Supreme Court of Florida

No. SC99-2

AMENDMENTS TO THE FLORIDA FAMILY LAW RULES OF PROCEDURE AND FAMILY LAW FORMS.

[September 21, 2000]
REVISED OPINION

PARIENTE, J.

The Family Law Rules Committee ("the rules committee") and the Family Court Steering Committee ("the steering committee") have submitted to this Court proposed amendments to the Florida Family Law Rules of Procedure and the Florida Family Law Forms.[1] We published the committees' proposed amendments in the January 1 and January 15, 2000 editions of The Florida Bar News, and nearly all of the resulting comments related to the proposed domestic and repeat violence injunction forms. We herein accordingly focus most of our attention on those forms, and additionally address who shall have continuing responsibility for the family law forms.

I. BACKGROUND

[1]We have jurisdiction. See art. V, § 2(a), Fla. Const.

Simplifying the process has been, and continues to be, a primary goal of this Court in the family law context. Beginning with the establishment of the circuit court family divisions in 1991, this Court set out to "provide a better means for resolution of family issues in this state." In re Report of the Comm'n on Family Courts, 588 So. 2d 586, 592 (Fla. 1991). Upon adopting family law rules and forms in 1995, this Court "extensively redrafted the [proposed] rules to eliminate as much complexity as possible . . . [and] in an effort to assist the many pro se litigants in family law cases, . . . redrafted the [proposed] rules to include Florida Supreme Court Approved Simplified Forms and instructional commentary and appendices." In re Family Law Rules of Procedure, 663 So. 2d 1047, 1048 (Fla. 1995).

In again amending the family law rules and forms later in 1995, this Court directed "particular emphasis on revisions to further simplify the family law process for the many pro se litigants in family law cases." In re Family Law Rules of Procedure, 663 So. 2d 1049, 1053 (Fla. 1995). In later amending the family law rules and forms in 1998, this Court reiterated that "[t]he development of common sense rules and forms in family law cases, understandable by both lawyers and pro se litigants alike, is essential," that "the rules governing family law cases should be crafted to establish an easy-to-understand process," and that "[o]ur goal must be to simplify the process. Otherwise, we deny many citizens meaningful and affordable

access to the courts, particularly when so many of them are self-represented." Amendments to the Fla. Family Law Rules, 713 So. 2d 1, 2 (Fla. 1998).

This is especially true in the domestic violence context, wherein a great many of the litigants are unrepresented. As found by the Legislature, "the incidence of domestic violence in Florida is disturbingly high, and despite efforts of many to curb this violence, . . . one person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 3 days." § 741.32(1), Fla. Stat. (1999) ("Certification of Batterers' Intervention Programs"); see also Weiand v. State, 732 So. 2d 1044, 1053 (Fla. 1999) ("It is now widely recognized that domestic violence 'attacks are often repeated over time, and escape from the home is rarely possible without the threat of great personal violence or death.'").

With so much at stake, simplicity in seeking, obtaining, and understanding the relief granted in domestic violence injunction cases is absolutely essential, especially in cases involving pro se litigants. We have in the past recognized that "domestic and repeat violence injunctions are an important and significant responsibility of family courts," In re Family Law, 663 So. 2d at 1049, and that it

is extremely important to have "domestic violence issues addressed in an expeditious, efficient, and deliberative manner." In re Report of the Comm'n on Family Courts, 646 So. 2d 178, 182 (Fla. 1994). We now reiterate that "we do not want these

important issues to become bogged down in an administrative morass." Id.

Uniformity in the form injunction orders themselves is likewise essential in this context. In adopting and requiring the use of standardized injunction forms in domestic and repeat violence cases in 1998, this Court recognized that, at that time, "most counties use[d] different injunction forms, which often result[ed] in enforcement problems across county lines for law enforcement officers" and that "standardized forms would assist law enforcement officers in the enforcement of injunctions because, at a glance, they would be able to easily determine the terms of an injunction no matter which court generated the injunction." Amendments to the Fla. Family Law Rules, 713 So. 2d at 3; see also In re Amendments to the Fla. Family Law Rules of Procedure (Self Help), 725 So. 2d 365, 367 (Fla. 1998) (explaining that adoption of the mandatory domestic violence injunction forms was to provide for statewide consistency in the use of the forms, and that "[t]his consistency was necessary given the distinct problems that are inherent in domestic violence cases").

II. THE PROPOSED DOMESTIC AND REPEAT VIOLENCE INJUNCTION FORMS

The steering committee now explains that, after the adoption of the mandatory domestic and repeat violence injunction forms, "attorneys, judges, legal services organizations and other affected individuals and groups raised a number of concerns

about the forms," and that "[t]he Domestic Violence Subcommittee of the Steering Committee carefully reviewed those concerns in developing the recommendations in [the present] petition." As a result, according to the steering committee, "[t]he most significant proposed change to the form injunctions is the creation of separate forms for domestic violence cases involving children and domestic violence cases not involving children."

