

Hon. Michael G. Heavican, Chief Justice
Nebraska Supreme Court
Room 2214, State Capitol
Lincoln, NE 68508

April 13, 2020

Dear Chief Justice Heavican,

With Nebraskans being urged to stay home to prevent the spread of COVID-19, a harsh reality has come into focus: "home" is not safe for all Nebraskans. Victims of domestic violence and their children are being forced to remain in unsafe home environments rendered even more dangerous by this crisis. As this reality sets in, it is critical we ensure victims of violence can still obtain legal protections. To limit exposure and increase social distancing, we recognize some local courthouses will close or enforce severely limited access. **We, the undersigned organizations, urge the state court system to provide official communication to all local court systems that continued access to protection orders are part of essential or emergency court functions and that local courts must take all necessary measures to maintain victim access to domestic abuse, sexual assault and harassment protection orders for the duration of this state of emergency.**

The current pandemic has undoubtedly exacerbated risk factors for domestic violence and further isolated and endangered victims.ⁱ Heightened stress and tension at home will likely escalate abusers' controlling and violent behavior, yet many victims will be unable to leave abusive relationships. Financial insecurity from employment and income losses will constrain victims from seeking a safe place to live. Social distancing requirements will limit victims' access to resources and support from family members, friends and community.

It is now more critical than ever that victims continue to have access to legal protections from abuse, and protection orders are some of the most vital to enhance victim safety and hold abusers accountable. State court systems across the country are adjusting procedures to ensure continued access to protection orders by deeming them part of essential or emergency court functions, as seen in Iowa, Kansas, Minnesota, Missouri and many more.ⁱⁱ We call on our leaders to now ensure this process remains available for Nebraska victims.

Should Nebraska courts close completely or significantly limit physical access to courthouses, we recommend the court system's consideration of the following approaches:

- **Make all necessary protection order forms available online (in English, Spanish, and other prevalent languages).** We recognize protection order forms are currently available online through the Nebraska Supreme Court website; however, some local courts require additional forms not presently available online (including court order forms). We recommend:
 - Utilizing only the protection order forms available on the Nebraska Supreme Court website, and
 - Require judges or court staff to complete all other necessary forms.

- **Consider the barriers posed by the current notarization requirements and publish clear instructions for victims about notary requirements and processes on all local court websites and the Nebraska Supreme Court website.** To address challenges posed by notarization, the court system/s could consider:
 - Temporarily waiving notarization requirements on protection order forms until courts resume normal function, as the Iowa Supreme Court has done,ⁱⁱⁱ or
 - Making notarization available without requiring direct physical contact, including a new online notary system made available pursuant to Executive Order No. 20-13.

- **Consider various ways to access and submit protection order forms to the local court, as not all victims will have access to computers, printers, scanners, or fax machines.**
 - Consider alternative methods for ensuring access to protection order forms, such as providing hardcopies to local law enforcement to give to victims^{iv} and making forms available in a location prior to going through courthouse security.
 - Make online submission of protection order petitions available to victims via e-filing, email, or fax for all local courts. Ensuring that all necessary protection order forms can be downloaded, filled out electronically, and emailed is an important way to improve accessibility.
 - Consider alternative methods for submission of forms such as dropboxes. If accepting forms “by appointment only,” please allow for the broadest range of hours possible to accommodate limited availability of victims.

- **In the case of judges working remotely, we recommend utilizing e-signing platforms.**

- **If a Show Cause hearing is necessary, ex parte protection orders should also be granted, pursuant to NRS § 42-925, NRS § 28-311.11, or NRS § 28-311.09 to remain in effect until a hearing can be held, if the timeline for such hearing is extended due to limited court access.**

- **Ensure access to an advocate by communicating clearly with all local courts’ personnel - including security - that advocates are allowed into the courthouse for filing of protection orders and into courtrooms for protection order hearings.**

- **Make available a process for renewing all existing domestic abuse and sexual assault protection orders that are set to expire during this state of emergency and consider extending the effective date of all expiring protection orders until after courts resume normal functions, pursuant to the clause allowing for modification by the court in NRS § 42-924(3)(a), NRS § 28-311.11(4), or NRS § 28-311.09(4).**

- **Ensure all local clerks continue to provide copies of granted protection orders to the petitioner and the local police department, law enforcement agencies or sheriff’s office.**

On behalf of the undersigned organizations, we urge you to take immediate action to promote the safety of victims of violence and ensure remote protection order processes are adopted.

Sincerely,

Family Violence Council – Lancaster County
 Immigrant Legal Center
 Legal Aid of Nebraska
 Milton R. Abrahams Legal Clinic
 Nebraska Appleseed
 Nebraska Coalition to End Sexual and Domestic Violence
 Omaha/Douglas County Victim Assistance Unit within the Douglas County Attorney’s Office
 Survivors Rising
 Professor Ryan P. Sullivan, University of Nebraska College of Law, Civil Clinical Law Program
 Voices of Hope
 Women’s Center for Advancement
 Women’s Fund of Omaha

CC: Corey R. Steel, State Court Administrator
 Hon. Shelly R. Stratman, Judge of the District Court, Judicial District 4
 Hon. Sheryl L. Lohaus, Judge of the County Court, Judicial District 4
 John Friend, Douglas County Clerk of the District Court

ⁱ Center for Disease Control and Prevention, “Risk and Protective Factors for Perpetration,” <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html>

ⁱⁱ Iowa Supreme Court, “In the Matter of Ongoing Provisions for Coronavirus/COVID-19 Impact on Child Welfare and Juvenile Justice Youth and Families,” (April 6, 2020).

https://www.iowacourts.gov/static/media/cms/04062020_order_B260334579193.pdf; Supreme Court of the State of Kansas, “Administrative Order 2020-PR-016,” (March 18, 2020).

<https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020PR16.pdf>; Supreme Court of Minnesota, “ADM20-8001,” (March 26, 2020).

<http://www.mncourts.gov/mncourtsgov/media/CIOMediaLibrary/News%20and%20Public%20Notices/Orders/Order-Continuing-Operations-of-the-Courts-Emergency-Executive-Order-20-20.pdf>; Supreme Court of Missouri, “Response to the Coronavirus Disease (COVID-19) Pandemic,” (April 1, 2020). <https://www.courts.mo.gov/page.jsp?id=153953>.

ⁱⁱⁱ Iowa Supreme Court, “In the Matter of Ongoing Provisions for Coronavirus/COVID-19 Impact on Court Services,” (March 31, 2020), https://www.iowacourts.gov/static/media/cms/33120_order_w_service_list_C81DCD1CF9D5B.pdf

^{iv} See Tulsa County District Court’s new procedures regarding emergency protective orders – “Filing and Granting Emergency Protective Orders During COVID-19 Epidemic,” March 19, 2020,

http://tulsacountydistrictcourt.com/files/TC_Courts_EPO_Update_3-19-2020.pdf.