



GENDER AND JUSTICE COMMISSION

FRIDAY, SEPTEMBER 10, 2021 (9:30 AM – NOON)

JUSTICE SHERYL GORDON MCCLOUD, CO-CHAIR

JUDGE MARILYN PAJA, CO-CHAIR

ZOOM: [HTTPS://WACOURTS.ZOOM.US/J/96657257539](https://wacourts.zoom.us/j/96657257539)

PHONE: 253-215-8782 US (TACOMA)

MEETING ID: 966 5725 7539

PASSCODE: 110195



Agenda

Page

9:30 AM – 10:00 AM WELCOME AND INITIAL BUSINESS

- Welcome and Introductions Justice Sheryl Gordon McCloud
 - Land Acknowledgement Judge Marilyn Paja, Co-Chairs
- Approval of May 21st Meeting Minutes 3

10:00 AM – 10:10 AM GUEST

- Remarks from Representative Roger Goodman
45th Legislative District
Chair, House Public Safety Committee

10:10 – 10:15 AM STRETCH BREAK

10:15 AM – 11:15 AM GENDER JUSTICE STUDY

- **Priorities for Implementation** 6
 - Advisory Committee recommendations Justice Gordon McCloud and
Dr. Dana Raigrodski, Co-Chairs
 - Discussion: Which two priorities
from the Study should the Commission
plan to work on first? Sierra Rotakhina, Project Manager
Commission Members
- **Convening Implementation Committee** Kelley Amburgey-Richardson
 - Next Steps for the Study

11:15 AM – 11:20 AM STRETCH BREAK

11:20 AM – 11:50 AM E2SHB 1320 Working Groups

- **E2SHB 1320 Working Groups** 9
 - Project Updates Judge Jackie Shea-Brown and
Erin Moody, Co-Chairs
 - Opportunities for Involvement Laura Jones, Project Coordinator

11:50 AM – 11:55 AM ANNOUNCEMENTS

- **Projects and Events of Interest** Justice Sheryl Gordon McCloud
 - LFO Convening – Oct 6th



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11:55 AM – 12:00 PM **ADJOURNMENT**

➤ **Next Steps and Adjournment**

Justice Sheryl Gordon McCloud,

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Judge Marilyn Paja, Co-Chairs

APPENDIX

➤ 2022 Gender & Justice Meeting Dates

NEXT MEETING – November 19, 2021



Gender and Justice Commission
Friday, May 21, 2021
9:15 AM – 12:00 PM
Zoom Webconference



MEETING NOTES

Members & Liaisons Present

Justice Sheryl Gordon McCloud (Co-Chair)
 Judge Marilyn Paja (Co-Chair)
 Dua Abudiab
 Honorable Melissa Beaton
 Judge Anita Crawford-Willis
 Chief Judge Michelle Demmert
 Laura Edmonston
 Judge Rebecca Glasgow
 Professor Gail Hammer
 Elizabeth Hendren
 Commissioner Jonathon Lack
 Erin Moody
 Riddhi Mukhopadhyay
 Sal Mungia
 Dr. Dana Raigrodski
 Jennifer Ritchie
 Barbara Serrano
 Chief Judge Cindy Smith
 Judge Jackie Shea-Brown
 Vicky Vreeland

Members & Liaisons Absent

Kelly Harris
 Lillian Hawkins
 Judge Eric Lucas (ret.)
 Commissioner Sonia Rodriguez True

Guests

Nicole Ack
 Alan Adams
 Curtis Dunn
 Kalia Hobbs
 Andrew Lindsay
 Lorrie Thompson

Staff

Kelley Amburgey-Richardson
 Cynthia Delostrinos
 Laura Jones
 Moriah Freed
 Sierra Rotakhina

WELCOME AND INITIAL BUSINESS

Welcome and Call to Order

- The meeting was called to order at approximately 9:15 AM.
- The Co-Chairs congratulated Moriah Freed on her job reclassification to Court Program Assistant for the Supreme Court Commissions.
- The Co-Chairs welcomed Lorrie Thompson, AOC Senior Communications Officer, who was in attendance to learn more about the Gender Justice Study to help with rollout efforts.

March 12, 2021 Meeting Minutes

The meeting minutes were approved as presented.

GENDER JUSTICE STUDY

Member Feedback on All Draft Recommendations and Draft Technical Summaries – Justice Gordon McCloud, Dr. Dana Raigrodski, Sierra Rotakhina

Members and guests were split into two breakout rooms to discuss the recommendations.

