

Protection Order Committee
Judicial Conference of Indiana

Minutes

January 27, 2012

The Protection Order Committee met at the Indiana Judicial Center on Friday, January 27, 2012, from 12:00 noon – 3:30 p.m.

1. Members present. David Bonfiglio, Barbara L. Crawford, Matthew B. Gruett, Thomas P. Hallett, Ronald T. Urdal, Shirley VanMeter and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests. Mary DePrez, Director and Counsel, JTAC; and LaJuan Epperson, Project Manager, JTAC, Division of State Court Administration; David Remondini, Chief Deputy Executive Director, Division of State Court Administration were also present.
4. Minutes approved. The minutes for the meeting on August 26, 2011 were approved.
5. New member. Judge Barbara L. Crawford and Referee Matthew B. Gruett, introduced themselves as new members to the committee.
6. No contact order.
 - a. Members of the committee agreed to language by consensus amending NC-0107, Order to Vacate or Modify a No Contact Order in order to reflect the State is the moving party in these cases.
 - b. Committee members agreed by consensus to revise page 9-3 in the Protection Order Deskbook to clarify the probation department should file terminations of no contact orders in probation cases, and prosecutors should file the terminations in pretrial release cases.
7. Transfer of protection orders. Members of the committee reviewed PO-0122, Order of Transfer To Court Having Jurisdiction. They agreed the form needs to be simplified and that appropriate paragraphs should appear only when indicated by the court. Judge Crawford, Judge Urdal and Magistrate Hallett agreed to prepare the draft and circulate it in advance of the next meeting for consideration by the committee.
8. Use of No Contact Order. Committee members reviewed a question from 11/17/11 about whether the use of the pretrial release no contact order or the 10 day pretrial release no contact order was appropriate when probable cause is determined at the start of a case, as a condition of bond. They agreed this should probably be ordered as part of a pretrial release.
9. Protection Order Registry report.
 - a. LeJuan Epperson:
 - (1) Reported 252 orders in Spanish had been printed to date in 43 counties and Instructions for protection orders were available in Spanish from the Incite application;

(2) Reported the Protection Order Rewrite Working Group reviews and updates systems requirements and had met two times. She showed via LCD projector designs for a new Protection Order Registry application.

(3) Distributed a draft of the Protection Order Registry brochure;

(4) Reported law enforcement agencies can update addresses and personal identifying information in the Protection Order Registry, but not the order issued by the court. Committee members agreed a way to inform courts of changes in the registry is to give them a list of changes when they sign on to the registry.

(5) Asked whether the name of a juvenile, or initials should be used, when the juvenile is a respondent in a protection order. Committee members agreed if the juvenile is named as a respondent in a protection order proceeding, the name should be used and then the case should be sent to the juvenile court. The juvenile court would determine if a delinquency proceeding should occur.

(6) Reported a judge expressed concern about a proposed change to the registry which would no longer permit the use of "other" to indicate the relationship of the defendant and victim for no contact orders for Brady disqualification purposes. LeJuan explained the new Protection Order Registry application, when operational, would only permit relationships to be entered for protection orders, not for no contact orders, since the relationship is not required for no contact orders. Committee members agreed to implement this change when the new registry application goes online. They agreed courts should be required to adhere to Brady disqualifications.

b. Mary DePrez reported JTAC lost 40% of its funding and would appreciate efforts of the committee to get out the word on the projects they have completed for courts and others. They developed an application for the probation risk assessment system, just released a new PSI on Incite, and would soon complete a new automated Abstract of Judgment form to be sent electronically to DOC. Judge Goff thanked them for their efforts on behalf of the committee.

10. Domestic Violence Grant. Dave Remondini reported the Indiana Judicial Center will hold an all day training session as part of the April 2012 Spring Conference, and regional trainings in the fall of 2012. He reported Judge Newton, former chair of the committee, would assist as a facilitator. In addition, Judge Murray, a national speaker on domestic violence from Milwaukee would also participate in this training. The training is geared to be applicable to all judges, even if they did not have a domestic violence court.
11. Review of NCO chapter. Referee Gruett agreed to talk about revision to Chapter 6 of the Protection Order Deskbook with others in Lake County, especially the juvenile no contact orders for the next meeting.
12. Other. Jeffrey Bercovitz distributed HB 1252, which would extend the waiting period for a dissolution, and could potentially affect the filing of protection orders. The bill was heard in committee, but no vote was taken.

13. Future meeting dates. Committee members agreed meet again on Friday, March 23, 2012, April 27, 2012, June 29, 2012, August 24, 2012 and October 26, 2012 at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
March 23, 2012

The Protection Order Committee met at the Indiana Judicial Center on Friday, March 23, 2012, from 12:00 noon – 3:30 p.m.