We approve the steering committee's proposal to create separate domestic violence injunction forms for cases involving children and cases not involving children. We below more specifically discuss the content of those domestic violence injunction forms, as well as the repeat violence injunction forms, proposed by the steering committee.[2] We also address related rule 12.610(c)(2)(A) proposed by the rules committee, which specifically pertains to the domestic and repeat violence injunction forms. We do not attempt to address every proposal and every comment received; rather, we focus our attention on the especially significant and pertinent proposals and comments, and particularly discuss all comments that have resulted in a modification to the proposed domestic and repeat

[2] Specifically, we discuss forms 12.980(d)(1) ("Temporary Injunction for Protection Against Domestic Violence With Minor Child(ren)"); 12.980(d)(2) ("Temporary Injunction for Protection Against Domestic Violence Without Minor Child(ren)"); 12.980(e)(1) ("Final Judgment of Injunction for Protection Against Domestic Violence With Minor Child(ren) (After Notice)"); 12.980(e)(2) ("Final Judgment of Injunction for Protection Against Domestic Violence Without Minor Child(ren) (After Notice)"); 12.980(l) ("Temporary Injunction for Protection Against Repeat Violence"); and 12.980(m) ("Final Judgment of Injunction for Protection Against Repeat Violence (After Notice)").

violence injunction forms or related rule 12.610(c)(2)(A).

In so doing, we again emphasize the importance of simplicity and uniformity in these mandatory injunction forms. At the same time, however, we recognize that a "one size fits all" approach has the potential of rendering the injunction forms cumbersome for trial judges to use and litigants to understand. Accordingly, we have actively solicited and remain especially sensitive to comments from judges and others who use the forms on a daily basis.

A. Notice of Hearing

1. "For Example" Language: The proposed Temporary Injunction for Protection Against Domestic Violence forms in the "Notice of Hearing" section provide in pertinent part that at the scheduled hearing "the Court will consider whether the Court should issue an Injunction for Protection Against Domestic Violence, which would remain in effect until modified or dissolved by the Court, and whether other things should be ordered, including who should pay the filing fees and costs." Attorneys Margaret Pearce of the Center Against Spouse Abuse and Denise Springer of Gulf Coast Legal Services suggest the following change at the end of this provision: "and whether other things should be ordered, including, for example, such matters as who should pay the filing fees and costs, visitation and support." (Underscoring supplied to emphasize suggested changes.) They urge that "[t]his

addition not only advises each party that these issues may be addressed at the hearing, but also clarifies the confusion by many petitioners and respondents who mistakenly believe that a permanent injunction will likewise automatically prohibit visitation." They suggest that "[t]his can be particularly problematic when the petitioner appears for the return hearing to request a dismissal based on this belief." We agree and, with minor modification, add the suggested "for example" language to the "with child(ren)" form at issue, but of course omit the reference to visitation in the "without child(ren)" form at issue. We also sua sponte make clear in both of these forms that, at the scheduled hearing, "the Court will consider whether the Court should issue ~~an~~ Final Judgment of Injunction for Protection Against Domestic Violence." (Struck-through type/underscoring supplied to emphasize changes.) We have made parallel changes in the Temporary Injunction for Protection Against Repeat Violence form.

2. "If Any" Language: The proposed Temporary Injunction for Protection Against Domestic Violence forms in the "Notice of Hearing" section also provide in pertinent part that "[a]ll witnesses and evidence must be presented at this time" (i.e., at the scheduled hearing). The steering committee urges that this proposed language "will clarify for the parties that the final hearing is evidentiary in nature." Attorneys Pearce and Springer agree that "[i]t is a good idea to advise the parties that the return

hearing is the time to present witnesses and evidence," but point out that "there are rarely witnesses to domestic violence." They therefore suggest that the sentence at issue should read: "All witnesses and evidence, if any, must be presented at this time," urging that "[w]ithout the insertion of 'if any,' . . . petitioners may be intimidated into thinking they do not have a chance if they do not have witnesses" and that "the currently proposed wording [may] appear[] as a mandate to bring witnesses and evidence, which may lead to unnecessarily lengthy hearings and much irrelevant testimony." (Underscoring supplied to emphasize suggested change.) These insights are well-taken, and we accordingly add the suggested "if any" language to that proposed by the steering committee, which we approve.

3. Possible Abuse of the Domestic Violence Injunction Process: The proposed Temporary Injunction for Protection Against Domestic Violence forms in the "Notice of Hearing" section further provide in pertinent part that, "[i]n all cases where temporary support issues have been alleged in the pleadings, each party is ordered to bring his or her financial affidavit . . . , tax return, pay stubs, and other evidence of financial income to the hearing." The steering committee urges that this proposed language "will make it more likely that a court asked to establish support will have a sufficient evidentiary basis upon which to do so."

Trial courts in the domestic violence injunction context clearly have the

discretion to establish temporary support for the petitioner or any minor children involved. See § 741.30(6)(a)(4), Fla. Stat. (1999). However, Judge Irene H. Sullivan of the Sixth Judicial Circuit Court suggests that the domestic violence injunction process is sometimes abused "by those people really seeking support who have an existing case, without the need for an injunction." In this vein, Judge Sullivan urges the following change to the proposed language at issue: "In ~~all~~ cases where temporary support issues have been alleged in the pleadings, and no other dissolution of marriage, paternity and/or support litigation is pending, each party is ordered to bring his or her financial affidavit . . . ." (Struck-through type/ underscoring supplied to emphasize suggested changes.)

We share Judge Sullivan's concerns about possible abuse of the domestic violence injunction process, but decline to adopt most of her suggested language for the notice of hearing at issue. As proposed by the steering committee, the notice of hearing plainly advises the parties where to be, when to be there, what to bring, and that certain assistance is available to people with disabilities. Such straightforward simplicity in the notice of hearing is invaluable, especially in cases involving pro se litigants, for whom these forms were primarily developed. Guarding against possible abuse of the domestic violence injunction process, while of course a worthy and necessary goal, is more of a policy concern that falls outside the limited and functional

purposes of the notice of hearing, and attempting to address such a concern in the notice of hearing may unnecessarily complicate matters.[3] We accordingly approve the language proposed by the steering committee in this regard, with only the word "all" deleted as suggested by Judge Sullivan.