- Each breakout group was led by one of the Study co-chairs. Participants in each group were asked to share their top three and bottom three recommendations from the Study.
- Justice Gordon McCloud shared that we seem to have consensus on the goals, but the concrete steps are more complicated.
- Some recommendations are conflicting and they are not all data based.

Full group debrief

- Dr. Raigrodski summarized her group's discussion. Overall there was general support for how the recommendations were laid out.
 - Areas of particular note were: access issues, communication, fees, jury service, LFOs and impact of infractions, all courts should be trauma informed and trained on implicit bias.
 - Some people liked the strong push for data collection, but others felt it could take the focus away from other recommendations.
 - Vicky Vreeland added that currently there is nowhere for attorneys to go to discuss judicial misconduct that is less formal, perhaps like an ombuds office.
- Justice Gordon McCloud summarized her group's discussion. There was overall agreement on 3 general priorities on the report – 1) improve data collection 2) improve court access including improvements to legal aid funding 3) over criminalization as it affects women of color.
 - Suggestions to involve WAPA more and elect more female prosecutors.
 - Jury access – there was some criticism of focusing on studies, and a suggestion to focus on juror pay.
- Justice Gordon McCloud added that she would like the Commission to speak with one voice on the recommendations in the final report. She asked Commission members to give a general thumbs up or thumbs down on the overarching goals.
 - The majority of members gave a thumbs up. There were no thumbs down.
- The Advisory Committee is meeting on Monday will provide additional feedback.
- Section authors are in the process of finalizing their own recommendations and seeking community feedback.
- Justice Gordon McCloud thanked members and guests for their feedback in breakout rooms. It will be integrated.

PROPOSAL TO AMEND CrR 3.2

Discussion: Proposal to Amend CrR 3.2 – Erin Moody, Judge Marilyn Paja, Judge Jackie Shea-Brown

Background

- Judge Paja provided an overview of CrR 3.2 and the proposed amendment, which was developed by the E2SHB 1517 DV Work Groups.
- In December, Laura Jones, Judge Lucas, and Judge Logan came and presented to the Domestic and Sexual Violence Committee (DSV) on the proposal.
- The rule has been amended over the years for various reasons, but it has not been amended with consideration of the risk of violence, particularly domestic violence.

- The workgroup elected to propose the rule in a way that was conservative. Researchers supporting the work group identified evidence-based studies and the work group selected the risk factors to include from one of those studies.
- The Domestic and Sexual Violence Committee reviewed and provided feedback on the proposal.
- After meeting, the committee voted on proposed changes, including technical edits and adding an explanatory comment.
- The DSV Committee and is now bringing the proposed amendment to the full Commission for consideration.

Discussion

- Some members were concerned that adding these factors to the rule could compound problems with disproportionality.
 - Erin Moody noted that the DSV Committee considered if this could be mitigated by an explanatory comment that provided additional context.
- The proposal could be an opportunity to educate lawyers and judges on DV issues.
- Other members were concerned that the list of risk factors is under inclusive – particularly due to the omission of stalking, which other tools show can have a lethality risk.
- What was strangulation not included as a risk factor?
 - Erin Moody shared that part of choosing the ODARA was the simplicity of application that does not rely on a hierarchy of factors. It also does not include factors that some other tools do, which tend to result in disproportionate racial impacts.
 - ODARA relates more to the recidivism risk, not lethality factors. Strangulation and stalking are high lethality factors, and are ways to control victims.
 - Judicial discretion means that these can still be taken into account without including them specifically in the proposed amendment.
- The Department of Corrections is contracting right now with Washington State University on a more gender responsive risk assessment tool. They were part of the DV workgroup, but do not have a finished product due to a switch in vendors.
- One limitation of the tool the factors were pulled from is that the tool has only been validated using male offenders in heterosexual relationships.
- The DSV Committee over represents victim advocates, and under represents defense attorneys.
 - The subcommittee that drafted the proposal shared it with a representative from the Washington Association of Criminal Defense Lawyers who was a member of the larger DV work groups. They did not have objections, but we expect there may still be pushback if the proposal is submitted and published for comment.
- Justice Gordon McCloud added that when the Supreme Court is deciding on the adoption of a court rule, there is tension between a top down approach, which limits discretion, and trial court discretion.

ACTION: Laura Jones will work with Erin Moody to circulate the proposed amendment for comment from the Commission.

BRIEF UPDATES AND NEW BUSINESS

Passage of E2SHB 1320 – Laura Jones, Kelley Amburgey-Richardson

Background

- During the legislative session, Judge Paja and Kelley Amburgey-Richardson tracked this bill closely.
- The Commission took a position of general support for improving access to justice, submitted letters of support, and Judge Paja testified at public hearings.
- As part of AOC's judicial impact note, we requested funding, which was included in the budget that passed.
- Laura Jones will be staffing this legislative work.

