

## **Domestic Violence/Peace Order Best Practices for Judges**

### **Is the Petitioner Requesting Dismissal? Ask them:**

- Do you feel that you are safe?
- Have you been coerced or threatened in any way to drop this case?
- Do you feel you will be harmed if you do not dismiss this case?
- Do you understand that you can return to court at any time to file another petition if you are in danger?

### **Caution Respondent/Offender:**

- Do you understand you must turn in all firearms you own or possess to law enforcement and not have any firearms in your possession for the duration of this Protective Order?
- Do you understand that a violation of this Order is a crime that may result in imprisonment?

### **Advise Petitioner/Victim:**

- Does the Respondent own or possess any firearms?
- This Order requires the Respondent to turn in all firearms s/he may own or possess to law enforcement and not have any firearms in their possession for the duration of this Order.
- If you feel you are in danger from the Respondent you should call 911 immediately.
- If the Respondent violates any condition of this Order, you may file a Petition for Contempt or you may seek criminal charges.

### **Reiterate to Both Parties:**

- Do you have any questions about this Order or what happened here today?
- Do you fully understand the requirements and prohibitions of this Order?
- If both parties appear for the Temporary Protective Order hearing after the entry of an Interim Protective Order, both parties must voluntarily consent to proceed to a Final Protective Order hearing. Judges should not pressure the parties to consent to the Final Protective Order hearing.

### **Judicial Discretion**

- Judicial Discretion should be exercised in each domestic violence case to determine appropriate conditions of custody, visitation, and emergency maintenance.
- Relief must be evaluated on the facts of each case.
- Final Protective Orders are issued upon a finding of clear and convincing evidence of abuse.
- There is no requirement for physical evidence; judges need to evaluate these cases based upon all the evidence, including the demeanor and credibility of the witnesses.
- If either of the parties fails to appear at the first call of the docket, consider passing the case to the end of the docket and recalling it at that time.
- Referrals to Mediation or an alternative dispute resolution process or even the suggestion to “work it out” are never appropriate in domestic violence cases.

### **REMEMBER TO STAGGER EXIT TIMES!!!**

- Have the Petitioner leave FIRST, after receiving a copy of the Order.
- Wait at least 15 minutes after Petitioner leaves the courthouse before allowing Respondent to exit.