4. Transcription: Finally, the proposed Temporary Injunction for Protection Against Domestic Violence forms in the "Notice of Hearing" section do not address transcription of the final hearing. This issue was recently discussed in Chief Judge Warner's special concurrence in Lawrence v. Walker, 751 So. 2d 68 (Fla. 4th DCA 1999), wherein the Fourth District Court of Appeal per curiam affirmed in an appeal from a final judgment for protection against domestic violence. In her special concurrence, Chief Judge Warner agreed that affirmance was compelled, "as we cannot evaluate the merits of the contentions raised by the appellant without a transcript of the hearing in which the evidence was presented." Id. at 68 (Warner, C.J., specially concurring). Chief Judge Warner continued that

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[3] This seems especially true insofar as measures already exist to guard against the possible abuse identified by Judge Sullivan (i.e., inappropriately pursuing support matters through domestic violence injunction proceedings instead of through pending litigation between the parties). Specifically, a petitioner seeking an injunction for protection against domestic violence is affirmatively required to disclose, under oath and penalty of perjury, the existence of any other cause(s) of action currently pending between the parties. See § 741.30(1)(b), (3)(b)-(c) Fla. Stat. (1999); accord Fla. Fam. L. Form 12.980(b). As such, the petitioner will either properly advise the trial court of any such pending litigation (thereby providing the trial court with information pertinent to its guarding against the abuse at issue) or improperly fail to do so (thereby subjecting the petitioner to perjury charges).

> [t]he appellant complains that he did not know that the hearing would not be recorded or reported. He assumed that this was a criminal proceeding and that all such proceedings are recorded. A petition for an injunction against domestic violence, however, is a civil proceeding, and as yet there is no requirement that such matters be transcribed at public expense. Therefore, the party must arrange in advance for the reporting and transcription of the proceedings.
>
> It is indeed unfortunate that parties frequently are unaware of this requirement until after the fact. With so much litigation being conducted pro se, it seems to me that in the notice for the final hearing on the injunction the parties should be alerted that if they want the hearing reported it is up to them to arrange for the services of a court reporter to transcribe the proceedings. Without a record, a party's ability to exercise their appellate rights is, in most cases, lost before the final judgment is ever entered.

Id. (citations omitted; emphasis added) (Warner, C.J., specially concurring). We entirely agree, and accordingly borrow from similar language in existing forms to add the following language to the "Notice of Hearing" section of both the temporary domestic and repeat violence injunction forms:

> NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.
>
> YOU ARE ADVISED THAT IN THIS COURT:
> ____ a. a court reporter is provided by the court.
> ____ b. electronic audio tape recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

> ____ c. no electronic audio tape recording or court reporting services are provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.
>
> A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED.

B. Injunction and Terms

1. "Other Violation" Language: All of the proposed domestic and repeat violence injunction forms in the "Injunction and Terms" section set forth a "Violence Prohibited" provision, at the end of which attorneys Pearce and Springer suggest adding the following statutory language: "Respondent shall not commit any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner." See §§ 741.31(4)(a)(4), 784.047(4), Fla. Stat. (1999) (domestic and repeat violence, respectively). We adopt this suggested "other violation" language based on the statutes cited.

2. No Contact Provision: All of the proposed domestic and repeat violence injunction forms in the "Injunction and Terms" section also provide in pertinent part:

No Contact.

a. Unless otherwise provided herein, Respondent shall have no contact with Petitioner. Respondent shall not directly or indirectly contact Petitioner in person, by mail, e-mail, fax, telephone, through another person, or in any other manner. Further, Respondent shall not contact or have any third party contact anyone connected with Petitioner's employment or school to inquire about Petitioner or to send any messages to Petitioner. Unless otherwise provided herein, **Respondent shall not go to, in, or within 500 feet of:** Petitioner's current residence . . . or any residence to which Petitioner may move; Petitioner's current or any subsequent place of employment . . . or place where Petitioner attends school; or the following other places (if requested by Petitioner) where Petitioner or Petitioner's minor child(ren) go often: _____ _____. Respondent may not knowingly come within 100 feet of Petitioner's automobile at any time.

[Initial **if** applies; Write N/A **if not** applicable]

___ b. Petitioner and Respondent are employed by the same employer, work at the same physical location, or attend the same school. Accordingly, the following restrictions apply:_____ _____.

___ c. Other provisions regarding contact: _____ _____.

(Struck-through type/underscoring supplied to emphasize proposed changes.)

a. Subdivision (b) Unnecessary: As urged at oral argument by Judge Robert K. Rouse, Jr., Chief Judge of the Seventh Judicial Circuit Court, judges seldom encounter the somewhat unique fact pattern reflected in subdivision (b) of the proposed "no contact" provision regarding the petitioner and respondent working

together or attending the same school. Accordingly, he suggests striking subdivision (b), urging that judges can simply address this rare fact pattern whenever necessary in the subdivision for "other provisions regarding contact." We agree and accordingly strike subdivision (b) of the proposed "no contact" provision.

b. "Other Provisions Regarding Contact": Similarly, the subdivision for "other provisions regarding contact" in the proposed "no contact" provision can accommodate other case-specific fact patterns as the need arises. For example, we received similar comments from both the rules committee and Judge Patrick G. Kennedy of the Seventh Judicial Circuit Court urging explicit options for telephonic contact between the respondent and any minor children involved. Additionally, in questioning the proposed amendment barring any third-party contact between the respondent and the petitioner, the rules committee urges that "[w]hile . . . such contact may be used by the respondent to harass or intimidate the petitioner, there may be legitimate reasons for third-party contact, such as arranging for visitation." The steering committee counters that "the prohibition of indirect, third-party contact is appropriate in the bulk of domestic violence cases" and that the subdivision for "other provisions regarding contact" "permits modification of such a prohibition where necessary to arrange child visitation or where necessary for other proper purposes."

