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March 30, 2018

**TO:** Judicial Community and Legal Community

**FROM:** Merrie Gough, Sr. Legal Analyst

**RE:** Updates to the Petition for Sexual Assault Protection Order and Instructions

The Washington Pattern Forms Committee updated the following forms:

1. Petition for Sexual Assault Protection Order, SA 01.015
2. Instructions for Petition for Sexual Assault Protection Order, SAi 01.015.

The changes are based upon the Supreme Court’s plurality decision in *Roake v. Delman*, 189 Wn. 2d. 775 (January 11, 2018), RCW 7.90.110, RCW 9.41.800(4) and recommended changes.

The table below includes detailed descriptions of the changes:

|  |  |
| --- | --- |
| **SA 1.015** | **Petition for Sexual Assault Protection Order**Change the box about an Emergency temporary protection order as follows:**Emergency temporary protection (up to 14 days) until the court hearing:*** An emergency exists as described below**.** I request that a **Temporary Sexual Assault Protection Order** granting the relief requested above in1) through 4)be issued immediately, without prior notice to the respondent, to be effective until the hearing.

Describe the harm the temporary order is intended to prevent that would be likely to occur if respondent were given prior notice.   .* I also request a temporary surrender of a firearm or other dangerous weapon without notice to the other party because irreparable injury could result if an order is not issued until the hearing.

What irreparable ~~harm~~ injury ~~would~~ could result if an order is not issued immediately without prior notice to the respondent? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Change the text after the heading “Statement” as follows:***Statement****:* ~~The respondent has committed a single act or acts of nonconsensual sexual conduct or nonconsensual sexual penetration, which give rise to a reasonable fear of future dangerous acts, for which relief is sought.~~ Statement about sexual assault and fear of future dangerous acts: (*complete both sections*)Add an “A.” before the first prompt beginning with “Describe any nonconsensual sexual conduct….”, and delete the second sentence as follows:1. Describe any nonconsensual sexual conduct or nonconsensual sexual penetration, and the approximate date(s). ~~Include any statements or actions of the respondent at the time of the incident(s) or at any other time that caused the petitioner fear~~:

Delete the second prompt and add a new prompt “B” as follows:1. Describe statements or actions of the respondent at the time of the sexual assault(s) or later that cause the petitioner reasonable fear of future dangerous acts:

~~Explain any additional reasons why this order should be issued immediately:~~After the writing lines for prompt “B” add a new subheading as follows:**“Complete the statements below that apply**:” |
| **SAi 1.015** | I**nstructions for Petition for Sexual Assault Protection Order**On page one:Add the following as the second paragraph: “If you have police reports, medical records, witness statements, or other documentation, you can attach those to the petition. You may black out information you do not want anyone to see.”In the table of relationships after the paragraph beginning with “Note,” change the relationships in the left column as follows:* spouse or former spouse
* parent of a ~~common~~ child in common
* current or former domestic partner
* current or former cohabitant as ~~intimate partner, including current or former registered domestic partner~~part of a dating relationship

Add a third bulleted item below “To qualify for this order, you do ***Not*** have to:”* “have been sexually assaulted more than once.”

Below the new bulleted item, delete the sentence/paragraph:“~~One incident of sexual assault is enough to qualify for an order.~~”On page three:Below the heading “**Court Cases** (Question 5),” delete the first paragraph:“~~This may not be the first court proceeding involving the petitioner and the respondent. The court will need to know about other cases or other restraining, protection or no-contact orders so the court does not issue an order that might conflict with an order from another court.~~”On page four:Below the heading “**Emergency temporary protection (up to 14 days) until the court hearing,**” and after the first paragraph beginning with “Check the box if an emergency exists…” and add the following indented paragraph:“In the space below the check box, describe the harm the temporary order is intended to prevent that would be likely to occur if respondent were given prior notice.”Change the indented paragraph that begins with “In the space below…” as follows:“In the space below the check box~~es~~, explain what irreparable ~~harm~~ injury ~~would~~ could result if the court ~~did not~~ does not issue temporary protection.”Immediately below the heading “**Statement** (Page 3)” insert a picture of the beginning of the “***Statement***” section of the petition:Statement heading 2 linesAfter the paragraph that begins with “First read the definition…” delete the following paragraph:“~~Describe any nonconsensual sexual conduct or nonconsensual sexual penetration and the approximate date and time. Include any statements or actions of the respondent made at the time of the incident or at any other time that caused the petitioner fear. The more details you can provide, the more helpful it is to the judge.~~”And replace it with the following:* “The court has no information unless you provide it.
* The more details you can provide, the more helpful it is to the judge.
* Try to explain exactly what the respondent did.
* Try to use the respondent’s exact words.

The statement is divided into parts A and B. You must complete both.”Insert a picture of the beginning of part “A” of the statement:Statement A2 lines 90 rzChange “Example” to “Examples.”Below the example that begins with “It is better to say, ‘Joe told me…’” insert a picture of the beginning of part “B” of the statement:Statement B2 lines 90 rzBelow the picture, add the following three paragraphs:“**You must allege that petitioner is afraid of respondent’s future dangerous acts**. Describe exactly what the respondent did or said during the sexual assault(s) or any time afterwards that caused the petitioner to fear respondent’s future dangerous acts.You may repeat what you described in part A, above, if you explain how that makes petitioner afraid of respondent’s *future* dangerous acts.The current law is not clear about what needs to be alleged about a reasonable fear of future dangerous acts by the respondent. (See RCW 7.90.020(1) and *Roake v. Delman*, No. 93456-8 (January 11, 2018).)”Delete the following sentence:“ **~~If you are asking for a temporary order, include a statement describing your immediate fear in the space provided.~~**”Insert the following sentence:“**Complete any other statements that apply**.”  |