is rescheduled for another date; or
 - ✓ The petitioner is contacted by the case manager, informed of the lack of service, and asked whether he/she would like to:
 - Reschedule the hearing so that service can be accomplished. This option provides the opportunity to avoid an unnecessary trip to court, as the hearing will be rescheduled if the respondent has not been served and does not appear; or
 - Proceed with the hearing as originally scheduled (respondents sometimes appear for hearings without having been officially served).

Multiple Extensions

Given the importance of providing permanent or long-term protection to families affected by domestic violence, case managers should alert judges to instances of multiple extensions of temporary injunctions for time periods extending beyond 30 days. Temporary injunctions do not automatically require the surrender of firearms and cannot be entered into the statewide injunction database. When long-term protection is needed, a final injunction is the appropriate mechanism for providing such protection.

Judicial Access to Case Materials

All case materials, including the petition, the related case form, supporting affidavits and the companion case management form, should be provided to the judge prior to the hearing. In

many circuits, the courts have directed that all related case files be routinely pulled and provided to the judge along with the domestic violence injunction case file. In other circuits, the courts have determined that the related case files are pulled and provided to the judge only when specifically requested. It is incumbent on court case managers to identify the appropriate manner, materials, and timeframe for providing case materials to judges established by their circuit.

Safety

In order to address possible safety concerns preventatively, the court case managers should be aware of their circuits' written safety plans, specifically as they relate to domestic violence proceedings. If a party has a serious history of violence or prior acting out in court, the court case manager should provide court security officers with a minimum of one day advance notice of potentially violent individuals who are scheduled to appear at the hearing.

Please see Appendix 4 for Family Court Security Recommendations.

Other Duties

Court case managers should provide upon request information regarding court processes and procedures, the scheduling of case events, forms and instructions to all parties, including petitioners, respondents, and their legal representatives.

Court case managers should determine if there was a previous need for an interpreter and if so, schedule an interpreter for the hearing.

Chapter 7

Hearing - Case Management

Contact with Parties

The case manager may meet ***separately and privately*** with the petitioner and the respondent to provide information of an educational nature regarding the following topics. (The Office of Court Improvement (OCI) provides brochures and videos explaining the injunction process. Please contact OCI for further information.)

- The nature of the court process.
- The role of the case manager.
- The rights of the parties to have a judge decide the issues that exist between them.
- The difference between the civil injunction process and procedures in other types of cases, such as criminal, dependency, and domestic relations.

Victim advocates may be present at the case management meeting with the petitioner or respondent provided that the party has requested an advocate.

It is generally not the function of case managers to help the parties reach agreement or to obtain agreements from the parties to submit to the court.

In meeting with the petitioner, the case manager may confirm whether the relief requested in the petition is still sought and whether any additional relief is requested.

In meeting with the respondent, the case manager may ask whether the respondent objects to the petitioner's requests and whether the respondent seeks any relief. If the respondent objects to the petitioner's request, the case manager may identify the specific areas of dispute.

The case manager may have each party identify his or her exhibits and witnesses for the hearing, and may gather financial information and make preliminary child support calculations for use by the judge at the hearing.

Additional information gathered from the petitioner and the respondent to identify and clarify their positions should be submitted by the case manager to the judge in writing using some type of verified form petition or affidavit. A copy of the petition or affidavit should be provided to both parties at the same time it is provided to the judge. ***§ 741.30(1)(g), Florida Statutes.*** This process is necessary in order for the judge to legally consider the information collected, as judges are not allowed to engage in *ex parte* communication except in very limited circumstances.

According to the Florida Supreme Court, Amendment to the Florida Family Law Rules of Procedure, 845 So. 2d 174 (Fla. 2003), any activity that constitutes alternative dispute resolution (ADR) may occur **only after the hearing** and must be in the form of **mediation by a certified family mediator**.

See Chapter 14 for an extended discussion on the appropriate use of ADR in cases involving domestic violence.

Forms/Orders

All necessary form orders should be made available to the court at the time of the hearing.

Most of the required forms can be found at

http://www.flcourts.org/gen_public/family/forms_rules/index.shtml#980. Some jurisdictions may include forms that have been approved for local use only.

Given the possible outcomes of an injunction hearing, the forms to make available include but are not limited to the following.

- Order Denying Petition for Injunction for Protection Against Domestic Violence, Repeat Violence, Dating Violence or Sexual Violence, Florida Supreme Court Approved Family Law Form 12.980(b)(2).
- Final Judgment of Injunction for Protection Against Domestic Violence Without Minor Child(ren), Florida Supreme Court Approved Family Law Form 12.980(d)(1).
- Final Judgment of Injunction for Protection Against Domestic Violence With Minor Child(ren), Florida Supreme Court Approved Family Law Form 12.980(d)(2).
- Order of Dismissal of Temporary Injunction for Protection Against Domestic Violence, Repeat Violence, Dating Violence, or Sexual Violence, Florida Supreme Court Approved Family Law Form 12.980(e).
- Order Extending Injunction for Protection Against Domestic Violence, Repeat Violence, Dating Violence, or Sexual Violence, Florida Supreme Court Approved Family Law Form 12.980(m).

Depending upon the resources and procedures within each circuit, the case manager may provide any of the following to the judge(s) hearing injunction cases:

- Form orders with the petitioner's name and address (unless confidentially filed) and the respondent's name and address filled in on each type of form order.
- Form orders which are left completely blank to be filled in by the judge.
- Form orders which are partially completed in advance according to the judge's instructions.

Certified court interpreters, including those required under the Americans with Disabilities Act, should be available as needed at the hearing. Interpreters are crucial for non-English speakers or those not proficient in English and those with hearing impairments so that they may fully

understand and participate in the court process and proceedings. Case managers should be aware of their circuit's procedures for obtaining or contacting interpreters and utilize those procedures as needed.

An advocate from a state attorney's office, law enforcement agency, or certified domestic violence center should be allowed to be present at the hearing with the petitioner or respondent provided that the party has requested an advocate.

Parties should be provided with the following information:

- Referrals regarding services and resources in their community, including those programs in which the respondent is ordered to participate.
- The terms of the injunction.
- The possible consequences of violations.
- How to proceed if the injunction is violated.
- Who to call concerning other problems or issues related to the injunction.

Parties should be provided a copy of the court's order at the conclusion of the hearing. Respondents who are not present at the hearing should be personally served as soon as possible or within 24 hours. Temporary injunctions that have been served on a respondent remain in place until their expiration date OR until such time as a permanent injunction is served on the respondent, if one is issued. If a respondent fails to appear at the final hearing and a permanent injunction is issued, the temporary injunction remains in effect until such time as that permanent injunction is served.

Chapter 8

Follow-up and Compliance

Section 741.31, Florida Statutes addresses the role of the court regarding violation of an injunction for protection against domestic violence. This chapter addresses the role and responsibilities of the clerks and/or the court staff charged with responsibility for injunction intake and/or case management.

See <http://www.flsenate.gov/Laws/Statutes/2011/741.31> for the full text of that section.

Monitoring and Enforcing Compliance with Domestic Violence Injunctions

Monitoring and court enforcement of compliance with the terms of injunctions is crucial for injunctions to provide protection to domestic violence victims and their children.

Injunction orders should contain enough specific information to ensure that compliance with required provisions is possible for the respondents and subject to monitoring and tracking by court staff, including:

- Specific provisions prohibiting (or allowing specified) contact with the petitioner.
- Dates, times, locations for visitation, and custody exchange.
- Date and timeframe for respondent's vacation of shared dwelling (order should specify surrender of keys, garage door openers, etc).
- Amount and timing of temporary support payments.
- Timeframes and required orders/documentation for
 - ✓ firearms and ammunition surrender
 - ✓ enrollment in and completion of a batterers' intervention program (BIP)
 - ✓ mental health and/or substance abuse assessment/treatment.

Methods of Enforcing Compliance

Petitioner affidavit of alleged violation

The process described in § 741.31, Florida Statutes. outlines the process by which a petitioner may file an affidavit alleging a violation in cases where an arrest was not made.

- In the event of a violation of the injunction for protection against domestic violence when there has not been an arrest, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall either assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office operated by the court within the circuit that has been designated by the chief judge of that circuit as the central intake point for

injunction violations and where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.