Gender and Justice Commission Provisions

- The Commission is named to convene stakeholders to work on several protection order issues in Sec. 12, 16, and 36 of the bill.
- WSCCR is named to help with research aspects.
- Recommendations are due to the Legislature on 12/1/21
- Recommendations are due to the Courts on 6/30/22
- Laura Jones is working on an implementation plan now.

ACTION: Let Laura Jones or Kelley Amburgey-Richardson know if you or someone you know would like to be involved.

Name Change Fees and Practices – Judge Marilyn Paja

- The Commission discussed issues with the application of GR 34 fee waivers to County Auditor name change recording fees a few years prior at a Commission meeting.
- It disproportionately affects LGBTQ individuals.
- Members noted that transgender issues are gender issues, and should also be considered by the Commission.
- A judge can waive the court filing fees, but many county auditors are not waiving the auditor recording fee based on an interpretation of the court rule and statute.
 - In King County, the court has asked for a budget line item to pay the county auditor's fee if the court filing fee is waived.
- The recording fee is going up by \$100.
- Possible solutions include a rule change, or to ask the legislature to amend the relevant statute.
 - Separation of powers issue – judicial branch is tasked on collecting the recording fee for the executive branch.
- Marriage certificates are accepted without a recording fee. They might be open to accepting name changes too.
- Elizabeth Hendren added that there are other issues with GR 34 that should be considered if the Commission proposes a revision.
- Justice Gordon McCloud noted the connection to the financial barriers section of the Gender Justice Study.

- Members discussed the possibility of convening an ad hoc committee re: financial barriers to court access / fees, including the auditor's recording fee. Professor Gail Hammer, Riddhi Mukhopadhyay, and Barbara Serrano volunteered to be a part of this effort.

June 2nd Symposium

- The Gender and Justice Commission is co-sponsoring this year's Supreme Court Symposium titled, *Behind Bars: The Increased Incarceration of Women and Girls of Color*.
- Register via Zoom or watch on TVW. Dr. Angela Davis will be the keynote speaker.

Announcements

- Judge Crawford-Willis thanked the Commission for support in attending the Children of Incarcerated Parents conference
- Judge Paja thanked Cynthia Delostrinos for all her hard work during the legislative session.

ADJOURNMENT

Next Steps and Adjournment – Justice Sheryl Gordon McCloud and Judge Marilyn Paja

- The Co-Chairs thanked members, guests, and staff for their attendance and participation in today's meeting.

The meeting was adjourned at 12:00

2021: HOW GENDER AND RACE AFFECT JUSTICE NOW



GENDER AND JUSTICE COMMISSION

Promoting Gender Equality
in the Justice System

The 2021 Gender Justice Study found evidence of many gender inequities in Washington State’s justice system. These inequities most frequently impact Black, Indigenous, and people of color who are women, transgender, and gender nonconforming.

 **The costs of accessing Washington courts has the greatest impact on single mothers; Black, Indigenous, and women of color; LGBTQ+ people; and those with disabilities.**

Lack of affordable child care limits the ability of low-income women to get to court, underscoring the need for flexible court schedules and online access to court.

Gender, the Legal Community, and Barriers to Accessing the Courts

- » The costs of accessing Washington courts—such as user fees, child care, and lawyers—create barriers. This has the greatest impact on single mothers; Black, Indigenous, and women of color; LGBTQ+ people; and those with disabilities.
- » Lack of affordable child care limits the ability of low-income women to get to court, underscoring the need for flexible court schedules and online access to court.
- » Lack of court interpreters and translated materials disadvantages people with distinct communication needs. This is a particular concern for those seeking protection from domestic violence, including immigrant women and families.
- » Black, Indigenous, and women of color are not well represented in jury pools. Higher juror pay and research on challenges for female jurors are needed.
- » Women, particularly Black, Indigenous, and other women of color, continue to face bias and pay disparities in the legal profession. Women and men of color are also underrepresented in judicial and law firm leadership positions.

Gender, Civil Justice, and the Courts

- » The highest rates of workplace discrimination and harassment affect Black, Indigenous, and women of color; women doing farm work, domestic labor, and hospitality work; people with disabilities; and LGBTQ+ workers.
- » Those most impacted by workplace discrimination and harassment have difficulty reporting incidents and finding lawyers. They may receive unequal court outcomes by gender, race, and ethnicity.
- » A 2021 workplace survey of employees in Washington courts, superior court clerk offices, and judicial branch agencies found that employees who identified as American Indian, Alaska Native, First Nations, or other Indigenous Group Member (86%), bisexual (84%), gay or lesbian (73%), and women (62%) reported the highest rates of harassment.
- » Current practices for valuing life for wrongful death and other tort claims devalue the lives of women and Black, Indigenous, and people of color.
- » Data suggests that gender and other biases in family law proceedings can impact custody, child support, and maintenance decisions.