1. Members present. David C. Bonfiglio, Barbara L. Crawford, Elizabeth Ann Cure, Matthew B. Gruett, Thomas P. Hallett, J. David Holt, John D. Kitch, Jose D. Salinas, Ronald T. Urdal, and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests. LaJuan Epperson, Project Manager, JTAC, Division of State Court Administration; Loretta Oleksy, Domestic Violence Resource Attorney, Division of State Court Administration were also present. Loretta Oleksy introduced herself to members of the committee.
4. Minutes approved. The minutes for the meeting on January 27, 2012 were approved.
5. Transfer of protection orders. Committee members reviewed drafts of a revised PO-0122, Order of Transfer To Court Having Jurisdiction. Judge Crawford, Judge Urdal and Magistrate Hallett agreed to revise PO-0122 along the lines of the committee discussion and circulate it to the full committee in advance of the next meeting.
6. Definition of “family or household member.” Committee members reviewed HEA 1049 which expanded the definition of family or household member of another person, to include an instance when the individual has adopted a child of the other person. Judge Cure agreed to review protection order forms and the Protection Order Deskbook to see what amendments are needed before the effective date of the statute on July 1, 2012.
7. Protection Order Registry report.
 - a. LeJuan Epperson:
 - (1) Reported a judge wanted to order a parent to stay away from a DCS office in a CHINS case. The committee agreed this could not occur under a CHINS No Contact Order. It was done by use of a WVRO.
 - (2) Stated a Sheriff asked the Registry to talk to a particular court about supplying to the Sheriff’s office the Petition to be served along with the Ex Parte Order of Protection. Committee members noted Ind. Code § 5-2-9-6 indicates the clerk which issues the protection order must provide service of process. Trial Rule 4 (E) requires a complaint and summons to be served together. LeJuan Epperson agreed to contact the Sheriff to gather more information about what is occurring in the county. Judge Goff agreed to contact the court with information about best practices.
 - (3) Reported a Victim’s Advocate Office contacted her about a court requirement the initials of a juvenile be used when the child is a protected witness as part of a no contact order. Committee members reviewed Administrative Rule 9 (G) (1) (e) (i) which permits

the use of the juvenile's name in this case, unless the juvenile is a victim of a sex crime. Jeffrey Bercovitz agreed to contact that office to give them the citation for the rule.

(4) Reported the Indiana State Police had contacted the Protection Order Registry about reporting the Domestic Violence Determinations under the form from the Division of State Court Administration. This form is sent to ProsLink under an agreement with the Prosecuting Attorney's Counsel a few years ago. Committee members suggested contacting David Powell, Executive Director, Indiana Prosecuting Attorneys Council about this issue.

(5) Reported the Protection Order Rewrite Working Group, which is updating the design of the Protection Order Registry will meet in May 2012. They wish to deploy the new registry in the fall of 2012.

(6) Responded to a question from the committee about not printing information on PO-0122 if it is an alternative paragraph in the form is not used by the court. She said the Protection Order Registry can be programmed to not print unneeded paragraphs.

8. Review of NCO chapter. Judge Goff and Referee Gruett agreed to prepare revisions to Chapter 6, No Contact Orders, in the Protection Order Deskbook. The following omissions from this chapter were noted: (a) more information about the 10 day NCO; (b) the filing of the termination of the NCO for probation by probation officers, which the committee has already discussed; (c) discussion of the use of the name or initials of when a juvenile is a witness or a victim in a criminal case under Administrative Rule 9 (G) (1) (e) (i); and (d) the use of no contact orders under Indiana Code § 31-32-12 and 13.
9. Domestic Violence Grant. Loretta Oleksy reported the Indiana Judicial Center's April 2012 Spring Conference domestic violence session has 60 persons registered for the session which is the maximum. Regional trainings along the same lines are tentatively scheduled for October 12th, 19th, and 26th, 2012. Judge Murray, a national speaker on domestic violence from Milwaukee, and Sujata Warriar will speak at the April training. Committee members agreed to attend one of these sessions in lieu of holding a meeting on October 26, 2012.
10. Future meeting dates. Committee members agreed meet again on Friday, April 27, 2012, June 29, 2012, August 24, 2012 at the Indiana Judicial Center. They agreed to attend the of October 12th, 19th and 26th, 2012 regional trainings on domestic violence issues in lieu of holding the October 26, 2012 training.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
April 27, 2012

The Protection Order Committee met at the Indiana Judicial Center on Friday, April 27, 2012, from 12:00 noon – 3:15 p.m.