- The clerk's staff or court case manager shall immediately forward the affidavit to the state attorney of that circuit and to such court or judge as the chief judge of that circuit determines to be the recipient of affidavits of violation.
- If the affidavit alleges a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation.
- Unless other administrative arrangements have been made, it is the role of the court case manager to maintain contact with the State Attorney's Office regarding the actions taken by that entity with regard to filing criminal charges and preparing a motion for an order to show cause, or some other action and to ensure that the court is informed of those actions.
- If the court has knowledge, based on its familiarity with the case, that the petitioner, the children of the petitioner, or another person is in immediate danger if the court fails to act prior to the decision of the state attorney to prosecute, it should immediately issue an order of appointment of the state attorney to file a motion for an order to show cause as to why the respondent should not be held in contempt. If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt. Depending on the policies and procedures in each circuit, court case managers may be responsible for assisting in the preparation of orders and facilitating communication regarding the enforcement of injunctions.
- Whether or not there is a criminal prosecution, the court shall order the respondent to attend a batterers' intervention program if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a batterers' intervention program would be inappropriate. The court case manager role may involve assisting in the preparation of the order, providing BIP contact information to respondents, and conducting follow-up to ensure compliance with the court's order for BIP attendance.

Compliance Review Hearings

In several jurisdictions, compliance hearings are scheduled at the return hearings where final injunction orders are issued. The court schedules a compliance hearing for a future date, at which time the respondent is to appear with proof or documentation of compliance. In several jurisdictions, the respondent is given the opportunity to provide proof of compliance (either to the clerk to court staff) prior to the scheduled hearing; when such proof is provided, the respondent is "excused" from attending the hearing. The court may request documentation of compliance with any of the provisions in the final injunction order; the court should specify which provisions will be reviewed for compliance and what documentation is needed to prove compliance. The court case manager's role is to ensure that respondents have the necessary information in order to comply with the court's order, to ensure that the case file contains documentation of compliance submitted prior to the compliance hearing, and to assist the court in preparing any necessary orders.

“Tickler” Systems

Some circuits have established and utilized a “tickler” system to initiate compliance checks at key points in time, such as deadlines established in the injunction order. Tickler systems may be set up as either automated electronic systems or manual case file systems; the logistics of the system are determined by the resources available.

The tickler system alerts the case manager to a timeframe or deadline contained in the final injunction order. For example, if a respondent is given 10 days to produce documentation of the sale or surrender of firearms and ammunition, the “tickler” would alert the case manager that the 10-day timeframe has elapsed. The case manager would then ascertain whether the respondent has submitted acceptable documentation of the sale or surrender. If the respondent has not produced documentation of the required action, the case manager should alert the court and then proceed according to circuit procedures. Typically, case managers would assist in the preparation of an order to show cause requiring the respondent to appear before the court; however, each circuit may handle this process differently.

The tickler system may be most effectively used to monitor the following injunction provisions, which typically include timeframes and required documentation:

- surrender of firearms and ammunition
- enrollment in/completion of a batterers’ intervention program (BIP)
- assessment/treatment for substance abuse and/or mental health issues
- child support payment

Chapter 9

Motions to Modify or Vacate an Injunction

According to § 741.30, Florida Statutes, and Florida Family Law Rules of Procedure 12.1610, the petitioner or respondent may move the court to modify or vacate an injunction at any time.

Forms requesting modification of an injunction are available from the Clerk of the Court, the entity performing the intake function if different from the Clerk, and on the State Court System website at www.flcourts.org.

The form requesting modification of an injunction may also be used to request dismissal of an injunction; some courts will accept a signed, notarized statement from the moving party requesting dismissal and providing the reason(s) for the request in lieu of the form.

Once a party has requested modification or dismissal of an injunction, the court generally schedules a hearing with notice to both parties to consider the request for modification or dismissal.

In various circuits, the role of the case manager includes:

- Provision of forms/information to the moving party.
- Verification of service on the non-moving party.
- When the petitioner has requested dismissal, identification of the petitioner's reasons for requesting dismissal and referral to a domestic violence advocate when the possibility of coercion exists.
- Provision to both parties of referrals to appropriate community resources.
- Verification that case file is complete prior to hearing.
- Assist in the preparation of form orders as directed by the court.

Chapter 10

Case Managers as Community Liaisons

In addition to providing case-specific services to litigants and to the court, domestic violence case managers or coordinators are often responsible for functioning as liaisons with other court system entities, state agencies and community service providers. Case managers may participate in meetings of formal or informal groups designed to foster communication, coordination, and problem solving at the local level. Participation in such activities enables case managers to be informed of services available and agency protocols for service provision, as well as to build relationships with those agencies and individuals crucial to providing a coordinated community response to domestic violence.

Examples of the types of groups or committees with which case managers may interact include the following:

- Family Law Advisory Group (FLAG)
- domestic violence coordinating group
- domestic violence fatality review team
- ad hoc issues groups
- community social service councils

In addition to involvement with the types of groups noted above, domestic violence case managers may also interact with a myriad of professionals and agencies on an individual, as-needed basis to address particular situations or concerns. The following list illustrates those most frequently involved in serving families experiencing domestic violence, but is not intended to be a comprehensive listing and is likely to vary somewhat in each community.

- court administration, especially family court coordinators and dependency case managers
- clerk of the court
- domestic violence center
- other victim service agencies
- batterers' intervention programs
- state attorney's office – victim advocates, prosecutors
- public defender's office
- local law enforcement – victim advocates, officers
- probation office
- Florida Department of Children and Families (DCF)
- Florida Department of Juvenile Justice (DJJ)
- pro bono legal services
- guardian ad litem (GAL)

Chapter 11

Domestic Violence Case Manager Qualifications and Training

Based upon a petition filed by the Family Court Steering Committee, on May 1, 2003 the Florida Supreme Court approved amendments to the Florida Family Law Rule of Procedure 12.610, which governs domestic violence injunctions. In that ruling, the court requested the Domestic Violence Subcommittee of the Steering Committee on Families and Children in the Court (FCC) to recommend appropriate training for case managers in domestic violence cases. The information in this chapter is the result of the Domestic Violence Subcommittee's work. **In every instance, the Chief Judge and/or Trial Court Administrator (or their delegate) will make the actual determination as to how these recommendations will be carried out in each circuit.**

The Florida Court Personnel Committee is charged with enhancing the administration of justice by cultivating a competent and quality workforce through education. The committee's goal is to provide a comprehensive array of educational opportunities for Florida court personnel that:

- Cultivates a staff of committed, collaborative, accountable, and highly-skilled professionals.
- Develops knowledge and skills necessary for personnel to perform with competence, quality, fairness, and impartiality.
- Emphasizes public service and appreciation for diversity.
- Ensures professionalism and ethical conduct.
- Promotes an organizational perspective that fosters an understanding of the judicial function and emphasizes each employee's contribution to the justice system.
- Cultivates a commitment to career-long learning that includes ongoing professional development and personal growth.

Qualifications

Case managers shall be competent, well-qualified, and adequately trained in the law, in the dynamics of domestic violence and in the gathering and dissemination of information as outlined here.

Case managers are not mediators; their case management training in mediation or alternative dispute resolution is solely informational.

Training

Domestic violence training may include any or all of the following substantive areas.

- victim safety
- abuser tactics
- the impact of domestic violence on children as victims and perpetrators
- domestic violence related laws and forms
- ethics
- the intersection of substance abuse and domestic violence
- suicidality/lethality
- policies, court rules and procedures
- mediation (defining so as to avoid it)
- unauthorized practice of law
- the proper roles of the court and staff, particularly case managers
- how to access interpreter services
- child support calculations
- BIP and mental health issues/programs
- cultural competence/understanding and working with persons/cultures different from one's own
- local, state and national resources
- other topics deemed relevant

Recommended Training Logistics

As soon as possible but not later than within 6 months of commencement of domestic violence case management duties, case managers should complete 20 hours of domestic violence related training. Each year, case managers with domestic violence case responsibilities should complete at least 12 hours of domestic violence related training. New case managers shall be mentored until the initial 20 hours of training have been completed. OSCA will be involved in sponsoring or co-hosting domestic violence training events on a regular basis.