Employees who identified as American Indian, Alaska Native, First Nations, or other Indigenous Group Member (86%), bisexual (84%), gay or lesbian (73%), and women (62%) reported the highest rates of harassment.



Despite improvements in the law and its enforcement, barriers to justice remain for victims of gender-based violence. The large numbers of missing and murdered Indigenous women and people remain a key concern.

Gender, Violence, Youth, and Exploitation

- » Domestic violence and sexual assault mostly harm women and LGBTQ+ people—particularly those who are Black, Indigenous, people of color, immigrants, or living in poverty. They face barriers to reporting such gender-based violence.
- » Despite improvements in the law and its enforcement, barriers to justice remain for victims of gender-based violence. The large numbers of missing and murdered Indigenous women and people remain a key concern.
- » The law requiring mandatory arrests in domestic violence cases may have unintended adverse effects on women, people of color, immigrants, those living in poverty, and LGBTQ+ people.
- » Girls, LGBTQ+ people, and youth with disabilities take different pathways into the juvenile justice system than youth who are not a part of these populations, and have different needs inside the system.
- » Boys are targeted for commercial sexual exploitation in larger numbers than previously known. But women, youth of all genders, LGBTQ+ people, those in poverty, and Black, Indigenous and communities of color are the main targets.
- » The justice system response to commercial sexual exploitation has greatly improved but still treats many in the sex industry, including exploited populations, as criminals.

The Gendered Impact of the Increase in Convictions and Incarceration

- » While men of color have suffered the brunt of mass incarceration, the number of women incarcerated in Washington grew exponentially and largely in the shadows between 1980 and 2000. Their numbers continue to increase while the very high incarceration rates for men decrease.
- » Our pilot project found that Black, Indigenous, and women of color are convicted and sentenced at rates two to eight times higher than white women.
- » Jail and prison programs and policies are developed for men and often do not meet the needs of women or transgender and gender nonconforming people.
- » Incarcerated mothers are more likely than fathers to be primary caregivers. Mothers are thus more likely to lose their children to out-of-home care during their incarceration.
- » Racial disparities in arrests negatively influence pretrial bail decisions, which influences plea deals, affects charging decisions, and creates a higher likelihood of incarceration and longer sentences for both men and women of color.
- » There is little data on the gender impacts of legal financial obligations (LFOs). The available research suggests that while men face higher LFOs, women face greater challenges trying to pay both their own LFOs and those of people close to them.

 **Our pilot project found that Black, Indigenous, and women of color are convicted and sentenced at rates two to eight times higher than white women.**



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Access the complete study and pilot project reports on the Gender and Justice Commission website @www.courts.wa.gov/genderjustice.

HB 1320 Project Overview/Updates:

During the 2021 legislative session, the Washington State Legislature passed **E2SHB 1320 - Modernizing, harmonizing, and improving the efficacy and accessibility of laws concerning civil protection orders**. Sections 12, 16, and 36 assign the Administrative Office of the Courts, through the Gender and Justice Commission, with convening stakeholders to make recommendations to both the Legislature and to the courts on a variety of protection order-related issues.

As co-chairs of the Commission's Domestic and Sexual Violence Committee, Judge Jackie Shea-Brown and Erin Moody are leading this project on behalf of the Commission. The work plan that we've developed divides the project into three topical working groups:

1. *Research & Information Sharing (Leads: Chief Judge Michelle Demmert, Chief Judge Cindy Smith, Judge Tanya Thorp)*
 - In partnership with the Washington Tribal State Court Consortium, develop best practices re: how state courts can see protection orders entered by Tribal courts, military courts, and other jurisdictions, which are enforceable in state court
Due to Legislature: December 1, 2021
 - Develop best practices in data collection and sharing to promote research and transparency, in consultation with research entities
Due to the Courts: June 30, 2022

2. *Technology (Tim Fitzgerald, Elizabeth Hendren)*
 - Develop standards for the courts regarding requirements to private vendors who provide services related to filing systems for protection orders and what data should be collected
 - Develop standards for the courts regarding uses of technology to reduce administrative burdens in protection order proceedings
Due to courts: June 30, 2022