1. Members present. Barbara L. Crawford, Elizabeth Ann Cure, Matthew B. Gruett, Thomas P. Hallett, Ronald T. Urdal, Shirley VanMeter and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests. Loretta Oleksy, Domestic Violence Resource Attorney, Division of State Court Administration was also present.
4. Minutes approved. The minutes for the meeting on March 23, 2012 were approved.
5. Domestic Violence Training. Loretta Oleksy reported the Indiana Judicial Center's April 2012 Spring Conference domestic violence session had 58 persons attend session, which was the maximum. Regional domestic violence trainings along the same lines are scheduled for October 12th, 19th, and 26th, 2012. Committee members agreed to attend one of these sessions in lieu of holding a meeting on October 26, 2012. She reported she just returned from the Judicial Institute on Domestic Violence, which had an excellent educational program. She plans to look for grant monies in order to send judicial officers the next training in this area which will be held in Phoenix.
6. Transfer of protection orders. Judge Crawford, Judge Urdal and Magistrate Hallett reviewed two drafts with the committee of a revised PO-0122, Order of Transfer To Court Having Jurisdiction. Committee members made revisions on one draft and agreed by consensus to adopt PO-0122 as revised. They also agreed to let the Protection Order Registry to print out only the boxes of the reasons for the transfer, which have been indicated by the court.
7. New definition of "family or household member." Judge Cure led members through protection order forms and Protection Order Deskbook chapters which need to be changed based on HEA 1049. This statute expanded the definition of family or household member of another person, to include an instance when the individual has adopted a child of the other person. Committee members agreed to change forms PO-0100, PO-0102, PO-0103, and the Protection Order Deskbook, Chapter 1, p. 2 and Appendix I, page 2. Jeff Bercovitz agreed to bring the revisions back to the committee at the next meeting.
8. New forms for July 2012.
 - a. Jeff Bercovitz reported the POR plans to standardize the print of the warning on the PO, NCO, WVRO and CHPO. He explained the signature of the respondent is after the warning on the NCO in order to acknowledge understanding and the receipt of the NCO.
 - b. Committee members made final revisions on NC-0107.

- c. Members of the committee agreed to language adding a DOB for additional protected parties which would add information to the second page of PO-0104.
 - d. Committee members agreed to add contact information for the child's next friend, if the next friend wants to give this information, on PO-0104, the confidential form.
9. Review of NCO chapter. Judge Goff and Referee Gruett agreed to combine their revisions to Chapter 6, No Contact Orders, in the Protection Order Deskbook.
10. Future meeting dates. Committee members agreed meet again on Friday, June 29, 2012, August 24, 2012 at the Indiana Judicial Center. They agreed to attend the of October 12th, 19th and 26th, 2012 regional trainings on domestic violence issues in lieu of holding the October 26, 2012 training. Committee members also agreed to meet January 25, February 22, March 22, and June 28, 2013 in order to hold at least three meetings in a row.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
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Minutes

June 29, 2012

The Protection Order Committee met at the Indiana Judicial Center on Friday, June 29, 2012, from 12:00 noon – 3:30 p.m.

1. Members present. Elizabeth Ann Cure, Matthew B. Gruett, John D. Kitch, Jose D. Salinas, Ronald T. Urdal, and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests. LeJuan Epperson, JTAC, Division of State Court Administration; and Michelle Bumgarner, Director of Victim Assistance, Address Confidentiality Program, Attorney General of Indiana, was also present.
4. Minutes approved. The minutes for the meeting on April 27, 2012 were approved.
5. Chapter 9 Deskbook. Committee members revised and approved amendments to Chapter 9 to require probation officers to file notices of termination in probation cases.
6. Confidential form. The confidential form, PO-0104, was revised and approved to provide for additional protected parties with date of birth information and next friend information.
7. No Contact Order modification. NCO-0107, Order Vacating or Modifying a No Contact Order was reviewed and approved by consensus of the committee.
8. New definition of “family or household member.” Members of the committee reviewed forms PO-0100, PO-0102, PO-0103, and the Protection Order Deskbook, Chapter 1, p. 2 and Appendix I, page 2, which revised at the last meeting to include the instance when an individual has adopted a child of the other person. The revisions were based on HEA 1049, which amended Ind. Code § 34-6-2-44.8. Committee members approved the revisions.
9. Transfer of protection orders. Members of the committee confirmed the revisions and the adoption of PO-0122, Order of Transfer to Court Having Jurisdiction of the Parties or their Children. They agreed to let the Protection Order Registry to print out only the boxes of the reasons for the transfer, which have been indicated by the court.
10. Memo of Protection Order changes. Committee members reviewed a draft memorandum explaining changes in Indiana’s protection order forms. The memo will be sent to all judicial officers and clerks when the forms are online and in the Protection Order Registry.
11. Presentation by Michelle Bumgarner. Michelle Bumgarner, Director of Victim Assistance, reported the wording on the petition for protection order and on the instructions was written in a way which encouraged phone calls to the Address Confidentiality Program (ACP) of the Indiana Attorney General. She explained one could only participate in the ACP if one received a protection order. PO-0100, PO-0102, PO-0103 and PO-0107 to more accurately reference the ACP. She also distributed a sample HOPE card. Persons will be eligible for

the HOPE program that have a protection order in effect for more than one year and are victims of domestic violence, sexual assault or stalking.

