

## **RULE 12.610. INJUNCTIONS FOR PROTECTION AGAINST DOMESTIC, REPEAT, DATING, AND SEXUAL VIOLENCE, AND STALKING**

**(a) Application.** This rule shall apply only to temporary and permanent injunctions for protection against domestic violence and temporary and permanent injunctions for protection against repeat violence, dating violence, or sexual violence, and stalking. All other injunctive relief sought in cases to which the Family Law Rules apply shall be governed by Florida Rule of Civil Procedure 1.610.

### **(b) Petitions.**

#### **(1) Requirements for Use.**

**(A) Domestic Violence.** Any person may file a petition for an injunction for protection against domestic violence as provided by law.

**(B) Repeat Violence.** Any person may file a petition for an injunction for protection against repeat violence as provided by law.

**(C) Dating Violence.** Any person may file a petition for an injunction for protection against dating violence as provided by law.

**(D) Sexual Violence.** Any person may file a petition for an injunction for protection against sexual violence as provided by law.

**(E) Stalking.** Any person may file a petition for an injunction for protection against stalking as provided by law.

#### **(2) Service of Petitions.**

**(A) Domestic Violence.** Personal service by a law enforcement agency is required. The clerk of the court shall furnish a copy of the petition for an injunction for protection against domestic violence, financial affidavit (if support is sought), Uniform Child Custody Jurisdiction and Enforcement Act affidavit (if custody is sought), temporary injunction (if one has been entered), and notice of hearing to the appropriate sheriff or law enforcement agency of the county where the respondent resides or can be found for expeditious service of process.

**(B) Repeat Violence, Dating Violence, Sexual Violence and Stalking.** Personal service by a law enforcement agency is required. The clerk of the court shall furnish a copy of the petition for an injunction for protection against repeat violence, dating violence, sexual violence, or stalking, temporary injunction (if one has been entered), and notice of hearing to the appropriate sheriff or law enforcement agency of the county where the respondent resides or can be found for expeditious service of process.

**(C) Additional Documents.** Service of pleadings in cases of domestic, repeat, dating, or sexual violence, or stalking other than petitions, supplemental petitions, and orders granting injunctions shall be governed by rule 12.080, except that service of a motion to modify or vacate an injunction should be by notice that is reasonably calculated to apprise the nonmoving party of the pendency of the proceedings.

**(3) Consideration by Court.** Upon the filing of a petition, the court shall set a hearing to be held at the earliest possible time. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. When the only ground for denial is no appearance of an immediate and present danger of domestic, repeat, dating, or sexual violence, or stalking,

the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with these rules.

**(4) Forms.**

**(A) Provision of Forms.** The clerk of the court or family or injunctions for injunctions for protection intake personnel shall provide simplified forms, including instructions for completion, for any person whose circumstances meet the requirements of this rule and shall assist the petitioner in obtaining an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking as provided by law.

**(B) Confidential Filing of Address.** A petitioner's address may be furnished to the court in a confidential filing separate from a petition or other form if, for safety reasons, a petitioner believes that the address should be concealed. The ultimate determination of a need for confidentiality must be made by the court as provided in Florida Rule of Judicial Administration 2.420.

**(c) Orders of Injunction.**

**(1) Consideration by Court.**

**(A) Temporary Injunction.** For the injunction for protection to be issued ex parte, it must appear to the court that an immediate and present danger of domestic, repeat, dating, or sexual violence or stalking exists. In an ex parte hearing for the purpose of obtaining an ex parte temporary injunction, the court may limit the evidence to the verified pleadings or affidavits for a determination of whether there is an imminent danger that the petitioner will become a victim of domestic, repeat, dating, or sexual violence or stalking. If the respondent appears at the hearing or has received reasonable notice of the hearing, the court may hold a hearing on the petition. If a verified petition and affidavit are amended, the court shall consider the amendments as if originally filed.

**(B) Final Judgment of Injunction for Protection Against Repeat, Dating, or Sexual Violence or Stalking.** A hearing shall be conducted.

**(C) Final Judgment of Injunction for Protection Against Domestic Violence.** The court shall conduct a hearing and make a finding of whether domestic violence occurred or whether imminent danger of domestic violence exists. If the court determines that an injunction will be issued, the court shall also rule on the following:

(i) whether the respondent may have any contact with the petitioner, and if so, under what conditions;

(ii) exclusive use of the parties' shared residence;

(iii) petitioner's temporary time-sharing with the minor child or children;

June 24, 2013 Family Law Rules of Procedure 74

(iv) whether respondent will have temporary time-sharing with the minor child or children and whether it will be supervised;

(v) whether temporary child support will be ordered;

(vi) whether temporary spousal support will be ordered; and

(vii) such other relief as the court deems necessary for the protection of the petitioner.