3. *Litigant Rights & Access (Riddhi Mukhopadhyay, Judge Averil Rothrock)*
 - Whether jurisdiction should be harmonized, modified, consolidated
 - Best practices for minor litigants, including sanctions
 - How the civil protection order law can more effectively address coercive control
Due to Legislature: December 1, 2021
 - Standards for filing evidence in protection order proceedings to protect victims safety and privacy
 - Recommendations to improve access to unrepresented litigants
 - Best practices where civil and criminal proceedings concerning same alleged conduct
Due to the courts: June 30, 2022

In addition to the Washington State Women's Commission and Washington Tribal State Court Consortium who are named as partners in this work, the stakeholders consist of judges from all court levels, court administrators, court clerks, advocates, and practitioners. Consultation with experts and additional entities is also required per the statute with regard to increasing access to pro se litigants,

developing best practices in data collection and sharing, and best practices for minor litigants. Each of the groups consists of approximately 25-55 stakeholders, with the Litigant Rights & Access Group being the largest.

An initial project kick-off meeting was held on July 28th via Zoom. Since then, subcommittees have been meeting separately via Zoom to work on their deliverables:

Research & Information Sharing: 1st and 3rd Monday of each month at 4 pm

Technology: 2nd Monday of each month at 2 pm

Litigant Rights & Access: 2nd Wednesday and 4th Friday of each month at noon

All groups are focused on information gathering and have coordinated on putting together surveys of state court clerks, administrators, and judges; Tribal court clerks, administrators, and judges; and advocacy organizations.

1 (3) For the purposes of this section:

2 (a) "Communicated" or "made known" includes the following means:
3 In person, through publication, by mail, telephonically, through an
4 electronic communication site or medium, by text, or through other
5 social media. Communication on any electronic medium that is
6 generally available to any individual residing in the state is
7 sufficient to exercise jurisdiction under subsection (1)(d) of this
8 section.

9 (b) An act or acts that "occurred within this state" include an
10 oral or written statement made or published by a person outside of
11 this state to any person in this state by means included in (a) of
12 this subsection, or by means of interstate commerce or foreign
13 commerce.

14 NEW SECTION. **Sec. 11.** OUT-OF-STATE CHILD CUSTODY JURISDICTIONAL
15 ISSUES. Jurisdictional issues regarding out-of-state proceedings
16 involving the custody or residential placement of any child of the
17 parties are governed by the uniform child custody jurisdiction and
18 enforcement act, chapter 26.27 RCW.

19 NEW SECTION. **Sec. 12.** RECOMMENDATIONS ON JURISDICTION OVER
20 PROTECTION ORDER PROCEEDINGS. (1) The administrative office of the
21 courts, through the gender and justice commission of the Washington
22 state supreme court, and with the support of the Washington state
23 women's commission, shall consider and develop recommendations
24 regarding the jurisdictional division of authority and responsibility
25 among superior courts and courts of limited jurisdiction for
26 protection order proceedings, and the differing approaches to
27 jurisdiction among the types of protection orders. The work shall
28 assess whether jurisdiction should be harmonized, modified, or
29 consolidated to further the stated intent of this act. The work shall
30 consider the underlying rationale for the existing jurisdictional
31 division, assess whether the jurisdictional division creates barriers
32 to access, gather data on usage and financial costs or savings, and
33 weigh other relevant benefits and ramifications of modifying or
34 consolidating jurisdiction.

35 (2) In developing the recommendations, the gender and justice
36 commission must work with representatives of superior, district, and
37 municipal court judicial officers, court clerks, and administrators,
38 including those with experience in protection order proceedings, as

1 well as advocates and practitioners with expertise in each type of
2 protection order, including those involving minors. Participants
3 should include those from both rural and urban jurisdictions.

4 (3) The gender and justice commission shall provide **summary**
5 **recommendations to the legislature by December 1, 2021.**

6 **PART III**

7 **FILING**

8 NEW SECTION. **Sec. 13.** FILING—TYPES OF PETITIONS. (1) There
9 exists an action known as a petition for a protection order. The
10 following types of petitions for a protection order may be filed:

11 (a) A petition for a domestic violence protection order, which
12 must allege the existence of domestic violence committed against the
13 petitioner or petitioners by an intimate partner or a family or
14 household member. The petitioner may petition for relief on behalf of
15 himself or herself and on behalf of family or household members who
16 are minors or vulnerable adults. A petition for a domestic violence
17 protection order must specify whether the petitioner and the
18 respondent are intimate partners or family or household members. A
19 petitioner who has been sexually assaulted or stalked by an intimate
20 partner or a family or household member should, but is not required
21 to, seek a domestic violence protection order, rather than a sexual
22 assault protection order or a stalking protection order.

