

Summary of POCC Mediators Meeting 10/15/13

The purpose of the brown bag was to discuss 2013 legislative changes that impact work in protection order court. Both the Civil Protection Order Statute (CRS 13.14.100.2) and the Best Interests of the Child Statute (CRS 14.10.124) were amended.

Civil protection orders can be granted due to domestic abuse, sexual assault, stalking, abuse of the elderly or at-risk adults, and assaults and threatened bodily harm. Domestic abuse is an act or attempted or threatened act of violence, stalking, harassment, or coercion. Coercion means compelling by force, threat of force or intimidation. The statute now explicitly includes electronic and digital forms of communication.

Much of the information below is summarized from a legal analysis provided by Kathleen M. Schoen, Director, Domestic Violence: Make it Your Business, Colorado Bar Association, and JCMS mediator.

Major changes that were highlighted during our meeting -

1. The law now states that sexual assault and the prevention of sexual assault are reasons for a protection order, regardless of the relationship between the parties. Sexual assault includes internet luring and invasion of privacy for sexual gratification (most often "peeping Tom" cases). The party seeking protection does not need to prove that anything has been reported to the police and/or that they are cooperating in pressing criminal charges. The length of time between the threat or assault and the filing of the protection order request is not a reason to deny a protection order. At the permanent protection order (PPO) hearing, the judge must find there was a threat of imminent danger at the time the temporary protection order (TPO) issued. However, the judge does not need to find that there is imminent danger at the time of the issuance of the PPO. (For example, if the perpetrator is incarcerated at the time of the PPO hearing, that is not a reason to deny the PPO.)
2. A TPO can now be extended up to one year.
3. Temporary care and control of children can be ordered for up to 1 year. Any award of temporary care and control (or interim decision making responsibility) must be determined in accordance with CRS 14-10-124 (Best Interests of the Child Statute). Most County Court judges are reluctant to enter orders concerning the best interest of the child for a full year. That is a long time in the life of a child. Also, they feel the District Court judges have expertise in interpreting the statute and in determining what is best for the welfare of children. To continue the "care and control" conditions of a PPO beyond what the County Court judge has ordered, or to change those conditions, one of the parties must file a Parental Responsibility/Parenting Time case in District Court.
4. Children have a right to be emotionally, mentally and physically safe when in the care of either parent. They have a right to reside and visit in homes that are free of domestic violence. The PPO judge must give paramount consideration to the safety of the child in making any orders concerning parenting time and decision making. Co-parenting is not appropriate in all cases.
5. The restrained party can now move to modify or terminate a PPO after two years. Formerly, it was four years. Factors for the court to consider for modification or termination of a PPO include: whether the restrained party has participated in domestic violence offender treatment, whether, since the issuance of the PPO, the restrained party has committed a misdemeanor or felony against the protected person, the circumstances of the parties, such as whether they have

children together, and whether the continues safety of the protected party depends on the PPO remaining in place.

6. The restrained party is prohibited from possessing or purchasing a firearm or ammunition for duration of the order. This provision requires the court to order that the restrained party refrain from possessing or purchasing, and to relinquish, for the duration of the order, any firearm or ammunition in the immediate possession or control or subject to the respondent's immediate possession or control. The restrained party must file an affidavit with the court stated that relinquishment has occurred. The clerks in each division have information on what is required and a sample affidavit the restrained party can use to achieve compliance with the order. Ask the clerk for the handout if you need it to give to one of the parties. While the statute discusses storing the fire arm with a law enforcement entity, currently no law enforcement entity in Jeffco is accepting firearms for storage. In addition, no entity is charged with enforcing the firearm relinquishment requirement.

7. Colorado has an address confidentiality program. Protected parties can get a substitute address to use on official documents, so that their true address is kept off public records.

Some helpful comments from Judge Moore -

1. Don't hold onto cases too long when you are done POCC cases. Sometimes it is helpful for people to sit in the courtroom and see how hard it is to get a PPO.
2. If one of the parties has special needs, please let the clerk know. If you feel one of the parties does not have the capacity to make a decision, let the clerk know and the judge will grant a continuance. (The incapacity may be inebriation, mental illness, etc.)
3. Extensions of temporary orders are by agreement only. If the parties go before the judge, the judge can only grant or deny the PPO.
4. The parties can agree to extend the TPO for any amount of time they chose, up to one year.
5. Don't include a long property division list with a stipulation. There isn't enough room to type it all into the computer; also the judge does not have authority to make a property division in PPO court. You can make a list for both parties to sign items to be taken during a civil assist, but that should not be part of the court filed stipulation.