

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 18-03

(Amending Super. Ct. Dom. Vio. R. 1 and 2)

WHEREAS, Administrative Order 18-07 changed the name of the Domestic Violence Unit to the Domestic Violence Division; and

WHEREAS, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved changing the title of the Rules Governing Proceedings in the Domestic Violence Unit to the Rules Governing Proceedings in the Domestic Violence Division; and

WHEREAS, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved corresponding amendments to Rules Governing Proceedings in the Domestic Violence Division 1 and 2; and

WHEREAS, these rules do not modify the Federal Rules of Civil or Criminal Procedure; it is

ORDERED, that Rules Governing Proceedings in the Domestic Violence Division 1 and 2 are hereby amended and enacted as set forth below; and it is further

ORDERED, that the above enumerated amendments shall take effect immediately and shall govern all proceedings thereafter commenced and insofar as is just and practicable all pending proceedings.

Rule 1. Scope; Purpose; Title; Applicability of Civil Rules; Other Proceedings Assigned to the Domestic Violence UnitDivision

(a) SCOPE. These rules govern the procedure in all civil protection order proceedings filed under D.C. Code §§ 16-1001 to -1006 (2012 Repl. & 2017 Supp.).

(b) PURPOSE. These rules should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every civil protection order proceeding and to effectuate the statutory intent of eliminating domestic and family violence.

(c) TITLE. These rules may be known as the Rules Governing Proceedings in the Domestic Violence UnitDivision and may be cited as “Super. Ct. Dom. Vio. R. ____.”

(d) APPLICABILITY OF CIVIL RULES. Except when inconsistent with these rules or with the expeditious nature of civil protection order proceedings, the following Superior Court Rules of Civil Procedure are deemed applicable to civil protection order proceedings: 6, 9, 9-I, 11 (except that a party does not have to provide the party’s address, phone number, or e-mail address if doing so poses safety concerns), 43, 43-I, 44, 44-I, 44.1, 46, 59, 61, 63, 63-I, 77(c)(1), 79, 79-I, 80, 82, 86, 101, 102, 103, 104, 201, and 203.

(e) OTHER PROCEEDINGS ASSIGNED TO THE DOMESTIC VIOLENCE UNITDIVISION. Criminal proceedings assigned to the Domestic Violence UnitDivision are governed by the Superior Court Rules of Criminal Procedure. Except when inconsistent with these rules or federal law, domestic relations proceedings assigned to the Domestic Violence UnitDivision are governed by the General Rules of the Family Division and the Rules Governing Domestic Relations Proceedings.

COMMENT TO 2018 AMENDMENTS

Superior Court Administrative Order 18-07 (June 26, 2018) changed the name of the Domestic Violence Unit to the Domestic Violence Division. The title and text of the rules have been amended to reflect the name change.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The provision regarding clerk’s office hours has been replaced by a reference to Civil Rule 77(c)(1). Also, the provision regarding the effect of institution of a criminal charge was deleted as unnecessary because this is addressed in D.C. Code § 16-1002 (2012 Repl.).

COMMENT

The second to last section of this rule is derived in part from D.C. Code § 16-1002 (c). Should the respondent face contempt proceedings based upon conduct occurring after a temporary protection order or civil protection order has been entered, which conduct may also be subject to the institution of criminal proceedings, the Court may wish to provide notice of the conduct and/or the contempt hearing to the United States Attorney’s Office in order for that office to determine whether to proceed on the criminal charge.

Rule 2. Commencing an Action; Amending or Supplementing Petition; Related Cases

(a) **COMMENCEMENT OF ACTION.** A person may commence a civil protection order proceeding by filing a petition in accordance with D.C. Code § 16-1003 (2012 Repl.).

(1) *Content of Petition.* The petition must be signed under oath and must state:

(A) the facts and circumstances on which the petitioner(s) believe(s) that the respondent has committed or threatened to commit one or more criminal offenses against the petitioner(s);

(B) the jurisdictional basis for the requested order; and

(C) if a temporary protection order is requested, the factual basis for the temporary protection order.

(2) *Notice of Hearing and Order to Appear.*

(A) *Issuance.* At the time the petition is filed, the clerk must issue a notice of hearing and order to appear.

(B) *Content.* The notice of hearing and order to appear must:

(i) name the court and the parties;

(ii) be directed to the respondent;

(iii) state the date and time that the respondent must appear for the trial;

(iv) notify the respondent that failure to appear may result in the issuance of a default civil protection order against the respondent and a warrant for the respondent's arrest;

(v) be signed by the clerk; and

(vi) bear the court's seal.

(b) **AMENDING OR SUPPLEMENTING PETITION.** The petition may be amended or supplemented at any time prior to the conclusion of the trial on the merits. An amendment or supplementation must be under oath.

(1) *Amended or Supplemental Petition in Writing.* An amended or supplemental petition filed prior to the day of trial must be in writing and must be served under Rule 5.

(2) *Oral Motion to Amend or Supplement.* On the day of trial, a petitioner may make an oral motion to amend or supplement a petition. An oral motion to amend or supplement the petition made on the day of the trial must be granted in the absence of a showing of prejudice to the respondent. When prejudice is shown, the court may grant the motion but allow the respondent additional time to prepare a defense.

(c) **RELATED CASES.**

(1) *In General.* On the filing of a petition for civil protection order, the clerk must identify the following related cases on the docket unless the related case is sealed or confidential:

(A) any criminal case involving either party; and

(B) any other civil, family, probate, or civil protection order case involving the same parties.

(2) *Consolidation.*

(A) *Related Family Court Case.* On request of a party or on its own initiative, the court may consolidate a civil protection order case with a related case pending in the Family Court. The judges assigned to the cases or the presiding judges of the Domestic Violence Unit~~Unit~~Division and the Family Court must confer and decide whether the cases should be consolidated and, if consolidated, to whom the cases will be assigned. When deciding whether to consolidate, the judges must consider:

- (i) each judge's familiarity with the parties;
- (ii) the effect on each judge's calendar; and
- (iii) the need to resolve expeditiously the civil protection order case.

(B) *Other Related Cases*. Cases from any other division may be consolidated with a civil protection order case and assigned to a judge in the Domestic Violence ~~Unit~~Division, but a civil protection order case may not be assigned to a judge outside of the Family Court.

(C) *Fees*. If cases are consolidated, the court may not charge a fee for filings made in the civil protection order case.

COMMENT TO 2018 AMENDMENTS

Superior Court Administrative Order 18-07 (June 26, 2018) changed the name of the Domestic Violence Unit to the Domestic Violence Division. The title and text of the rules have been amended to reflect the name change.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Section (c) was also amended to clarify when and how related cases could be consolidated. As required by D.C. Code §§ 11-1101 and -1104 (2012 Repl.), civil protection order cases must remain in the Domestic Violence Unit or Family Court.


COMMENT

The phrase "signed under oath" as used in these rules means either signed before a notary or other appropriate officer or signed under the penalty of perjury.

* * *

By the Court:

Date: 10/17/18


Robert E. Morin

Chief Judge

Copies to:

All Judges
All Magistrate Judges
All Senior Judges
William Agosto, Director, Domestic Violence Division
Library
Daily Washington Law Reporter
Laura Wait, Associate General Counsel