We agree with the steering committee. Any specific instructions regarding

telephonic or third-party contact -- or any other exception to the standard "no contact" provision -- may easily be inserted in the subdivision for "other provisions regarding contact" as necessary on a case-by-case basis.[4] Such an approach fosters the foundational goals of both simplicity and uniformity in the standard "no contact" provision at issue.

c. Clarifying Language: However, we are concerned that, as suggested by Judge Rouse at oral argument, a pro se respondent reading the standard "no contact" provision may see the initial, bolded "No Contact" heading, incorrectly perceive that heading as an unqualified directive, and read no further to realize that these or other exceptions may exist several lines down in the subdivision for "other provisions regarding contact." This may be especially problematic in both the temporary and final domestic violence injunction with minor children forms, wherein child custody and visitation exceptions occur several full pages (not just several lines) from the initial, bolded "No Contact" heading.

To remedy this potentially confusing situation, we insert in all the domestic and

[4] Judge Sullivan suggests adding standard language that "contact at legal proceedings or through legal counsel constitutes an exception" to the prohibition against third-party contact, urging that "[t]he addition of this exception on the form itself [would] eliminate[ ] the frequent necessity of having to hand write it into the injunction and avoids turning legal proceedings into technical violations." Judge Sullivan's point is well-taken, but we decline to incorporate such standard language at the present time. We instead refer the matter to the Advisory Workgroup on The Florida Supreme Court Approved Family Law Forms established in this opinion.

repeat violence injunction forms the following bolded language immediately after the initial, bolded "No Contact" heading: "Respondent shall have no contact with Petitioner unless otherwise provided in this section." Additionally, in the temporary domestic violence injunction with minor children form, we continue this new bolded sentence to read "or unless paragraph 14 below provides for contact connected with the temporary custody of and visitation with minor child(ren)," and in the final domestic violence injunction with minor children form, continue it to read "or unless paragraphs 13 through 19 below provide for contact connected with the temporary custody of and visitation with minor child(ren)."

d. 500-Foot Prohibition: As to the 500-foot prohibition in the "no contact" provision at issue, Judge S. James Foxman of the Seventh Judicial Circuit Court suggests "instead of saying 500 feet, why not leave the number blank," urging that "[w]e have too many situations where the 500 feet prohibition does not work." However, leaving the space blank would contribute to a lack of uniformity which, as discussed above, is one of the foundational goals of the forms at issue. As also discussed above, any exception to the standard "no contact" provision (including a variance of the 500-foot prohibition) may easily be inserted in the subdivision for "other provisions regarding contact" as necessary on a case-by-case basis.

Accordingly, in keeping with this Court's prior explicit adoption of the 500-foot prohibition, we decline to strike it now. See Amendments to the Fla. Family Law Rules, 713 So. 2d at 4 ("[W]here the forms prohibited a respondent from going 'near' a petitioner's residence or place of employment, we have modified the forms to prohibit a respondent from going within 500 feet of petitioner's residence or place of employment unless otherwise provided by the trial judge issuing the injunction.").

Also as to the 500-foot prohibition, Judge Kennedy comments that

> [t]he 500' prohibition causes great confusion where the parties accidentally encounter each other in a public area such as a mall, a concert, or a school. Does the respondent then have the responsibility to leave immediately even though he or she was already there when the petitioner arrived? Perhaps the injunction should explain that should the parties accidentally meet in a public place, neither has the obligation to leave but the respondent shall not approach the petitioner nor attempt to communicate with petitioner in any way.

We decline to alter the forms based on this comment, but take this opportunity to stress that the 500-foot prohibition applies only to the specific locations listed (i.e., the petitioner's residence, place of employment, school, or other specifically listed places that the petitioner or minor children go often).

3. Firearm Provision: The Final Judgment of Injunction for Protection Against Domestic Violence forms in the "Injunction and Terms" section also include a firearms provision that contains, among other things, a warning that provides in

pertinent part:

> **NOTE: RESPONDENT IS ADVISED THAT IT IS A FEDERAL CRIMINAL FELONY OFFENSE TO SHIP OR TRANSPORT IN INTERSTATE OR FOREIGN COMMERCE, OR POSSESS IN OR AFFECTING COMMERCE, ANY FIREARM OR AMMUNITION; OR TO RECEIVE ANY FIREARM OR AMMUNITION WHICH HAS BEEN SHIPPED OR TRANSPORTED IN INTERSTATE OR FOREIGN COMMERCE WHILE SUBJECT TO SUCH AN INJUNCTION.**

Attorneys Pearce and Springer suggest adding the following language at the very end of the warning: "**EVEN IF THIS ORDER STATES OTHERWISE."** They explain that "[a]pparently, some courts across the state are not prohibiting respondents from using or possessing a firearm, even though such a prohibition is mandated by law absent the possible exception of an active duty law enforcement officer." However, we are concerned that adding the suggested language might be confusing, especially to pro se litigants, whose understanding of these forms is especially important. We therefore decline to adopt the suggested language, and instead approve the subject firearm warning as set forth by the Standing Committee.