Chapter 12

Domestic Violence Centers and Advocates

Domestic Violence Centers

It is the intent of the Florida Legislature to assist in the development of domestic violence centers for the victims of domestic violence and to provide a place where the parties involved may be separated until they can be properly assisted. § 39.901, Florida Statutes. In order to be certified, a domestic violence center must provide the following minimum services to victims of domestic violence § 39.905, Florida Statutes:

- Information and referral services.
- Counseling and case management services.
- Temporary emergency shelter for more than 24 hours.
- A 24-hour hotline.
- Training for law enforcement personnel.
- Assessment and appropriate referral of resident children.
- Educational services for community awareness relative to the incidence of domestic violence; the prevention of such violence; and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence.

Domestic Violence Advocates

Courts may benefit from the services of a court advocate from the local domestic violence program in a variety of ways. Advocates are non-attorneys whose job is to provide support and information to victims of domestic violence. Job descriptions may vary from program to program, which is why it is important to know about your local program and what it offers. Most court advocates focus on assisting victims in obtaining civil protective orders. Advocates are more likely to be able to be present in court when domestic violence cases are scheduled on the same day and time.

Examples of actions advocates can take:

- Meet with and provide counseling and support to a plaintiff or witness who is reluctant to cooperate with the judicial process, especially due to threats of retaliation.
- Accompany a person through the civil or criminal court process in order to provide information and support.
- Be available to the clerk's office or regularly present in the courthouse to provide information, support and accompaniment to court.
- Be present and available in court to meet with litigants or witnesses who may need information about support services, including shelter or counseling.

- Meet with a litigant that the court suspects either doesn't understand the court proceedings or is seemingly ineligible for civil relief (including misrepresenting their need for relief).

More specific issues are addressed in Chapter 4.

To locate the domestic violence agency that serves your area, go to:

<http://www.fcadv.org/centers/local-centers>

Chapter 13

Batterer Intervention Programs

In Florida “Batterer Intervention Program” (BIP) means a 29-week program that addresses the perpetration of violence by an intimate partner, spouse, ex-spouse, or a person who shares a child in common or who is a cohabitant in an intimate relationship for the purpose of exercising power and control by one over the other.

Participation in a BIP is mandatory when the respondent has:

- A willful violation of the ex parte injunction.
- Been convicted of, had adjudication withheld on, or pled nolo contendere (no contest) to a crime involving violence or a threat of violence.
- In this state or any other state, had at any time a prior injunction for protection entered against him or her after a hearing with notice.

Batterer intervention is an educational approach that provides a strategy for assisting offenders to change their attitudes and behaviors while taking responsibility for their violence. Programs strive to maximize abuser accountability while not compromising victim and child safety.

Providers, therefore, endeavor to accomplish the following general goals:

- Assist the abuser to focus on changing their personal behavior in order to be nonviolent in any relationship.
- Educate abusers about treating partners with respect.
- Hold individual abusers accountable for ending the violence.
- Enhance victim and child safety.

A typical batterer intervention program meets weekly. Each program sets its own fees. (Sliding fees are often available.) Offenders are required to meet in a participatory group setting.

Anger management programs are not the same as batterer intervention programs. Anger management programs assume the abuser has no control over his or her behavior, whereas batterer intervention programs assume the defendant chooses when and whom to abuse.

A listing of Florida’s BIPs can be found at <http://dv.dcf.state.fl.us/>

Chapter 14

Use of Alternative Dispute Resolution (Mediation) in Domestic Violence Injunction Cases

Florida Family Law Rule of Procedure 12.610 (c)(1)(C) requires that:

- A hearing be held on the petition for injunction, at which the court must make a finding as to whether domestic violence occurred or whether an imminent danger of domestic violence exists.
- If the court determines an injunction will issue, the court shall also rule on:
 - ✓ whether the respondent may have any contact with the petitioner, and if so, under what conditions
 - ✓ exclusive use of the parties' shared residence
 - ✓ temporary child custody
 - ✓ whether temporary visitation will occur and whether it will be supervised
 - ✓ whether temporary child support will be ordered
 - ✓ whether temporary spousal support will be ordered
 - ✓ other such relief as the court deems necessary for the protection of the petitioner.
- The court may, with the consent of the parties, refer the parties to mediation by a certified family mediator to attempt to resolve the details as to the above rulings.
- The court should not refer the case to mediation if there exists a degree of past violence, a potential for future lethality, or other factors that would compromise the mediation.
- **Mediation by a certified family mediator shall be the only alternative dispute resolution process offered by the court.** (emphasis added)
- The court shall review any agreement reached by the parties, and if the court approves the agreement, it shall be incorporated into the final judgment. A domestic violence injunction will be entered or extended the same day as the hearing on the petition for injunction commences.

In addition to the requirements outlined in Rule 12.610, the role of court case managers with regard to interacting with parties prior to the hearing is also governed by the following statutory provision:

- Any person, including an officer of the court, who offers evidence or recommendations relating to the cause of action must either present the evidence or recommendations in writing to the court with copies to each party and their attorney, or must present the evidence under oath at a hearing at which all parties are present. §741.30(1)(g), Florida Statutes.

Therefore, any information or proposed agreements obtained by the court case manager in interacting with the parties prior to the hearing must be submitted to the court and each party in writing as noted above, or presented as evidence under oath at the hearing.

Chapter 15

Ethics

As members of the Judicial Branch, the actions of court case managers are governed by statutes, rules, circuit policies and procedures, and by ethical guidelines. While the State Court System Personnel Regulations Manual addresses political activities and unlawful acts of employees, it does not specify an ethical code of conduct for court staff. While it is beyond the purview of this document to establish such a code of conduct, it is helpful to review some basic ethic issues relevant to case management.

The following are services court staff cannot and should not provide or perform.

- advocacy on behalf of either party
- legal interpretations
- research of statutes, court rules, and ordinances
- confidential case information
- opinions or advice regarding a course of action (legal or otherwise)
- deny or discourage access to the courts
- encourage or discourage litigation
- subjective, selective or biased referrals
- confidential/protected communications with victims of domestic violence

These limitations are based upon legal requirements as well as the mission, vision, and values of Florida's State Court System (see Chapter 1).

Several organizations have developed sets of ethical standards for non-judicial court employees. Generally speaking, model codes of conduct address court staff actions in the following areas,

- abuse of position
- conflict of interest
- confidentiality
- political activity
- performance of duties

It is crucial that case managers be familiar with these standards of conduct as well as any specific standards developed or implemented in each circuit.

Appendix 1

Legal Basis for Case Management

The general definition for state-funded case management in the court system is found in section 29.004(10), Florida Statutes. Guidelines for handling domestic violence injunction cases are established by section 741.30, Florida Statutes and Rule 12.610, Florida Family Law Rules of Procedure. Additionally, case managers have all the powers and all the limitations imposed upon self-help personnel by the provisions of Rule 12.750(c) and (d), Florida Family Rules of Procedure. The specific provisions are outlined below.

Complete texts of the cited Florida Statutes are available online.

Section 29.004, Florida Statutes <http://www.flsenate.gov/Laws/Statutes/2011/29.004>

Section 741.30, Florida Statutes <http://www.flsenate.gov/Laws/Statutes/2011/741.30>

The complete texts of the pertinent **Family Law Rules of Procedure** can be found at:

[http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/\\$FILE/311%20Family%20Law.pdf?OpenElement](http://www.floridabar.org/TFB/TFBResources.nsf/Attachments/416879C4A88CBF0485256B29004BFAF8/$FILE/311%20Family%20Law.pdf?OpenElement)

Section 29.004(10), Florida Statutes

The provisions relevant to case management and intake are shown below:

- State-funded case management responsibilities as defined by statute include initial review and evaluation of cases, assignment of cases to court divisions or dockets, case monitoring, tracking, and coordination, and scheduling of judicial events. §29.004(10)(a)(b)(c), Florida Statutes.
- Case management may not include costs associated with the application of therapeutic jurisprudence principles by the courts. §29.004(10), Florida Statutes.
- Case management may not include case intake and records management conducted by the clerk of court. §29.004(10), Florida Statutes.

Section 741.30, Florida Statutes

The provisions relevant to case management and intake are shown below:

- Any person, including an officer of the court, who offers evidence or recommendations relating to the cause of action must either present the evidence or recommendations in writing to the court with copies to each party and their attorney, or must present the

evidence under oath at a hearing at which all parties are present. §741.30(1)(g), Florida Statutes.

