Washington State Supreme Court Gender and Justice Commission

Justice Sheryl Gordon McCloud, Co-Chair
Washington State Supreme Court

Judge Marilyn G. Paja, Co-Chair
Kitsap County District Court

Ms. Dua Abudiab
Washington Women Lawyers

Honorable Melissa Beaton
Skagit County Clerk

Ms. Barbara Serrano
Office of the Attorney General

Judge Anita Crawford-Willis
Seattle Municipal Court

Judge Michelle Demmert
Alaska Native Women's Resource Center

Judge Rebecca Glasgow
Court of Appeals, Division II

Mr. Kelly Harris
Seattle City Attorney's Office

Ms. Lillian Hawkins
King County District Court, West Division

Ms. Elizabeth Hendren
Northwest Justice Project

Commissioner Jonathon Lack
King County Superior Court

Ms. Erin Moody
Eleemosynary Legal Services

Ms. Riddhi Mukhopadhyay
Sexual Violence Law Center

Dr. Dana Raigrodski
University of Washington School of Law

Ms. Jennifer Ritchie
King County Prosecuting Attorney's Office

Judge Jacqueline Shea-Brown
Benton Franklin Superior Courts

Chief Judge Cindy K. Smith
Suquamish Tribal Court

May 6, 2022

The Honorable Manka Dhingra
Washington State Senate, 45th District
P.O. Box 40445
Olympia, WA 98504

The Honorable Mike Padden
Washington State Senate, 4th District
P.O. Box 40404
Olympia, WA 98504

The Honorable Roger Goodman
Washington State Representative, 45th District
P.O. Box 40600
Olympia, WA 98504

The Honorable Gina Mosbrucker
Washington State Representative, 14th District
P.O. Box 40600
Olympia, WA 98504

Re. SHB 1901 Sec. 27

Dear Senator Dhingra, Senator Padden, Representative Goodman, and Representative Mosbrucker:

On May 10, 2021, Engrossed Second Substitute House Bill (E2SHB) 1320 was signed into law. Sections 12, 16, and 36 directed the Administrative Office of the Courts, through the Washington State Supreme Court Gender and Justice Commission, to convene stakeholders to consider and develop recommendations for the Legislature by December 1, 2021, and for the courts by June 30, 2022, regarding a variety of civil protection order issues.

During the 2022 session, the Legislature passed Substitute House Bill (SHB) 1901. Section 27 additionally directs the Gender and Justice Commission, through its stakeholder groups, to consider a study "regarding how the inclusion of coercive control under this act helps to further realize the legislative intent of the law…" and whether such a study would be "readily measurable through available data."

After consultation with stakeholders from the Administrative Office of the Courts, including the Washington State Center for Court Research, we have determined that a study on coercive control is not currently feasible because the necessary data is not currently tracked by the courts.

Please refer to the appended memo from the Court Business Information Supervisor that outlines how protection order data is recorded in the judicial information system (JIS), and options for tracking coercive control cases, including the creation of a coercive control indicator or unique order type codes. As stated in the memo, decisions about which option to use will require involvement of the Pattern Forms Committee and court clerks and administrators "to ensure the greatest efficiency and maximum accuracy for data reporting."

Additionally, understanding how courts are keeping records and entering data will help inform the design of any future study pertaining to domestic violence and could assist with studying other substantive legal issues. Before any substantive study is undertaken, the Washington State Center for Court Research recommended that a qualitative assessment of how courts respond to domestic violence cases and related protection orders be conducted. The results may also be used to develop training for court staff intended to increase consistency in record keeping across courts.

The 1320 stakeholder groups will be making additional recommendations about data collection and research to the courts by June 30, 2022.

Thank you for the opportunity to consider this issue, and please contact Laura Jones, Project Coordinator (Laura.Jones@courts.wa.gov), with any questions.