C. Temporary Exclusive Use and Possession of Home

1. Alternatives in the "Possession of Home" Option: All of the proposed domestic violence injunction forms in the "Temporary Exclusive Use and Possession of Home" section set forth an option that provides in pertinent part: "Possession of the Home. ( ) Petitioner ( ) Respondent shall have temporary exclusive use and possession of the

dwelling place located at: [space for address]." Attorneys Pearce and Springer suggest that this Court

> [d]elete [the] brackets giving a place for the court to grant the respondent exclusive use. The respondent has not even pled for exclusive use. Just because exclusive use is denied or not requested by the petitioner (usually because s/he feels she must at least temporarily flee the home for her safety or because s/he believes she will be subjected to less wrath of the respondent if the respondent is given some time to secure another residence), does not mean the respondent should be awarded exclusive use. We are concerned that this may impact the petitioner negatively in later proceedings, including in a dissolution of marriage. Many petitioners who choose to stay at a shelter or a relative's home temporarily may feel it is safe and/or necessary to ask for exclusive use by the time of the return hearing.

We appreciate these insights, but are concerned with Pearce and Springer's blanket premise that "[t]he respondent has not even pled for exclusive use." While this is surely often the case, it is our understanding that respondents sometimes do affirmatively plead for exclusive use at the hearing for the Final Judgment of Injunction for Protection Against Domestic Violence. Even as to the Temporary Injunction for Protection Against Domestic Violence (where there typically is no hearing), we are not prepared to say that, as a matter of law, a respondent may never be awarded exclusive use.

Such an actual case or controversy is not presently before this Court, and it is not

our role in approving forms to definitively rule on such undeveloped and unresolved points of law. See, e.g., Florida Bar Revisions to Simplified Forms, 25 Fla. Law Weekly S570, S571 (Fla. July 13, 2000) (in approving simplified lease forms, stating that "[w]e express no opinion as to whether these approved lease forms comport with current law"); cf., e.g., Standard Jury Instructions--Civil Cases (No. 98-4), 746 So.2d 440, 441 (Fla. 1999) (standard language in authorizing publication of jury instructions that "[i]n doing so we express no opinion on the correctness of these instructions and remind all interested parties that this approval forecloses neither requesting additional or alternative instructions nor contesting their legal correctness"). The bottom line is that judges generally seem to prefer having the petitioner/respondent alternatives in this context and, by including them in the present proposed forms, the steering committee implicitly advocates keeping them. We accordingly do so for the time being, but do not foreclose the possibility of further exploring this issue in future form-amendment cases or if and when it arises in an actual case or controversy in this Court.

2. Alternatives in the "Damaging/Removing" Option: Similarly, the proposed Temporary Injunction for Protection Against Domestic Violence forms in the "Temporary Exclusive Use and Possession of Home" section additionally set forth an option that provides in pertinent part: "( )Petitioner ( )Respondent shall not damage or remove any furnishings or fixtures from the parties' former

shared premises." The steering committee explains that "[t]his paragraph is only included in the temporary injunction form[s] and not in the final injunction form[s] so that the party who is put in possession of the home through a final injunction can control the furnishings and fixtures."

Attorney Joel M. Cohen urges doing away with the petitioner/respondent alternatives in this context, and instead making the provision mandatory for both parties, commenting that "[a]s the intent of the law creating this cause of action [for a temporary injunction against domestic violence] is for safety and protection of the petitioner, there can be no legitimate reason why the petitioner should be able to use the Ex Parte Temporary Injunction to shield [himself or] herself while [he or] she effectuates 'equitable distribution' on a self help basis." The rules committee advocates striking only the petitioner alternative, explicitly "question[ing] the propriety of the court's exercise of jurisdiction to enjoin the petitioner from removing items from the home as such relief would be outside the petition and access to the judiciary should not require that a petitioner give up property rights." Judge Seymour Benson of the Eighteenth Judicial Circuit Court raises the same concern, stating that "[t]here is no injunction filed against the petitioner and therefore there should be no order enjoining the petitioner from taking certain actions including moving furniture or furnishings from the parties' home," and that "without a pleading addressed to the petitioner, I do not believe [the petitioner

alternative] should be included."

These comments thus run the full gamut from advocating a mutual mandatory injunction to urging an injunction only against the respondent in this context. We again appreciate all of these concerns and suggestions, but repeat that it is not our role in approving forms to definitively rule on such undeveloped and unresolved points of law. We accordingly approve this provision as proposed by the steering committee without expressing agreement or disagreement on the substantive questions underlying this issue.

D. Directions to Law Enforcement Officer

Extension of Temporary Injunction: The proposed Final Judgment of Injunction for Protection Against Domestic and Repeat Violence forms in the "Directions to Law Enforcement Officer" section provide in pertinent part that "[t]he temporary injunction, if any, entered in this case is ~~dissolved~~ extended until such time as service of this injunction is effected upon Respondent." (Struck-through type/underscoring supplied to emphasize proposed changes.) The steering committee explains that

> [t]he existing form final injunctions dissolve the temporary injunctions which preceded them. This dissolution is effective upon the signing of the final injunction. This can result in a gap in protection where the respondent is not immediately served with a copy of the final injunction. This gap is eliminated by a proposed language change in both [the final] domestic

> violence and repeat violence injunction forms to the effect that the temporary injunction remains in effect until the respondent is served with the final injunction.