- The clerk of the court shall assist petitioners in seeking both injunctions for protection against domestic violence and enforcement for a violation thereof as specified in this section. §741.30(2)(c)1, Florida Statutes.
- All clerks' offices shall provide simplified petition forms for the injunction, any modifications, and the enforcement thereof, including instructions for completion. §741.30 (2)(c)2, Florida Statutes.
- Notwithstanding any other provision of law, the assessment of a filing fee for a petition for protection against domestic violence is prohibited by §741.30(2)(a), Florida Statutes; further, the clerk of the court may not assess a fee for filing a petition for protection against repeat violence, sexual violence, or dating violence §784.046(3)(b), Florida Statutes.
- The clerk of the court shall ensure the petitioner's privacy to the extent practical while completing the forms for injunctions for protection against domestic violence. §741.30(2)(c)4, Florida Statutes.
- The clerk of the court shall provide petitioners with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement. §741.30(2)(c)5, Florida Statutes.
- Clerks of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks. §741.30(2)(c)6, Florida Statutes.
- The clerk of the court in each county shall make available informational brochures on domestic violence when such brochures are provided by local certified domestic violence centers. §741.30(2)(c)7, Florida Statutes.
- The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the time of filing for an injunction for protection against domestic or repeat violence when such brochures become available. The brochure must include information about the effect of giving the court false information about domestic violence. §741.30(2)(c)8, Florida Statutes.

Rule 12.610. Injunctions for Domestic, Repeat, Dating, and Sexual Violence

The provisions relevant to case management and intake are shown below:

- The clerk of the court or family or domestic/repeat/dating violence intake personnel shall provide simplified forms, including instructions for completion, for any person whose circumstances meet the requirements of this rule and shall assist the petitioner in obtaining an injunction for protection against domestic, repeat, or dating violence as provided by law. Florida Family Law Rule of Procedure 12.610 (b)(4)(A).

- A petitioner’s address may be furnished to the court in a confidential filing separate from a petition or other form if, for safety reasons, a petitioner believes that the address should be concealed. The ultimate determination of a need for confidentiality must be made by the court as provided in Florida Rule of Judicial Administration 2.051. Florida Family Law Rule of Procedure 12.610 (b)(4)(B).
- The clerk of the court or family or domestic/repeat/dating violence intake personnel shall provide simplified forms including instructions for completion, for the persons whose circumstances meet the requirements of this rule and shall assist in the preparation of the affidavit in support of the violation of an order of injunction for protection against domestic, repeat, or dating violence. Florida Family Law Rule of Procedure 12.610 (b)(7).

Rule 12.750. Family Self-help Programs

According to Florida Family Law Rule of Procedure 12.750 (c), self-help personnel may:

- Encourage self-represented litigants to obtain legal advice
- Provide information about available pro bono legal services, low cost legal services, legal aid programs, and lawyer referral services
- Provide information about available approved forms, without providing advice or recommendation as to any specific course of action
- Provide approved forms and approved instructions on how to complete the forms;
- Engage in limited oral communications to assist a person in the completion of blanks on approved forms
- Record information provided by a self-represented litigant on approved forms
- Provide, either orally or in writing, definitions of legal terminology from widely accepted legal dictionaries or other dictionaries without advising whether or not a particular definition is applicable to the self-represented litigant's situation
- Provide, either orally or in writing, citations of statutes and rules, without advising whether or not a particular statute or rule is applicable to the self-represented litigant's situation
- Provide docketed case information
- Provide general information about court process, practice, and procedure
- Provide information about mediation, required parenting courses, and courses for children of divorcing parents
- Provide, either orally or in writing, information from local rules or administrative orders
- Provide general information about local court operations
- Provide information about community services
- Facilitate the setting of hearings.

According to Florida Family Law Rule of Procedure 12.750 (d), self-help personnel shall not:

- Provide legal advice or recommend a specific course of action for a self-represented litigant
- Provide interpretation of legal terminology, statutes, rules, orders, cases, or the constitution
- Provide information that must be kept confidential by statute, rule, or case law
- Deny a litigant's access to the court;
- Encourage or discourage litigation
- Record information on forms for a self-represented litigant, except as otherwise provided by this rule
- Engage in oral communications other than those reasonably necessary to elicit factual information to complete the blanks on forms except as otherwise authorized by this rule
- Perform legal research for litigants
- Represent litigants in court
- Lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely upon them for legal advice.

Other pertinent provisions in Florida Family Law Rule of Procedure 12.750 include the following:

- Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, information given by a self-represented litigant to self-help personnel is not confidential or privileged. Florida Family Law Rule of Procedure 12.750(f).
- Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there is no conflict of interest in providing services to both parties. Florida Family Law Rule of Procedure 12.750(g).
- Before receiving the services of a self-help program, self-help personnel shall thoroughly explain the “Notice of Limitation of Services Provided” disclaimer below (Appendix 1A). Each self-represented litigant, after receiving an explanation of the disclaimer, shall sign an acknowledgment that the disclaimer has been explained to the self-represented litigant and that the self-represented litigant understands the limitation of the services provided. The self-help personnel shall sign the acknowledgment certifying compliance with this requirement. The original shall be filed by the self-help personnel in the court file and a copy shall be provided to the self-represented litigant. Florida Family Law Rule of Procedure 12.750(h).
- Self-help programs are available to all self-represented litigants in family law cases. Florida Family Law Rule of Procedure 12.750(j).
- Nothing in this rule shall restrict services provided by the clerk of the court or family or domestic/repeat/dating violence intake personnel pursuant to Florida Family Law Rule of Procedure 12.610 and 12.750(m).

APPENDIX 1A

Notice of Limitation of Services Provided

THE PERSONNEL IN THIS SELF-HELP PROGRAM ARE NOT ACTING AS YOUR LAWYER OR PROVIDING LEGAL ADVICE TO YOU.

SELF-HELP PERSONNEL ARE NOT ACTING ON BEHALF OF THE COURT OR ANY JUDGE. THE PRESIDING JUDGE IN YOUR CASE MAY REQUIRE AMENDMENT OF A FORM OR SUBSTITUTION OF A DIFFERENT FORM. THE JUDGE IS NOT REQUIRED TO GRANT THE RELIEF REQUESTED IN A FORM.

THE PERSONNEL IN THIS SELF-HELP PROGRAM CANNOT TELL YOU WHAT YOUR LEGAL RIGHTS OR REMEDIES ARE, REPRESENT YOU IN COURT, OR TELL YOU HOW TO TESTIFY IN COURT.

SELF-HELP SERVICES ARE AVAILABLE TO ALL PERSONS WHO ARE OR WILL BE PARTIES TO A FAMILY CASE.

THE INFORMATION THAT YOU GIVE TO AND RECEIVE FROM SELF-HELP PERSONNEL IS NOT CONFIDENTIAL AND MAY BE SUBJECT TO DISCLOSURE AT A LATER DATE. IF ANOTHER PERSON INVOLVED IN YOUR CASE SEEKS ASSISTANCE FROM THIS SELF-HELP PROGRAM, THAT PERSON WILL BE GIVEN THE SAME TYPE OF ASSISTANCE THAT YOU RECEIVE.

IN ALL CASES, IT IS BEST TO CONSULT WITH YOUR OWN ATTORNEY, ESPECIALLY IF YOUR CASE PRESENTS SIGNIFICANT ISSUES REGARDING CHILDREN, CHILD SUPPORT, ALIMONY, RETIREMENT OR PENSION BENEFITS, ASSETS, OR LIABILITIES.

I CAN READ ENGLISH.

I CANNOT READ ENGLISH. THIS NOTICE WAS READ TO ME BY

{NAME}_____ IN {LANGUAGE}_____.

SIGNATURE

APPENDIX 1B

Notice of Limitation of Services Provided (Spanish)

AVISO DE LIMITACION DE SERVICIOS OFRECIDOS

EL PERSONAL DE ESTE PROGRAMA DE AYUDA PROPIA NO ESTA ACTUANDO COMO SU ABOGADO NI LE ESTA DANDO CONSEJOS LEGALES.