12. Presentation by LeJuan Epperson.

a. LeJuan Epperson distributed brochures recently prepared by her office for litigants, explaining how to get a protection order.

b. LeJuan Epperson discussed revisions to the Protection Order Registry to require No Contact Orders to have an expiration date. She explained the Registry has problems validating the No Contact Orders, which need an expiration date. Committee members discussed the responsibility of the court to update its orders generally. They suggested the use of the notice in Odyssey or Incite or as part of the “Logon” to give notice to the courts of which no contact orders need to be reviewed.

13. Future meeting dates. Committee members agreed meet again on Friday, August 24, 2012 at the Indiana Judicial Center. They agreed to attend one of the October 12th, 19th and 26th, 2012 regional trainings on domestic violence issues in lieu of holding the October 26, 2012 meeting. Committee members also agreed to meet January 25, February 22, March 22, June 28, and August 23, 2013 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center. Jeffrey Bercovitz distributed information about national training on domestic violence October 21-24, 2012 in Reno Nevada.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
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Minutes
August 24, 2012

The Protection Order Committee met at the Indiana Judicial Center on Friday, August 24, 2012, from 12:00 noon – 3:30 p.m.

1. Members present. David C. Bonfiglio, Elizabeth Ann Cure, Matthew B. Gruett, Thomas P. Hallett, J. David Holt, and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones and Loretta Oleksy provided the committee with staff assistance.
3. Guests. LaJuan Epperson, JTAC, Division of State Court Administration was also present.
4. Minutes approved. The minutes for the meeting on June 29, 2012 were approved.
5. Chapter 6 Deskbook. Committee members revised and approved amendments to Chapter 6. Referee Gruett agreed to prepare a draft no contact form for Ind. Code § 31-32-13. The members of the committee agreed to review this form and continue review of Chapter 6.
6. Questions from LeJuan Epperson, JTAC. LeJuan Epperson discussed the following questions with the committee.
 - a. A concern was raised about providing the respondent with the address of the protected party in the Notice of Termination form, PO-0118. Committee members indicated the address is noted in the form the address used is public. In addition, the address is noted as public in the petition for a protection order.
 - b. A court issued *ex parte* orders and then used form PO-0121 after 30 days to modify the order and Brady disqualify the respondent. If a hearing is not set, the respondent cannot be Brady disqualified. Also, the use of PO-0121 to modify an *ex parte* order is problematic since an *ex parte* order by definition cannot be used to Brady disqualify a person. Committee members agreed to discuss a requirement at the next meeting that a new protection order be issued after a hearing to Brady disqualify a respondent and that PO-0121 no longer be used.
 - c. Recently it was noticed CCS entries in criminal cases indicated names of protected parties in related No Contact Orders. Committee members reviewed 18 U.S.C. § 2265 (d) which prevents Internet publication of names of protected parties, and 18 U.S.C. § 2266 (5) (A), which includes the No Contact Order under the definition of a protected party. It was agreed by consensus no Internet accessible entries which name a protected party in a No Contact Order case should be available to the public in accordance with federal law.
 - d. A police officer recently tried to get a protection order on behalf of a child. The question was whether the police officer was an “other representative” under Ind. Code § 34-26-5-2 (b). The Indiana Code does not define “other representative.” The court should carefully examine whether or not to issue a protection order in this type of case.
7. Other questions.
 - a. A judge was appointed as special judge in a domestic relations case, but not the companion protection order case. Committee members agreed the best practice would have

the attorneys ask for the same judge to be appointed as a special judge in both cases. The use of Trial Rule 81(1) may assist in these cases.

8. Future meeting dates.

a. Committee members agreed to attend one of the October 12th, 19th and 26th, 2012 regional trainings on domestic violence issues in lieu of holding the October 26, 2012 meeting. Since these are for judicial officers only, other committee members could attend as observers. Committee members also agreed to meet January 25, February 22, March 22, June 28, and August 23, 2013 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center.

b. Loretta Oleksy reported space may still be available for national training on domestic violence October 21-24, 2012 in Reno Nevada and interested committee members should see her about a scholarship for attendance.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law