Attorneys Pearce and Springer comment that "[t]his is a terrific proposed modification," insofar as "[w]ithout this provision, there is a minimum block in every case of 12 to 24 hours where there is no valid injunction because service has not yet been effected." They add that "such a provision solves the problem when service of the final injunction cannot be effected because respondent has failed to notify the court of his or her new address. This has been particularly problematic when the respondent has vacated a shared dwelling to an unknown location." We agree, and accordingly approve this amendment as proposed by the steering committee.

E. Rule 12.610(c)(2)(A)

As also relevant to the domestic and repeat violence injunction forms, the rules committee proposes amending rule 12.610(c)(2)(A) to provide in full:

> **Standardized Forms.** The temporary and permanent injunction forms in these rules for repeat and domestic violence injunctions shall be the forms used in the issuance of injunctions under chapters 741 and 784, Florida Statutes. Additional provisions, not inconsistent with the standardized portions of those forms, may be added to the special provisions section of the temporary and permanent injunction forms<u>, or at the end of each section to which they apply,</u> on the written approval of

> the chief judge of the circuit. Copies of such additional provisions shall be sent to the Chief Justice, the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Family Courts Steering Committee, and the chair of The Governor's Task Force on Domestic and Sexual Violence.

(Underscoring supplied to emphasize proposed change.) The steering committee "concurs with [the rules committee's] recommended changes" to this rule, elaborating that, under this rule,

> [t]he chief judge of each circuit [would] be permitted to add [standard] local provisions at the end of each section of the forms as well as in the "other special provisions" section of the forms. This would allow a local provision to be included in the portion of the injunction to which the local provision is relevant. If the local provision is not in the relevant section of the injunction, an unsophisticated reader may not put the two related provisions together and understand what is required.
>
> If the recommend[ation] is adopted, information about the local batterers' intervention program may be printed on the form final injunctions, making it clear to the respondent where he or she must report and simultaneously eliminating the need for the judge to hand write this information on each of numerous injunctions.
>
> Similarly, the firearms section might contain local directives on how and to whom to surrender a firearm. Permitting such limited local provisions in the forms will not change the general format of the forms. Florida will still have uniform injunctions that are understandable to law enforcement.

(Emphasis added.) We agree and accordingly approve the rules committee's proposed amendment to rule 12.610(c)(2)(A). Significantly, however, to ensure that any

such additional standard provisions (whether in the "special provisions" section of the subject forms or at the end of each section to which they apply) are truly local in nature, we sua sponte adopt the requirement that any such added standard provisions must be approved by the Chief Justice before being incorporated into the forms of any particular circuit. Thus, the operative language at issue shall read as follows:

> Additional standard provisions, not inconsistent with the standardized portions of those forms, may be added to the special provisions section of the temporary and permanent injunction forms, or at the end of each section to which they apply, on the written approval of the chief judge of the circuit, and upon final review and written approval by the Chief Justice. Copies of such additional standard provisions, once approved by the Chief Justice, shall be sent to ~~the Chief Justice~~ the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Family Courts Steering Committee, and the chair of The Governor's Task Force on Domestic and Sexual Violence.

(Struck-through type/underscoring supplied to emphasize changes.) Accordingly, after a chief judge approves any additional standard provisions for inclusion in the temporary and permanent injunction forms in his or her circuit, that chief judge must submit the provisions via letter to the Chief Justice for final review and written approval before ultimately incorporating them into the standardized forms in the circuit at issue. We emphasize that, as elaborated above in discussing the domestic and repeat violence injunction forms, this rule shall in no way preclude an individual judge

in a particular case from entering case-specific information or directions as "other provisions" at the end of each section to which they apply in the domestic and repeat violence injunction forms.

III. CONTINUING RESPONSIBILITY FOR THE FAMILY LAW FORMS

We now address who shall have the continuing responsibility of reviewing, revising, and otherwise maintaining the family law forms. In In re Amendments to the Fla. Family Law Rules of Procedure, 724 So. 2d 1159, 1160 (Fla. 1998), this Court addressed "whether the Florida Family Law Forms should be removed from the rulemaking process, and if so, who should have the continuing responsibility for the forms," holding:

> Both committees agree that the majority of the forms should be removed from the rulemaking process and that the steering committee should have responsibility for the forms that are removed from the rules. The committees state that sixteen forms need to stay with the rules and be under the direction of the rules committee. Those forms would be referred to as "rules forms."[5] They further

[5] The sixteen "rules forms" are forms 12.900(a) ("Disclosure From Nonlawyer"); 12.901(a) ("Petition for Simplified Dissolution of Marriage"); 12.902(b) ("Family Law Financial Affidavit (Short Form)"); 12.902(c) ("Family Law Financial Affidavit"); 12.902(e) ("Child Support Guidelines Worksheet"); 12.902(f)(3) ("Marital Settlement Agreement for Simplified Dissolution of Marriage"); 12.910(a) ("Summons: Personal Service on an Individual"); 12.913(b) ("Affidavit of Diligent Search and Inquiry"); 12.920(a) ("Motion for Referral to General Master"); 12.920(b)("Order of Referral to General Master"); 12.920(c) ("Notice of Hearing Before General Master"); 12.930(a) ("Notice of Service of Standard Family Law Interrogatories"); 12.930(b) ("Standard Family Law Interrogatories for Original or Enforcement Proceedings");

> recommend that the remaining Florida Family Law Forms be removed from the rules and be published separately as "Supreme Court Approved Forms." It is these latter forms that would be the responsibility of the steering committee. In this way, the vast majority of the forms can be continually evaluated and updated by the steering committee, and these "Supreme Court Approved Forms" can be approved by this Court by opinion whenever necessary. We agree with this proposal.