ESTE PERSONAL NO REPRESENTA NI LA CORTE NI NINGUN JUEZ. EL JUEZ ASIGNADO A SU CASO PUEDE REQUERIR UN CAMBIO DE ESTA FORMA O UNA FORMA DIFERENTE. EL JUEZ NO ESTA OBLIGADO A CONCEDER LA REPARACION QUE USTED PIDE EN ESTA FORMA.

EL PERSONAL DE ESTE PROGRAMA DE AYUDA PROPIA NO LE PUEDE DECIR CUALES SON SUS DERECHOS NI SOLUCIONES LEGALES, NO PUEDE REPRESENTARLO EN CORTE, NI DECIRLE COMO TESTIFICAR EN CORTE.

SERVICIOS DE AYUDA PROPIA ESTAN DISPONIBLES A TODAS LAS PERSONAS QUE SON O SERAN PARTES DE UN CASO FAMILIAR.

LA INFORMACION QUE USTED DA Y RECIBE DE ESTE PERSONAL NO ES CONFIDENCIAL Y PUEDE SER DESCUBIERTA MAS ADELANTE. SI OTRA PERSONA ENVUELTA EN SU CASO PIDE AYUDA DE ESTE PROGRAMA, ELLOS RECIBIRAN EL MISMO TIPO DE ASISTENCIA QUE USTED RECIBE.

EN TODOS LOS CASOS, ES MEJOR CONSULTAR CON SU PROPIO ABOGADO, ESPECIALMENTE SI SU CASO TRATA DE TEMAS RESPECTO A NINOS, MANTENIMIENTO ECONOMICO DE NINOS, MANUTENCION MATRIMONIAL, RETIRO O BENEFICIOS DE PENSION, ACTIVOS U OBLIGACIONES.

YO PUEDO LEER ESPANOL.

YO NO PUEDO LEER ESPANOL. ESTE AVISO FUE LEIDO A MI POR

{NOMBRE} _____ EN {IDIOMA} _____.

FIRMA

If information is provided by telephone, the notice of limitation of services provided shall be heard by all callers prior to speaking to self-help staff.

Appendix 2

Other Domestic Violence Issues

Appendix 2A

Domestic Violence and Children

Significant numbers of children are profoundly affected by domestic violence.

- Each year, it is estimated that between 3.3 million and 10 million children are exposed to violence against their mothers or female caretakers by family members (Volpe, 1996).
- Children in homes where domestic violence occurs are physically abused or neglected at a rate 15 times higher than the national average (Volpe, 1996).
- Research suggests that being battered is the single most common factor among mothers of abused children. Almost two-thirds of abused children are parented by battered women. These abused children are three times more likely to have been abused by their fathers or stepfathers than by their mothers (McKay, 1994).
- Studies have shown that both child maltreatment and domestic violence occur in an estimated 30 to 60 percent of families with some form of family violence (McKay, 1994).
- Eighty to 90 percent of children living in homes with domestic violence are aware of the violence (Volpe, 1996).

The Effects of Domestic Violence on Children and Adolescents.

Family violence is more traumatic for most children than street violence. The victims and perpetrators are most often people a child knows intimately and depends on for love and protection (Harvard Mental Health Letter, 1995).

Research has shown that exposure to domestic violence may have numerous adverse effects upon children in those families (Edwards, 1992). Examples of how children can be physically harmed by domestic violence include:

- Children can themselves be physically abused.
- Children often try to intervene to protect the adult victim, which puts them in danger from the abuser.
- Domestic abusers may use children to control the adult victim by violence or threats of violence against the children.

Adult domestic violence can have other devastating physical consequences for children in addition to bodily injury (Richie, 1992).

- Domestic violence can deprive children of housing, schooling, or medical care.

- Flight from domestic violence often leads to homelessness among victims and children, and is a primary reason why adolescents run away from home.

A number of **long term effects** on children of exposure to domestic violence have also been documented (Richie, 1992), as follows:

- **Psychological problems**, such as withdrawal, hyper-vigilance, nightmares, anxiety, depression, low self-esteem, shame, and lower verbal, cognitive, and motor abilities
- **Physical symptoms**, often identified as reactions to stress, include sleep disorders, headaches, diarrhea, ulcers, asthma, and depression
- **Academic problems** such as poor school performance, truancy, absenteeism, and difficulty concentrating
- **Social and behavioral problems**, such as inability to form trusting relationships, aggressive or violent behavior, and substance abuse

Children who witnessed the abuse of their mothers were found to be 24 times more likely to commit sexual assault crimes and 6 times more likely to commit suicide than children who did not witness such abuse (Edwards, 1992).

Often adolescents being abused engage in violent activities and are identified as juvenile offenders but not victims of abuse. The result is a lack of needed medical or mental health treatment (American Psychological Association, 1993).

References

- American Psychological Association. (1993). *Violence and Youth*. Report of the American Psychological Association Commission on Violence and Youth, Vol. 1.
- Edwards, M. (1992). *Reducing Family Violence: The Role of the Family Violence Council*, *Juvenile and Family Court Journal*, 43:1.
- The Harvard Mental Health Letter. (1995). *How Does Exposure to Violence Affect Very Young Children?* Vol. 11, No. 7, January.
- McKay, M. (1994). *The link between domestic violence and child abuse: Assessment and treatment considerations*. *Child Welfare League of America*, 73, 29-39.
- Richie, W. (1992). *The Impact of Domestic Violence on the Children of Battered Women*, *Children's Aid Society Newsletter*, Spring: p.3.
- Volpe, J.S. (1996). *Effects of Domestic Violence on Children and Adolescents: An Overview*. The American Academy of Experts in Traumatic Stress.

Appendix 2B

Domestic Violence and Substance Abuse

Research has repeatedly demonstrated a relationship between substance abuse (drugs, alcohol, or both) and domestic violence. However, the nature of the relationship and the extent to which substance abuse is present in domestic violence or family violence incidents varies widely across different research efforts. One researcher writes that probably the largest contributing factor to domestic violence is alcohol. All major theorists point to the excessive use of alcohol as a key element in the dynamics of wife beating. However, it is not clear whether a man is violent because he is drunk or whether he drinks to reduce his inhibitions against his violent behavior (Gondolf, 1995).

- Researchers have found that one-fourth to one-half of men who commit acts of domestic violence also have substance abuse problems (Gondolf, 1995; Leonard & Jacob, 1987; Kantor & Straus, 1987).
- Over half (52.8%) of men who batter their female partners are heavy or binge drinkers (Bennett, 1995).
- Almost two-thirds of male batterers were drinking at the time of the domestic violence incidents (Bennett, 1995).
- A recent survey of public child welfare agencies conducted by the National Committee to Prevent Child Abuse found that as many as 80 percent of child abuse cases are associated with the use of alcohol and other drugs, and the link between child abuse and other forms of domestic violence is well established (McCurdy & Daro, 1994).
- About 40 percent of children from violent homes believe that their fathers had a drinking problem and that they were more abusive when drinking (Roy, 1988).
- Childhood physical abuse is associated with later substance abuse by youth (Dembo et.al., 1987).
- Fifty percent of batterers are believed to have had "addiction" problems (Faller, 1988).
- Substance abuse by one parent increases the likelihood that the substance-abusing parent will be unable to protect children if the other parent is violent (Reed, 1991).
- A study conducted by the Department of Justice of murder in families found that more than half of defendants accused of murdering their spouses -- as well as almost half of the victims -- had been drinking alcohol at the time of the incident ([Bureau of Justice Statistics, 1995](#)).
- Teachers have reported a need for protective services three times more often for children who are being raised by someone with an addiction than for other children ([Hayes and Emshoff, 1993](#)).
- Alcoholic women are more likely to report a history of childhood physical and emotional abuse than are nonalcoholic women ([Miller et al., 1993](#); [Hien & Scheier, 1996](#)).
- Women in recovery are likely to have a history of violent trauma and are at high risk of being diagnosed with posttraumatic stress disorder ([Fullilove et al., 1993](#)).