23 (b) A petition for a sexual assault protection order, which must
24 allege the existence of nonconsensual sexual conduct or nonconsensual
25 sexual penetration that was committed against the petitioner by the
26 respondent. A petitioner who has been sexually assaulted by an
27 intimate partner or a family or household member should, but is not
28 required to, seek a domestic violence protection order, rather than a
29 sexual assault protection order. A single incident of nonconsensual
30 sexual conduct or nonconsensual sexual penetration is sufficient
31 grounds for a petition for a sexual assault protection order. The
32 petitioner may petition for a sexual assault protection order on
33 behalf of:

34 (i) Himself or herself;

35 (ii) A minor child, where the petitioner is the parent, legal
36 guardian, or custodian;

37 (iii) A vulnerable adult, where the petitioner is an interested
38 person; or

1 order or a domestic violence protection order on behalf of, and with
2 the consent of, any vulnerable adult. When the department has reason
3 to believe a vulnerable adult lacks the ability or capacity to
4 consent, the department, in its discretion, may seek relief on behalf
5 of the vulnerable adult. Neither the department nor the state of
6 Washington is liable for seeking or failing to seek relief on behalf
7 of any persons under this section. The vulnerable adult shall not be
8 held responsible for any violations of the order by the respondent.

9 (2) (a) If the petitioner for an extreme risk protection order is
10 a law enforcement agency, the petitioner shall make a good faith
11 effort to provide notice to an intimate partner or family or
12 household member of the respondent and to any known third party who
13 may be at risk of violence. The notice must state that the petitioner
14 intends to petition the court for an extreme risk protection order or
15 has already done so, and include referrals to appropriate resources,
16 including behavioral health, domestic violence, and counseling
17 resources. The petitioner must attest in the petition to having
18 provided such notice, or attest to the steps that will be taken to
19 provide such notice.

20 (b) Recognizing that an extreme risk protection order may need to
21 be issued outside of normal business hours, courts shall allow law
22 enforcement petitioners to petition after hours for a temporary
23 extreme risk protection order using an on-call, after-hours judge, as
24 is done for approval of after-hours search warrants.

25 NEW SECTION. **Sec. 16.** DUTIES OF THE ADMINISTRATIVE OFFICE OF
26 THE COURTS—RECOMMENDATIONS FOR FILING AND DATA COLLECTION. (1) **By**
27 **June 30, 2022,** the administrative office of the courts shall:

28 (a) Develop and distribute standard forms for petitions and
29 orders issued under this chapter, and facilitate the use of online
30 forms for electronic filings.

31 (i) For all protection orders except extreme risk protection
32 orders, the protection order must include, in a conspicuous location,
33 a notice of criminal penalties resulting from a violation of the
34 order, and the following statement: "You can be arrested even if the
35 protected person or persons invite or allow you to violate the order.
36 You alone are responsible for following the order. Only the court may
37 change the order. Requests for changes must be made in writing."

38 (ii) For extreme risk protection orders, the protection order
39 must include, in a conspicuous location, a notice of criminal

1 penalties resulting from a violation of the order, and the following
2 statement: "You have the sole responsibility to avoid or refrain from
3 violating this order's provisions. Only the court may change the
4 order. Requests for changes must be made in writing.";

5 (b) Develop and distribute instructions and informational
6 brochures regarding protection orders and a court staff handbook on
7 the protection order process, which shall be made available online to
8 view and download at no cost. Developing additional methods to inform
9 the public about protection orders in understandable terms and in
10 languages other than English through videos and social media should
11 also be considered. The instructions, brochures, forms, and handbook
12 must be prepared in consultation with civil legal aid, culturally
13 specific advocacy programs, and domestic violence and sexual assault
14 advocacy programs. The instructions must be designed to assist
15 petitioners in completing the petition, and must include a sample of
16 standard petition and protection order forms. The instructions and
17 standard petition must include a means for the petitioner to
18 identify, with only lay knowledge, the firearms the respondent may
19 own, possess, receive, have access to, or have in the respondent's
20 custody or control. The instructions must provide pictures of types
21 of firearms that the petitioner may choose from to identify the
22 relevant firearms, or an equivalent means to allow petitioners to
23 identify firearms without requiring specific or technical knowledge
24 regarding the firearms. The court staff handbook must allow for the
25 addition of a community resource list by the court clerk. The
26 informational brochure must describe the use of, and the process for,
27 obtaining, renewing, modifying, terminating, and enforcing protection
28 orders as provided under this chapter, as well as the process for
29 obtaining, modifying, terminating, and enforcing an antiharassment
30 no-contact order as provided under chapter 9A.46 RCW, a domestic
31 violence no-contact order as provided under chapter 10.99 RCW, a
32 restraining order as provided under chapters 26.09, 26.26A, 26.26B,
33 and 26.44 RCW, a foreign protection order as defined in chapter 26.52
34 RCW, and a Canadian domestic violence protection order as defined in
35 RCW 26.55.010;