The court, with the consent of the parties, may refer the parties to mediation by a certified family mediator to attempt to resolve the details as to the above rulings. This mediation shall

be the only alternative dispute resolution process offered by the court. Any agreement reached by the parties through mediation shall be reviewed by the court and, if approved, incorporated into the final judgment. If no agreement is reached the matters referred shall be returned to the court for appropriate rulings. Regardless of whether all issues are resolved in mediation, an injunction for protection against domestic violence shall be entered or extended the same day as the hearing on the petition commences.

**(2) Issuing of Injunction.**

**(A) Standardized Forms.** The temporary and permanent injunction forms approved by the Florida Supreme Court for domestic, repeat, dating, and sexual violence, and stalking injunctions shall be the forms used in the issuance of injunctions under chapters 741 and 784, Florida Statutes. 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 chair of the Family Law Rules Committee of The Florida Bar, the chair of the Steering Committee on Families and Children in the Court, and the chair of The Governor's Task Force on Domestic and Sexual Violence.

**(B) Bond.** No bond shall be required by the court for the entry of an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking. The clerk of the court shall provide the parties with sufficient certified copies of the order of injunction for service.

**(3) Service of Injunctions.**

**(A) Temporary Injunction.** A temporary injunction for protection against domestic, repeat, dating, or sexual violence, or stalking must be personally served. When the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent pleadings seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer. If the temporary injunction was issued after a hearing because the respondent was present at the hearing or had reasonable notice of the hearing, the injunction may be served in the manner provided for a permanent injunction.

**(B) Permanent Injunction.**

**(i) Party Present at Hearing.** The parties may acknowledge receipt of the permanent injunction for protection against domestic, repeat, dating, or sexual violence, or stalking in writing on the face of the original order. If a party is present at the hearing and that party fails or refuses to acknowledge the receipt of a certified copy of the injunction, the clerk shall cause the order to be served by mailing certified copies of the injunction to the parties who were present at the hearing at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subdivision, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and within 24 hours shall forward a copy of the injunction and the clerk's affidavit of service to the sheriff with jurisdiction over the residence of the petitioner. This procedure applies to service of orders to modify or vacate injunctions for protection against domestic, repeat, dating, or sexual violence, or stalking.

**(ii) Party not Present at Hearing.** Within 24 hours after the court issues, continues, modifies, or vacates an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking the clerk shall forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner for service.

**(4) Duration.**

**(A) Temporary Injunction.** Any temporary injunction shall be effective for a fixed period not to exceed 15 days. A full hearing shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the temporary injunction and of the full hearing for good cause shown by any party, or upon its own motion for good cause, including failure to obtain service.

**(B) Permanent Injunction.** Any relief granted by an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking shall be granted for a fixed period or until further order of court. Such relief may be granted in addition to other civil and criminal remedies. Upon petition of the victim, the court may extend the injunction for successive periods or until further order of court. Broad discretion resides with the court to grant an extension after considering the circumstances. No specific allegations are required.

**(5) Enforcement.** The court may enforce violations of an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking in civil contempt proceedings, which are governed by rule 12.570, or in criminal contempt proceedings, which are governed by Florida Rule of Criminal Procedure 3.840, or, if the violation meets the statutory criteria, it may be prosecuted as a crime under Florida Statutes.

**(6) Motion to Modify or Vacate Injunction.** The petitioner or respondent may move the court to modify or vacate an injunction at any time. Service of a motion to modify or vacate injunctions shall be governed by subdivision (b)(2) of this rule. However, for service of a motion to modify to be sufficient if a party is not represented by an attorney, service must be in accordance with rule 12.070, or in the alternative, there must be filed in the record proof of receipt of this motion by the nonmoving party personally.

**(7) Forms.** The clerk of the court or family or injunction for protection intake personnel shall provide simplified forms including instructions for completion, for the persons whose circumstances meet the requirements of this rule and shall assist in the preparation of the affidavit in support of the violation of an order of injunction for protection against domestic, repeat, dating, or sexual violence, or stalking.