The societal view of substance abusers as morally weak and controlled by alcohol or other drugs actually serves some batterers. Rather than taking responsibility for their actions, they can blame their violent acts on the substance(s) they are abusing. Although drugs or alcohol may indeed be a trigger for violence, the belief that the violence will stop once the drinking or drug use stops is usually not borne out. The use of alcohol or other drugs may increase the likelihood that a batterer will commit an act of domestic violence -- because it reduces inhibitions and distorts perceptions, because alcohol is often used as an excuse for violence, and because both alcohol abuse and domestic violence tend to follow parallel escalating patterns -- but it does not fully explain the behavior ([Pernanen, 1991](#); [Steele & Josephs, 1990](#)). **The fact remains that nondrinking men also attack their partners, and for some individuals, alcohol actually inhibits violent behavior** ([Coleman & Straus, 1983](#)).

References

- Bennett, L.W. (1995). Substance abuse and the domestic assault of women. *Social Work*, 40 (6), 760-772.
- Bureau of Justice Statistics. (1995). *Violence Against Women: Estimates from the Redesigned Survey*. Washington, D.C.: Bureau of Justice Statistics.
- Coleman, D.H. & Straus, M.A. (1983). Alcohol abuse and family violence. *Alcohol, Drug Abuse, and Aggression*. Springfield, IL: Charles C. Thomas, 104-124.
- Dembo, R., Dertke, M., LaVoie, L., Borders, S., Washburn, M., Schmeidler, J. (1987). Physical abuse, sexual victimization, and illicit drug use: A structural analysis among high risk adolescents. *Journal of Adolescence*, 10, 13-33.
- Faller, K.C. (1988). *Child Sexual Abuse: An Interdisciplinary Manual for Diagnosis, Case Management, and Treatment*. New York: Columbia University Press.
- Fullilove, M.T., Fullilove, R.E., Smith, M., Winkler, K., Michael, C., Panzer, P.G., & Wallace, R. (1993). Violence, trauma, post-traumatic stress disorder among women drug users. *Journal of Traumatic Stress*, 6(4), 533-543.
- Gondolf, E.W. (1995). Alcohol abuse, wife assault, and power needs. *Social Service Review*, 69(2):274-284, 1995.
- Hayes, H.R. & Emshoff, J.G. (1993). Substance abuse and family violence. *Family Violence: Prevention and Treatment*. Newbury Park, CA: Sage Publications.
- Hien, D., & Scheier, J. (1996). Trauma and short-term outcome for women in detoxification. *Journal of Substance Abuse Treatment*, 13, 227-231.
- Kantor, G., & Straus, M.A. (1987). The "drunken bum" theory of wife beating. *Social Problems*, 34(3), 213-227.
- Leonard, K.E. & Jacob, T. (1987). Alcohol, alcoholism, and family violence. *Handbook of Family Violence*. New York: Plenum, 383-406.
- McCurdy, K., & Daro, D. (1994). *Current Trends in Child Abuse Reporting and Fatalities: The Results of the 1993 Annual Fifty State Survey*. Chicago: National Committee to Prevent Child Abuse.

- Miller, B.A., Downs, W.R., & Testa, M. (1993). Interrelationships between victimization experiences and women's alcohol use. *Journal of Studies on Alcohol*, 11, 109-117.
- Pernanen, K. (1991). *Alcohol in Human Violence*. New York: Guilford.
- Reed, B.G. (1991). Linkages: Battering, sexual assault, incest, child sexual abuse, teen pregnancy, dropping out of school and the alcohol and drug connection. *Alcohol and Drugs are Women's Issues*. Metuchen, NJ: Scarecrow Press.
- Roy, M. (1988). *Children in the Crossfire: Violence in the Home: How Does it Affect Our Children?* Deerfield Beach, FL: Health Communications, Inc.
- Steele, C. & Josephs, R. (1990). Alcohol myopia: Its prized and dangerous effects. *American Psychologist*, 45, 921-933.

Appendix 2C

Elder Abuse As a Form of Domestic Violence

Tactics Used by Abusive Family Members (Wisconsin Coalition Against Domestic Violence 2003)

PHYSICAL ABUSE

- Slaps, hits, punches
- Throws things
- Burns
- Chokes
- Breaks bones

SEXUAL ABUSE

- Makes demeaning remarks about intimate body parts
- Is rough with intimate body parts during care giving
- Takes advantage of physical or mental illness to engage in sex
- Forces the performance of unwelcome sex acts
- Forces the watching of pornographic movies

ABUSING DEPENDENCIES/NEGLECT

- Takes walker, wheelchair, glasses and dentures
- Takes advantage of confusion
- Denies or creates long waits for food, heat, care or medication
- Does not report medical problems
- Understands but fails to follow medical, therapy or safety recommendations
- Causes the victim to miss medical appointments

THREATS/INTIMIDATION

- Threatens to leave, commit suicide or institutionalize
- Abuses or kills pets or prized livestock
- Destroys property
- Displays or threatens with weapons

RIDICULING VALUES/SPIRITUALITY

- Denies access to church or clergy
- Makes fun of personal values
- Ignores or ridicules religious/cultural traditions

EMOTIONAL ABUSE

- Humiliates, demeans, ridicules
- Yells, insults, calls names
- Degrades, blames
- Withholds affection
- Engages in crazy-making behavior
- Uses silence or profanity

USING FAMILY MEMBERS

- Magnifies disagreements
- Misleads family members about extent and nature of illnesses/conditions
- Excludes or denies access to family
- Forces family to keep secrets

ISOLATION

- Controls visits and travel
- Limits time with friends and family
- Denies access to phone or mail

USING PRIVILEGE

- Creates a master/servant relationship
- Makes all major decisions

FINANCIAL EXPLOITATION

- Steals money, titles, or possessions
- Takes over accounts, bills, and spending without permission

Access to the Courts

Access to the courts for the elderly is an important concern. This has to go beyond meeting Americans with Disabilities Act requirements. Even in a time of severe budget restraints as well as limited resources of time and personnel, it is important to be aware of what ideally needs to be provided by the court system. The following excerpt from a description of California's Elder Abuse Protection Court Project can serve as a primer on what needs to be in place in order for older citizens to take advantage of protections offered by domestic violence courts.

(Full access to the courts for the elderly requires) judicial officers, an elder abuse case manager, a clinical supervisor, administrative staff, and filing and courtroom clerks, who offer:

- Coordination with various court personnel and programs to identify possible elder abuse when cases are filed and to help elders apply for protection.
- Efficient processing of elders' petitions for civil restraining orders.
- Links with legal and social agencies that can help elders and follow up on abuse cases.
- New protocols for investigating, tracking, and recording criminal information on parties.

(Superior Court of Alameda County, California)

Resources

Florida Department of Elder Affairs (www.elderaffairs.state.fl.us/index.php) The Florida Department of Elder Affairs is the primary state agency administering human services programs to benefit Florida's elders.

National Adult Protective Services Association (www.apsnetwork.org) The mission of NAPSA is to improve the quality and availability of protective services for disabled adults and elderly persons who are abused, neglected, or exploited and are unable to protect their own interests.

National Center on Elder Abuse (www.ncea.aoa.gov/NCEARoot/Main_Site/Index.aspx) The National Center on Elder Abuse (NCEA), directed by the U.S. Administration on Aging, is committed to helping national, state, and local partners in the field be fully prepared to ensure that older Americans will live with dignity, integrity, independence, and without abuse, neglect, and exploitation. The NCEA is a resource for policy makers, social service and health care practitioners, the justice system, researchers, advocates, and families.

National Clearinghouse on Abuse in Later Life (http://www.ncall.us/about_us.html) The National Clearinghouse on Abuse in Later Life (NCALL), a national project of the Wisconsin Coalition Against Domestic Violence, has provided training and technical assistance on abuse in later life and elder abuse to many audiences, including domestic violence and sexual assault

programs, aging bureaus, adult protective services, criminal justice entities, health care providers, and legal personnel.

National Committee for the Prevention of Elder Abuse(www.preventelderabuse.org) The National Committee for the Prevention of Elder Abuse (NCPEA) is an association of researchers, practitioners, educators, and advocates dedicated to protecting the safety, security, and dignity of America's most vulnerable citizens. It was established in 1988 to achieve a clearer understanding of abuse and provide direction and leadership to prevent it. The Committee is one of three partners that make up the National Center on Elder Abuse, which is funded by Congress to serve as the nation's clearinghouse on information and materials on abuse and neglect.