This Court accordingly directed the rules committee to "to review all of the family law rules and to [submit] to this Court . . . all of the family law rules that must be amended and all forms that must be renumbered to accomplish the purpose of removing the Supreme Court Approved Forms from the rules," and directed the steering committee "to compile the forms to be removed from the rules forms and republished as Supreme Court Approved Forms and to submit those forms to this Court, together with any other proposed changes to those forms." Id. at 1161.

The committees have complied with these directives and, except as already discussed above in the context of the domestic and repeat violence injunction forms, the vast majority of their proposed amendments are technical in nature and designed to accomplish the "split" in the family law forms mandated in In re

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12.930(c) ("Standard Family Law Interrogatories for Modification Proceedings"); 12.932 ("Certificate of Compliance with Mandatory Disclosure"); and 12.990(a) ("Final Judgment of Simplified Dissolution of Marriage").

Amendments. With minimal additions[6] and modifications[7] where necessary, we approve these many amendments without discussion and commend the committees for their collaborative efforts in this regard.

Significantly, however, now that this "split" has been achieved, the steering committee "seeks appointment by this Court of a committee which would be responsible for future review of the Florida Supreme Court Approved Family Law Forms" for which the steering committee itself is now responsible. The steering committee elaborates that

> [p]reviously, the Steering Committee requested that the Court assign the Steering Committee the responsibility for ongoing review and revision of the Florida Family

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[6] Specifically, we have added an oath block to form 12.902(e) ("Child Support Guidelines Worksheet"). See Reddick v. Reddick, 728 So. 2d 374 (Fla. 5th DCA 1999). We have also added a certificate of service block to many of the forms.

[7] Two such modifications are based on comments by attorney Henry P. Trawick, Jr. First, we disapprove the rules committee's proposal to strike much of its 1995 commentary to rule 12.000 ("Preface") due to its historical significance. Second, due to potentially misleading language in rule 12.015(a) ("Forms Adopted as Rules"), we change it in pertinent part to read as follows: "The forms listed in this rule shall be adopted by the rulemaking process in Fla. R. Jud. Admin. 2.130. The Family Law Rules Committee of The Florida Bar shall propose amendments to these forms and any associated instructions."

Additionally, for obvious reasons, we have sua sponte stricken a reference to "the best interest of the child" in form 12.990(c)(2) ("Final Judgment of Dissolution of Marriage with Property But No Dependent or Minor Children") (emphasis added). We have also modified several paternity-related forms to reflect statutory language that the court has discretion to award child support retroactive to the date when the parents did not reside together in the same household with the child, "not to exceed a period of 24 months preceding the filing of the petition," regardless of whether that date precedes the filing of the petition. § 61.30(17), Fla. Stat. (1999); see Fla. Fam. Law Forms 12.983(a) ("Petition to Determine Paternity and for Related Relief") and 12.983(c) ("Answer to Petition and Counterpetition to Determine Paternity and for Related Relief"). Finally, we have modified the clerk's signature block in several forms to allow for the signature of a "notary public or deputy clerk."

> Law Forms. This was consistent with the position of the Family Law Rules Committee of The Florida Bar. The Steering Committee has since determined that it has insufficient time and resources to devote to the ongoing review of the forms if it is also to focus on the broader policy issues assigned to it by this Court. The Steering Committee therefore respectfully requests and recommends that this Court establish a separate committee to work with the Court to maintain the forms. . . . The [separate] committee's sole focus and assignment would be to review and recommend changes to existing family law forms.

The rules committee supports this proposal, recommending that "staffing for this new committee be provided by the Office of State Courts Administrator," and "reiterat[ing] its position that the forms specifically connected to the rules [i.e., the sixteen "rules forms" listed in footnote five above] . . . should be retained in the Family Law Rules of Procedure and updated by the Rules Committee." In a clarification comment, the steering committee concluded that

> assigning the proposed committee responsibility for ongoing review of both Family Law Forms and [the sixteen] Rules Forms would promote consistency and simplify the review process but would deprive the Court of the experience and expertise of the established Rules Committee. In deference to the expressed desire of the Rules Committee to continue fulfilling its current responsibilities, the [steering committee] recommends that the proposed committee be assigned the responsibility for ongoing review of only the Family Law Forms and not the [sixteen] Rules Forms.

Attorney Henry P. Trawick, Jr., disagrees, commenting that "the responsibility for the forms should be placed in one entity." We acknowledge the practicality of such a unified

approach but, like the steering committee, defer for the time being to the expressed desire of the rules committee to be responsible for the sixteen "rules forms" through the rulemaking process. However, we hasten to emphasize that, if this division of the forms becomes unworkable, we will not hesitate to assign total responsibility for the forms to a single entity.

We further grant relief to the steering committee, but not exactly in the manner requested. Effective immediately, this Court shall henceforth internally review, revise, and otherwise maintain the "Supreme Court Approved Forms" at issue. We shall sua sponte make technical and readability changes to these forms as necessary and, for more substantial amendments, shall create and seek input from an informal "Advisory Workgroup on The Florida Supreme Court Approved Family Law Forms." All amendments to the forms at issue ultimately shall be approved via written opinion, with previous publication for comment only when deemed necessary or desirable by the Court.