Sincerely,

Judge Jacqueline Shea-Brown, DSV Committee Co-Chair
E2SHB 1320 Project Lead

Erin Moody, DSV Committee Co-Chair
E2SHB 1320 Project Lead

cc:
Dawn Marie Rubio, State Court Administrator, Administrative Office of the Courts
Justice Sheryl Gordon McCloud, Washington State Supreme Court, Co-Chair of the Washington State Supreme Court Gender and Justice Commission
Judge Marilyn Paja, Kitsap County District Court, Co-Chair of the Washington State Supreme Court Gender and Justice Commission
Brittany Gregory, Associate Director of Legislative and Judicial Relations, Administrative Office of the Courts

Memo

To: HB 1320 Research & Information Sharing Stakeholder Group

From: Charlotte Jensen, Court Business Information Supervisor, AOC/CBO

Date: February 23, 2022

Re: Protection Order Coercive Control Tracking

The following information sets out options for tracking protection orders that include a finding of coercive control when entered into the JIS case management applications and Odyssey (both superior court and courts of limited jurisdiction versions). Please note that the information in this memo are options. There may be other considerations that result from further discussion and input from the people directly involved in entering data into the case management applications. The best recommendation I can make is, if tracking and reporting coercive control and/or domestic violence findings are important, the data needs to be clear.

JIS

Protection Order Types are recorded in JIS for both trial court levels. Superior Court Odyssey replicates the Protection Order Type codes to JIS from the Odyssey Protection Order Tab. Currently there is a Domestic Violence Indicator (DV) on the case and that indicator controls the type of Protection Order Type that can be entered on the case. The DV Indicator is available in the data.

Option 1: Coercive Control Indicator
The existing DV restriction for Protection Order Types will change when we implement 1320. All order types can be entered in the case management system regardless of the status of the DV indicator. Option 1 would create a second indicator for Coercive Control (Y/N) in JIS and Odyssey similar to the DV indicator. This option requires significant changes to JIS and development by Tyler for Odyssey. Tyler development comes with additional costs. This option will need to be sized by the AOC to determine if JIS can accommodate a new field (due to limited space on the screen) and other impacts.

Option 2: Unique Codes
The table below lists the current JIS Civil Protection Order Type Codes and the current DV Indicator requirements. Option 2 creates unique order type codes to distinguish between (a)

Coercive Control (CC) found or not found, (b) both DV and CC found, or (3) neither CC or DV found. The assumption is that the current DV indicator (Y/N) on the case would still be available for the order type to identify if DV was or was not found.

Current JIS Protection Order Types for Non-Criminal Cases		Current DV Required for Code Use	CC Yes	CC N	DV and CC*	Neither *
AHO	Anti-Harassment Order	No	x	x	x	x
DCD	Decree with Protection Order (for superior courts)	Yes or No	x	x	x	x
FPO	Foreign Protection Order	Yes or No	x	x	x	x
MPA	Order Modifying/Terminating Anti-Harassment Order	No	x	x	x	x
MPR	Order Modifying/Terminating Protection Order	Yes for CLJ Civil Yes or No for SC	x	x	x	x
MPS	Order Modifying Sexual Assault Protection Order	No	x	x	x	x
POR	Protection Order Renewal/Reissue	Yes or No	x	x	x	x
PRO	Protection Order	Yes or No	x	x	x	x
RSO	Restraining Order (for superior courts)	Yes or No	x	x	x	x
STK	Stalking Protection Order	No	x	x	x	x
SXP	Sexual Assault Protection Order	No	x	x	x	x
TAH	Temporary Anti-Harassment Order	Yes or No	x	x	x	x
TPR	Temporary Protection Order	Yes or No	x	x	x	x
TRO	Temporary Restraining Order (for superior courts)	Yes or No	x	x	x	x
TSK	Temporary Stalking Protection Order	No	x	x	x	x
TSX	Temporary Sexual Assault Protection Order	No	x	x	x	x
	*May or may not be required if the DV (Y/N) indicator data is used <u>plus</u> unique order type code for CC Found or CC Not Found (depending on governance committee recommendations). Examples: - DV found and CC Found: DV case indicator on the case = Y <u>AND</u> unique Order Type Code for CC=Y is entered. - DV found and CC not found: DV case indicator on the case = Y <u>AND</u> unique Order Type Code for CC=N is entered.					

	• DV not found and CC not found: DV case indicator on the case = N <u>AND</u> unique Order Type Code for CC=N is entered. • DV not found and CC found: DV case indicator on the case = N <u>AND</u> unique Order Type Code for CC=Y is entered.

Odyssey

All protection order Docket/Event Codes will be available regardless of the status of the DV indicator. Docket/Event codes identify the specific protection order signed by a judicial officer and filed in the case. These Docket/Event codes are applicable in both SC and CLJ Odyssey. Docket/Event codes are used in SCOMIS by Pierce County Superior Court and also would be made available to King County Superior and District Courts for their case management applications.