References

Wisconsin Coalition Against Domestic Violence, *Family Violence in Later Life* (2003) available at http://www.ncall.us/docs/Later_Life_PCWheel.pdf.

Superior Court of Alameda County, California, *Elder Abuse Protection Court Project* available at http://courts.ca.gov/documents/Elder_Abuse_Protection_Court.pdf.

Appendix 3

Florida Injunctions for Protection

There are currently five types of injunctions for protection available under Florida law.

Domestic Violence Injunction

Domestic violence includes: assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any other criminal offense resulting in physical injury or death to the petitioner by any family or household members. Family or household members include: spouse; former spouse; related by blood or marriage; living with petitioner now or in the past as if living as a family; and the other parent of petitioner's child(ren) whether or not they have ever been married or lived together. With the exception of persons who have a child in common, the family or household members must be currently living together or have in the past lived together in the same single dwelling unit.

The petitioner can ask the court for an injunction prohibiting domestic violence if they are or have been the victim of any act of domestic violence or have reasonable cause to believe that they are in imminent danger of becoming a victim of domestic violence.

Repeat Violence Injunction

Repeat violence means: two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or an immediate family member of the petitioner. The petitioner can ask the court for an injunction prohibiting violence if one (1) incident of stalking has occurred within the last six months, or two (2) incidents of assault, battery, or sexual battery have occurred, one of which must have occurred within the last six months.

Dating Violence Injunction

Dating violence means: violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The dating relationship must have existed within the past 6 months; the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and the frequency and type of interaction between the persons in the relationship must have included involvement over time and on a continuous basis. Dating violence *does not* include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context. The petitioner can ask the court for an injunction prohibiting violence if he or she is the victim of dating violence and has reasonable cause to believe they are in imminent danger of becoming the victim of another

act of dating violence. Parents or legal guardians may file a petition on behalf of a minor child.

Sexual Violence Injunction

Sexual violence means: any one incident of sexual battery, a lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age, luring or enticing a child, sexual performance by a child, or any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

The victim of sexual violence or the parent or legal guardian of a minor child who is living at home who is the victim of sexual violence, can ask the court for an injunction for protection against sexual violence for one's self or on behalf of the minor child if they (or the minor child) have reported the sexual violence to a law enforcement agency and are cooperating in any criminal proceeding against the respondent, or the respondent who committed the sexual violence was sentenced to a term of imprisonment in state prison for the sexual violence and the respondent's term of imprisonment has expired or is due to expire within 90 days following the date the petition is filed.

Stalking Injunction

Stalking means: willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person. "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

A person who is the victim of stalking or the parent or legal guardian of a minor child who is living at home who seeks an injunction for protection against stalking on behalf of the minor child has standing in the circuit court to file a sworn petition for an injunction for protection against stalking. The injunction for protection may be sought regardless of whether any other cause of action is currently pending between the parties, and may be sought by any affected person. A petition for an injunction for protection against stalking may be filed in the circuit where the petitioner currently or temporarily resides, where the respondent resides, or where the stalking occurred. There is no minimum requirement of residency to petition for an injunction for protection.

Appendix 4

Security: A Model Family Court Essential Element

By: Nathan Moon, Esquire, Office of Court Improvement

Family Court Security Resource Guide

The Florida Supreme Court has identified security as one of the twelve essential elements of a model family court and determined that it is incumbent upon Florida's courts to create a safe and secure atmosphere for the individuals who are entering family courts in ever growing numbers. An individual's experience and attitude about family court is likely to be shaped by the physical impressions and feelings he or she may have while in the courthouse. Further, it is extremely important that children are made to feel safe upon entering the courthouse, since this often sets the tone for the child's experience in the hearing room. The former Florida Supreme Court's Family Court Steering Committee on Families and Children in the Court (FCSC) defined security as:

The provision of adequate and sufficient security personnel and equipment to ensure that family courts are safe environments for judges, non-judicial staff, and the public.

Thus, proper provision of security measures is a critical component to ensure safe and effective operations of a family court.

SCOPE

Details regarding court security are, by necessity, a local matter. All circuits are not currently capable of securing the resources necessary to implement a uniform security model. Security measures will vary from circuit to circuit based on geographic and demographic characteristics, as well as financial resources. Chief judges, court administrators, and local law enforcement agencies are uniquely suited to make security decisions based on a wide variety of local conditions and considerations.

RECOMMENDATIONS

Staff from the Office of the State Courts Administrator (OSCA) researched other states' materials on courthouse security and developed the following recommendations, which were approved by the FCSC. The FCSC recommended that this security guide be used solely as an advisory resource. Although this security guide refers to family courts and family court staff, it is not intended to imply that other court divisions would not benefit from or require similar security measures.

Prepare a Written Security Plan

- Security in family courts is essential; improving and maintaining security should be a key objective!

Written security plans and safety procedures appear to be an imperative for all courts, regardless of division or resources; however, written security plans and safety procedures that are specific to family courts also appear to be beneficial. Security plans specific to family courts can be a part of the overall court security plan or as a separate resource. This information should be produced as a safety manual that is provided to all family court judges and personnel, as well as be reviewed and revised on a continual basis, as revisions and updates are necessary in order to maintain consistency with potential changes in courthouse structure, or any other presenting circumstances.

Issues to be considered when developing a security plan are the degree of security necessary to ensure the effective operation of the family court, and the resources needed to establish and maintain adequate security.

During the development phase, it is critical that the family court foster a collaborative atmosphere to allow all key stakeholders in the family court process an opportunity to express safety concerns and issues. This can be accomplished through questionnaires, surveys, and staff meetings, all of which provide judges and front-line family court personnel opportunities to voice concerns regarding personal safety and courthouse security.

Security Issues Addressed in the Written Security Plan

Strategies for Security Emergencies

The way in which each circuit handles security emergencies can vary, but it is extremely important that standard procedures be established for publication in the safety manual, and that family court staff, courthouse security personnel, and court administration be made aware of them.

At a minimum, a family court's security plan should advise family court personnel on how to handle 1) persons who exhibit violent behavior; 2) persons who may be under the influence of drugs and/or alcohol; 3) harassing, obscene, and threatening phone calls; and 4) bomb threats, all of which can occur during the daily operations of a family court.

Staff should also be instructed on how to recognize the need for additional back-up assistance from local law enforcement, and the specific procedures to follow in order to request such assistance. In addition to training staff to immediately deal with security emergencies, a protocol for incident reporting and debriefing should be established.

Documentation

Documentation of security incidents is key to planning necessary safety measures.

Incident Reporting Protocol

An incident reporting protocol will inform line staff, supervisory staff, and court administration of high risk areas and potentially dangerous situations experienced by staff in the performance of assigned duties. It will also provide documentation for use by court administration and court security personnel in planning necessary safety measures.

Incident Reporting

Family court staff should be specifically instructed on how to report events that occur during the course of their official duties that represent an actual threat to the safety of judges, court employees, and/or the public. In the event of a safety incident, whether threatened or actual, the appropriate persons as indicated in the security plan should be notified immediately. The employee should then report the incident on a designated form and submit it to his/her immediate supervisor within an appropriate time-frame, as determined by each circuit. The immediate supervisor would inform court administration and courthouse security of the event, and develop a plan with the involved staff to provide necessary security during subsequent contacts with the involved persons. A designated staff person should be responsible for maintaining a file of all incident reports submitted by family court employees.

Incident Debriefing

Supervisory staff should be instructed on how to respond to incidents that compromise, or potentially compromise, staff safety by ensuring that employee needs, both physical and emotional, are met after involvement in a safety-related incident. Court administration should then take steps to minimize the recurrence of such incidents.

Immediately upon receiving a verbal report of a safety incident, the supervisor is responsible for determining the employee's physical and emotional state for possible referral for further assistance. The supervisor ensures through medical documentation that the employee has received necessary medical assistance. If necessary, the supervisor also ensures that a police report has been made of the incident, and that a copy of such is contained in the incident file.

Circuits are encouraged to meet quarterly to review any reports of threatening incidents and to refine security policies and procedures as needed.

Fear for personal safety in the courthouse can prevent domestic violence victims from seeking relief through the court system.