This plan comports with our overall vision that "the vast majority of the forms can be continually evaluated and updated . . . , and these 'Supreme Court Approved Forms' can be approved by this Court by opinion whenever necessary." In re Amendments, 724 So. 2d at 1160. Just as importantly, this plan frees the steering committee to do what this Court originally created it to do; that is, "to provide support and

assistance to the Supreme Court, as well as the individual circuits, on the development and full implementation of the family court concept in Florida." In re Report of the Comm'n on Family Courts, 633 So. 2d 14, 18 (Fla. 1994). Its significant duties and responsibilities include: "(a) making recommendations regarding family law litigation, model family courts (including self-help centers), and administrative policy and rules to advance recommended goals; (b) improving communication between the courts and other agencies; (c) addressing pro se litigant issues; and (d) funding recommendations." In re Amendments, 724 So. 2d at 1160. The steering committee is no longer directly responsible for any of the family law forms. Contrary indications in the rules in this regard have been stricken to reflect this development.

IV. CONCLUSION

Some might say that, although our goals in the family law context have been simplicity and uniformity, the end result appears to be a proliferation of forms.

We acknowledge that there remains significant room for improvement, but we are proud of the fact that Florida remains a leader in this relatively uncharted area.

We could not have come so far without the extraordinary efforts of the rules committee and steering committee members, whom we sincerely thank again for their perpetual hard work, insights, and dedication to improving the process for all involved. But work remains to be done and, as we have recognized in the past in this context, such "work

regarding simplification will be a continuing process." Amendments to the Fla. Family Law Rules, 713 So. 2d at 9.

In this spirit of both appreciation for the past and commitment to the future, we hereby approve the family law rules and forms as follows in three appendices to this opinion:

Appendix A: Amendments to the Family Law Rules of Procedure. New language is indicated by underscoring; deletions are indicated by struck-through type. The comments are included for explanation and guidance only and are not adopted as an official part of the rules. The amendments shall take effect immediately.

Appendix B: Amendments to the Domestic and Repeat Violence Injunction Forms. We set these forms out separately and fully engrossed due to their importance and the attention accorded them in the present opinion. These forms may be used immediately, but are not required for use until sixty days from the issuance of this opinion because, as phrased by Administrative Judge Amy Karan of the Eleventh Judicial Circuit Court (Domestic Violence Division), "considering the extent of the modifications proposed, . . . a minimum two month grace period [is necessary] for implementation to provide ample time to accomplish the necessary reprogramming, deployment, and training" in relation to these forms. As already discussed above, we express no opinion as to whether these approved forms

comport with current law.

Appendix C: Amendments to All of the Family Law Forms: We consecutively set forth all the family law forms (i.e., both the "rules forms" and the "Florida Supreme Court Approved Forms," including the domestic and repeat violence injunction forms set forth in Appendix B), fully engrossed, for immediate use.[8] We again express no opinion as to whether these approved forms comport with current law.

This opinion, and all of the forms and rules discussed herein, may be accessed and downloaded from this Court's website at www.flcourts.org (click on "Opinions and Rules" option, then, under the heading "Court Rules," click on either "Family Law Rules and Opinions" or "Family Law Forms").

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, LEWIS and QUINCE, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

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[8] We originally contemplated that the "Florida Supreme Court Approved Forms" would be "removed from the rules and published separately" from the sixteen "rules forms." In re Amendments to the Florida Family Law Rules of Procedure, 724 So. 2d 1159, 1160 (Fla. 1998). However, upon further consideration, we have decided not to take such action because of the importance of having all of the family law rules and forms published comprehensively and consecutively in one place.

Judge Raymond T. McNeal, Chair, Family Court Steering Committee, Fifth Judicial Circuit, Ocala, Florida; Terrence P. O'Connor, Chair, Family Law Rules Committee, of Morgan, Carratt & O'Connor, Fort Lauderdale, Florida; and John F. Harkness, Jr., Executive Director, The Florida Bar, Tallahassee, Florida,

for Petitioner

Chief Judge Robert K. Rouse, Jr., Seventh Judicial Circuit, Daytona Beach, Florida; Judges Patrick G. Kennedy and S. James Foxman, Seventh Judicial Circuit, Daytona Beach, Florida; Judge Irene H. Sullivan, Sixth Judicial Circuit, St. Petersburg, Florida; Judge Seymour Benson, Eighteenth Judicial Circuit, Sanford, Florida; Administrative Judge Robert L. Doyel, Family Division, Tenth Judicial Circuit, Bartow, Florida, and Administrative Judge Amy Karan, Domestic Violence Division, Eleventh Judicial Circuit, Miami, Florida; Judge Keith Brace, First Judicial Circuit, Crestview, Florida; Chief Judge Paul B. Kanarek, Nineteenth Judicial Circuit, Vero Beach, Florida; Henry P. Trawick, Jr., Sarasota, Florida; Joel M. Cohen, Pensacola, Florida; Margaret Pearce of the Center Against Spouse Abuse, St. Petersburg, Florida, and Denise Springer of Gulf Coast Legal Services, St. Petersburg, Florida; and Sheriff Kevin Beary and Sergeant Kevin Behan, Domestic Violence Supervisor, Orange County Sheriff's Office, Orlando, Florida;

Responding

[NOTE: THE RULES AND FORMS FOLLOW BY SEPARATE DOCUMENTS AS LISTED BELOW.]

op-florida family law rules & forms-SC99-2(corrected)
op-florida family law rules & forms-SC99-2-AppendixA(corrected)
op-florida family law rules & forms-SC99-2-AppendixB(corrected)
op-florida family law rules & forms-SC99-2-AppendixC, Part 1(corrected)
op-florida family law rules & forms-SC99-2-AppendixC, Part 2(corrected)
op-florida family law rules & forms-SC99-2-AppendixC, Part 3(corrected)
op-florida family law rules & forms-SC99-2-AppendixC, Part 4(corrected)