36 (c) Determine the significant non-English-speaking or limited
37 English-speaking populations in the state. The administrative office
38 of the courts shall then arrange for translation of the instructions
39 and informational brochures required by this section, which must
40 contain a sample of the standard petition and protection order forms,

1 into the languages spoken by at least the top five significant non-
2 English-speaking populations, and shall distribute a master copy of
3 the translated instructions and informational brochures to all court
4 clerks and to the Washington supreme court's interpreter commission,
5 minority and justice commission, and gender and justice commission by
6 the effective date of this section. Such materials must be updated
7 and distributed if needed due to relevant changes in the law;

8 (d) (i) Distribute a master copy of the petition and order forms,
9 instructions, and informational brochures to all court clerks, and
10 distribute a master copy of the petition and order forms to all
11 superior, district, and municipal courts;

12 (ii) In collaboration with civil legal aid attorneys, domestic
13 violence advocates, sexual assault advocates, elder abuse advocates,
14 clerks, and judicial officers, develop and distribute a single
15 petition form that a petitioner may use to file for any type of
16 protection order authorized by this chapter, with the exception of
17 extreme risk protection orders;

18 (iii) For extreme risk protection orders, develop and prepare:

19 (A) A standard petition and order form for an extreme risk
20 protection order, as well as a standard petition and order form for
21 an extreme risk protection order sought against a respondent under 18
22 years of age, titled "Extreme Risk Protection Order - Respondent
23 Under 18 Years";

24 (B) Pattern forms to assist in streamlining the process for those
25 persons who are eligible to seal records relating to an order under
26 (d) (i) of this subsection, including:

27 (I) A petition and declaration the respondent can complete to
28 ensure that requirements for public sealing have been met; and

29 (II) An order sealing the court records relating to that order;
30 and

31 (C) An informational brochure to be served on any respondent who
32 is subject to a temporary or full protection order under (d) (iii) (A)
33 of this subsection;

34 (e) Create a new confidential party information form to satisfy
35 the purposes of the confidential information form and the law
36 enforcement information sheet that will serve both the court's and
37 law enforcement's data entry needs without requiring a redundant
38 effort for the petitioner, and ensure the petitioner's confidential
39 information is protected for the purpose of safety. The form should
40 be created with the presumption that it will also be used by the

1 respondent to provide all current contact information needed by the
2 court and law enforcement, and full identifying information for
3 improved data entry. The form should also prompt the petitioner to
4 disclose on the form whether the person who the petitioner is seeking
5 to restrain has a disability, brain injury, or impairment requiring
6 special assistance; and

7 (f) Update the instructions, brochures, standard petition and
8 order for protection forms, and court staff handbook when changes in
9 the law make an update necessary.

10 (2) The administrative office of the courts, through the gender
11 and justice commission of the Washington state supreme court, and
12 with the support of the Washington state women's commission, shall
13 work with representatives of superior, district, and municipal court
14 judicial officers, court clerks, and administrators, including those
15 with experience in protection order proceedings, as well as advocates
16 and practitioners with expertise in each type of protection order,
17 and others with relevant expertise, to **develop for the courts:**

18 (a) Standards for filing evidence in protection order proceedings
19 in a manner that protects victim safety and privacy, including
20 evidence in the form of text messages, social media messages, voice
21 mails, and other recordings, and the development of a sealed cover
22 sheet for explicit or intimate images and recordings; and

23 (b) Requirements for private vendors who provide services related
24 to filing systems for protection orders, as well as what data should
25 be collected.

26 NEW SECTION. **Sec. 17.** FILING—COURT CLERK DUTIES. (1) All court
27 clerks' offices shall make available the standardized forms,
28 instructions, and informational brochures required by this chapter,
29 and shall fill in and keep current specific program names and
30 telephone numbers for community resources, including civil legal aid
31 and volunteer lawyer programs. Any assistance or information provided
32 by clerks under this chapter, or any assistance or information
33 provided by any person, including court clerks, employees of the
34 department of social and health services, and other court
35 facilitators, to complete the forms provided by the court, does not
36 constitute the practice of law, and clerks are not responsible for
37 incorrect information contained in a petition.