(JIS Note: Docket codes are available for use on the JIS Docket Screen. However, this data is not available for inclusion in data reports because the JIS Docket Screen entries are primarily free-form text entries that cannot be used for data reporting. Instead, Order Type Codes are used for reporting.)

Current Docket/Event Protection Order Codes for Non-Criminal Cases	Description (Current DV Flag Case Type allowed on the case is indicated in parenthesis)	CC Yes	CC N	DV and CC*	Neither *
ORDTPO	Order Dismissing Temporary Protection Order (N)	x	x	x	x
ORMTOA	Order Modifying / Terminating Terms of Protection Order From Unlawful Harassment (N)	x	x	x	x
ORMTSP	Order Modifying / Terminating Sexual Assault Protection Order (N)	x	x	x	x
ORRTPO	Order Reissuing Temporary Protection Order (Y/N)	x	x	x	x
ORRTRO	Order Reissuing Temporary Restraining Order (Y/N)	x	x	x	x
TMORAH	Temporary Antiharassment Protection Order (N)	x	x	x	x
TORAH18	Temporary Antiharassment Protection Order - Respondent Under 18 (N)	x	x	x	x
TMSTK18	Temporary Protection Order and Notice of Hearing-Respondent Under 18-Stalking (N)	x	x	x	x
TMOSTKH	Temporary Protection Order and Notice of Hearing-Stalking (N)	x	x	x	x

Current Docket/Event Protection Order Codes for Non-Criminal Cases	Description (Current DV Flag Case Type allowed on the case is indicated in parenthesis)	CC Yes	CC N	DV and CC*	Neither *
TMORSXP	Temporary Sexual Assault Protection Order and Notice of Hearing (N)	x	x	x	x
TMORVA	Temporary Vulnerable Adult Protection Order (Y/N)	x	x	x	x
ORSXP	Order for Sexual Assault Protection (Y/N)	x	x	x	x
ORPRTVA	Order for Protection—Vulnerable Adult (Y/N)	x	x	x	x
TMORVA	Temporary Vulnerable Adult Protection Order (Y/N)	x	x	x	x
ORSTK18	Order for Protection-Respondent Under 18-Stalking (N)	x	x	x	x
ORPSTK	Order for Protection-Stalking (N)	x	x	x	x
ORAH	Order for Protection From Civil Harassment (N)	x	x	x	x
ORAH18	Order for Protection From Civil Harassment - Respondent Under 18 (N)	x	x	x	x
ORPRTR	Order for Protection-Renewal / Reissue (Y/N)	x	x	x	x

Here are two options for identifying CC and CCDV findings included for Docket/Event codes.

Option 1
Unique Docket/Event code for each Order that includes the finding, e.g., OPVACC-Order for Protection-Vulnerable Adult (CC) and OPVACDV-Order for Protection-Vulnerable Adult (CC/DV). The benefit of this option is that the clerk need only enter one code applicable to the order signed by the judicial officer.

Optimally, the order form would have all three codes listed in the order caption. (The existing code could be used when there is no CC or CCDV finding.)

*May or may not be required if the DV (Y/N) indicator data is used plus unique Docket/Event code for CC Found or CC Not Found (depending on governance committee recommendations).
Examples:
- DV found and CC Found: DV case indicator on the case = Y AND unique Docket/Event Code for CC=Y is entered.

- DV found and CC not found: DV case indicator on the case = Y <u>AND</u> unique Docket/Event Code for CC=N is entered.
- DV not found and CC not found: DV case indicator on the case = N <u>AND</u> unique Docket/Event Code for CC=N is entered.
- DV not found and CC found: DV case indicator on the case = N <u>AND</u> unique Docket/Event Code for CC=Y is entered.

Option 2
Use a standard CC or CCDV <u>secondary (subtype) code</u> that would be entered under the primary order Docket/Event Code. This means that two docket entries per order would be needed in the case management system. The first entry is the Docket/Event Code specific to the order and a second entry for CC or CCDV, which is configured to produce no bar code for the order document. (This secondary (subtype) coding process is currently being used to docket good cause exceptions and caregiver notices in Dependency cases.)

The clerks on the Pattern Form Committee and/or the Codes Committee will be instrumental in identifying a preference for entering this data into the case management applications. Both of these options will require Pattern Form Committee involvement because the codes would need to be added to the existing Order forms. There should also be discussions with clerks and administrators from district and superior court to ensure the greatest efficiency and maximum accuracy for data reporting.