Proceedings Involving Domestic Violence

The plan should provide specialized instructions for issues that can present during proceedings involving parties with a history of domestic violence. Family court personnel are aware that individuals who enter family courts may be seeking protection from highly abusive and dangerous situations. It is extremely important that these individuals be able to seek relief without having to confront the person from whom they are seeking protection. Confrontations between the domestic violence victim and perpetrator can occur in the parking lot of the courthouse, the hallways and stairways of the courthouse, as well as in courtroom. During family proceedings where domestic violence is a factor, court security officers should always be present in the courtroom, and constantly monitoring the waiting areas, hallways and stairways. Security guards that provide perimeter security for the courthouse should also be alert for threatening incidents that could occur in the parking lot and surrounding grounds.

“ ...given limited resources, intelligence and forewarning are of immense value in security programs.”

Security Director, Massachusetts Trial Court

Family court staff should provide court officers with, at a minimum, a one day advanced notice of potentially violent individuals who are scheduled to appear before the court. This will allow the court officers to coordinate and organize the movements of petitioners and respondents to ensure that the domestic violence victim does not become subject to intimidation, threats or harm. For example, the security officer can provide for special seating arrangements in the courtroom, and/or escort the victim in and out of the courthouse.

In order to ensure a safe exit from the courthouse, the court should allow the victim of a domestic violence dispute to leave the courthouse fifteen minutes before the respondent, and direct the respondent to remain in the courtroom upon conclusion of the hearing. This will allow the victim to exit the building without fear of confronting the respondent.

Courthouse Security Diagram

The safety manual should contain a diagram that depicts where the courthouse security office and security stations are located throughout the building. It should also highlight the safest and most convenient evacuation routes should an emergency arise. Staff should also be provided with emergency contact numbers, and directed to place them near their telephones in a visible location.

Security Issues Outside of the Courthouse

In addition to the orders courts can enter to specifically provide for the protection of a family member or child, family courts frequently refer or order families and children to service

providers within the community, i.e.: private mediators, custody evaluators, parenting course provides, and supervised visitation centers. While family courts cannot be responsible for providing security for programs not operated by the court, family court judges and staff should be aware of the security issues that may arise. One way that family courts can assist community providers in this area is to meet with them on a regular basis to how the court can assist with ensuring family safety. Some examples include:

- § in a dissolution of marriage involving domestic violence, the court could order (and copy the provider) that the parents not attend the parenting class at the same time;
- § develop a screening protocol to identify families with a history of domestic violence prior to referring them to mediation;
- § in cases where there is a high level of hostility between the parties, courts could provide a room in the courthouse for private mediators to use; and
- § in order to provide for the safety of the parents and children, supervised visitation program staff need specific information regarding the reason supervised visitation was ordered and what activities should not be permitted during the visit. Supervised visitation programs are often confronted with threats from irate program participants and there have been instances where children have been re-victimized due to the fact that the visitation supervisor was not aware of the specific allegations and in turn did not recognize certain behaviors as harmful. The Clearinghouse on Supervised Visitation, FSU School of Social Work, can provide specific information on the need for security precautions in supervised visitation settings and what courts can do to help. For more information, visit <http://familyvio.ssw.fsu.edu/>.

Once a circuit has developed a family court security plan and safety manual, it is imperative that court administration and the courthouse security office be willing to implement the necessary policies and procedures. Everyone plays a role in maintaining a safe and secure working environment; it is a team effort.

Provide For Family Court Security Personnel

- The presence of uniformed officers is critical to ensuring the safety of family courts.

Every court proceeding has the potential to become violent. This is especially true for family court proceedings, due to the emotional nature of the issues being deliberated. The presence of an adequate number of trained uniformed court security personnel can act as a deterrent for violent outbursts in the courthouse, providing that they are equipped with monitoring and communication equipment, which allows for quick response to alarming incidents.

Family court staff should be encouraged to establish open communication with court security personnel. On days when litigants who have the potential to become violent or be under the influence of drugs or alcohol are scheduled to appear before the court, family court staff should feel comfortable in alerting security that these individuals may require extra security attention. Security personnel should also be made aware of all family court programs located in the courthouse, as well as any security issues that can arise during the programs' daily operations.

Security personnel should be made aware of potentially dangerous situations, so that planning for necessary safety measures can be executed.

Court security personnel may include: security guards, who are primarily responsible for monitoring access into the courthouse, as well as its surrounding grounds; and court officers, or bailiffs, who have primary responsibility within the court, specifically, the courtroom and judges' chambers.

Family courts should be staffed with an adequate number of security officers to provide, at a minimum:

- a. one security officer stationed at the entrance of the family court, providing screening and monitoring services;
- b. one security officer to constantly monitor all waiting rooms, corridors, and stairways; and,
- c. one security officer to be present during all hearings conducted in the courtroom and judges' chambers.

Implement Model Family Court Design Specifications

- Accessing justice begins with getting in and out of the courthouse safely.

The following are model safety design specifications that every family court should strive to implement and utilize in order to ensure the safety of the litigants it serves.

Security Screening Stations

Safety in family courts begins with being able to enter the building safely. This can be accomplished through having reliable, full-time security screening at the entrance to ensure that no weapons or other potentially dangerous paraphernalia are brought into the courthouse. Screening can be performed by using airport-style x-ray scanners and metal detectors, or by physical bag/briefcase searches.

Security Badges

Security badges should be mandatory for all family court staff. These badges with the employee's picture will allow the employee to gain access into the courthouse, as well as into the "staff only" area of the courthouse.

Panic Buttons and Alarms

Panic buttons, placed at the family court receptionist desk located at the entrance of the family court, in the judges' chambers, in all family court staff offices, and in all waiting areas and conference rooms can be very helpful. When activated, these panic buttons will sound an alarm to notify court officers to the need for assistance.

Separate and Secure Waiting Rooms

Separate and secure waiting rooms for petitioners and respondents will provide domestic victims with a sense of security by minimizing the frequency of contact with the other party. Waiting rooms should be located near a main security checkpoint of the family court where security officers are stationed and readily available. Waiting rooms should also be equipped with panic buttons and remain locked when not in use.

Conference Rooms

Litigants may feel intimidated by having to speak with their attorneys or fill out forms in the presence of others. A conference room will provide private meeting space for litigants to consult with their attorneys and advocates, and to fill out forms. Conference rooms should also be located near a security checkpoint for close monitoring, as well as be equipped with panic buttons, and remain locked when not in use.

Conduct Periodic Security Assessments

- Detection of potential security problems is critical!

The regular assessment of your local security policies and procedures reduces the risk of security emergencies, as well as provides a yardstick by which their effectiveness can be measured.

Family court staff members are strongly encouraged to request their courthouse security specialist to conduct periodic security assessments to identify areas of potential risk, and where security may be inadequate. Information obtained from an assessment is vital when there are:

- suspicions that explosives may be used against the courthouse
- concerns that weapons are being brought into the courthouse
- violent outbreaks in family courtrooms, halls, and waiting areas
- strangers loitering where they don't belong

Provide Security Training Opportunities

- Training begins with getting people to think security.

Once a security plan has been developed, and safety procedures and policies are in place, it is important that family court personnel are provided training opportunities that will promote optimal personal safety. This will minimize the frequency of events that jeopardize staff and public safety.

For example, safety awareness seminars can often be coordinated through a circuit's local law enforcement agency. These seminars provide staff with the skills necessary to identify security problems before they occur, and what measures to take should they occur. Family courts may wish to consider providing self-defense training, which can also be coordinated through local law enforcement.

Appendix 5

Companion Case Management Form (Example)

_____,
Petitioner
vs
_____,
Respondent

Case No: _____
Division: _____

Type of Case: ___ Domestic Violence ___ Dating Violence ___ Sexual Violence
___ Repeat Violence

Related Cases: Please indicate any legal cases involving the parties above. Indicate the status of each case, including court dates scheduled for any pending cases.

Family Cases (Dissolution, Domestic Violence, Paternity, Dependency, Child Support, etc.)

Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____

Criminal Cases

Defendant: _____ Charge: _____
Case #: _____ Status: _____

Defendant: _____ Charge: _____
Case #: _____ Status: _____

Defendant: _____ Charge: _____
Case #: _____ Status: _____

Civil Cases (non-family)

Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____
Type of Case: _____ Case #: _____ Status: _____

If no other related cases are found, please check below:

___ NO OTHER RELATED CASES FOUND