38 (2) All court clerks shall obtain community resource lists as
39 described in (a) and (b) of this subsection, which the court shall

1 NEW SECTION. **Sec. 36.** RECOMMENDATIONS ON IMPROVING PROTECTION
2 ORDER PROCEEDINGS. (1) The administrative office of the courts,
3 through the gender and justice commission of the Washington state
4 supreme court, and with the support of the Washington state women's
5 commission, shall work with representatives of superior, district,
6 and municipal court judicial officers, court clerks, and
7 administrators, including those with experience in protection order
8 proceedings, as well as advocates and practitioners with expertise in
9 each type of protection order, and others with relevant expertise, to
10 consider and develop recommendations regarding:

11 (a) Uses of technology to reduce administrative burdens in
12 protection order proceedings;

13 (b) Improving access to unrepresented parties in protection order
14 proceedings, including promoting access for pro bono attorneys for
15 remote protection order proceedings, in consultation with the
16 Washington state bar association;

17 (c) Developing best practices for courts when there are civil
18 protection order and criminal proceedings that concern the same
19 alleged conduct;

20 (d) Developing best practices in data collection and sharing,
21 including demographic information, in order to promote research and
22 study on protection orders and transparency of protection order data
23 for the public, in partnership with the Washington state center for
24 court research, the Washington state institute for public policy, the
25 University of Washington, and the urban Indian health institute;

26 (e) Developing best practices, including proposed training and
27 necessary forms, in partnership with the Washington tribal state
28 court consortium, to address how:

29 (i) Washington state court judges of all levels can see the
30 existence of, and parties to, tribal court, military, and other
31 jurisdiction protection orders, in comity with similar state court
32 orders;

33 (ii) Tribal courts can enter their protection orders into the
34 judicial information system used by courts to check for conflicting
35 orders and history; and

36 (iii) State courts can query the national crime information
37 center to check for tribal, military, and other jurisdictions'
38 protection orders prior to issuing protection orders;

39 (f) Developing best practices for minor respondents and
40 petitioners in civil protection order proceedings, including what

1 sanctions should be provided for in law, with input from legal
2 advocates for children and youth, juvenile public defense, juvenile
3 prosecutors, adolescent behavioral health experts, youth development
4 experts, educators, judicial officers, victim advocates, restorative-
5 informed or trauma-informed professionals, child advocacy centers,
6 and professionals experienced in evidenced-based modalities for the
7 treatment of trauma; and

8 (g) Assessing how the civil protection order law can more
9 effectively address the type of abuse known as "coercive control" so
10 that survivors can seek earlier protective intervention before abuse
11 further escalates.

12 (2) The gender and justice commission may hire a consultant to
13 assist with the requirements of this section with funds as
14 appropriated.

15 (3) The gender and justice commission shall provide a brief
16 report of its recommendations to the legislature for subsection
17 (1)(e) through (g) of this section by December 1, 2021, and, for
18 subsection (1)(a) through (d) of this section, provide
19 recommendations to the courts by July 1, 2022.

20 **PART VI**
21 **ORDERS, DURATION, RELIEF, AND REMEDIES**

22 NEW SECTION. **Sec. 37.** Sections 38 through 42 of this act apply
23 to all orders other than extreme risk protection orders.

24 NEW SECTION. **Sec. 38.** EX PARTE TEMPORARY PROTECTION ORDERS,
25 OTHER THAN FOR EXTREME RISK PROTECTION ORDERS. (1) Where it appears
26 from the petition and any additional evidence that the respondent has
27 engaged in conduct against the petitioner that serves as a basis for
28 a protection order under this chapter, and the petitioner alleges
29 that irreparable injury could result if an order is not issued
30 immediately without prior notice to the respondent, the court may
31 grant an ex parte temporary protection order, pending a full hearing.
32 The court has broad discretion to grant such relief as the court
33 deems proper, including the forms of relief listed in section 39 of
34 this act, provided that the court shall not order a form of relief
35 listed in section 39 of this act if it would not be feasible or
36 appropriate for the respondent to comply with such a requirement
37 before a full hearing may be held on the petition for a protection

Gender and Justice Commission

2022 Meeting Dates

Virtual Meetings held via Zoom Videoconference

Contact Moriah Freed (Moriah.Freed@courts.wa.gov) for Zoom access information.

Date	Time	Location
January 21 st	9:30 AM – 12:00 PM	Zoom Videoconference
March 4 th	9:30 AM – 12:00 PM	TBD
May 27 th	9:30 AM – 12:00 PM	TBD
September 9 th	9:30 AM – 12:00 PM	TBD
November 4 th	9:30 AM – 12:00 PM	TBD

Please contact Kelley Amburgey-Richardson with any questions at (360) 704-4031 or Kelley.Amburgey-Richardson@courts.wa.gov.