



3420 W. Armitage Ave., Suite 200
Chicago, IL 60647

Caitlin Cervenka

Tel. 312-508-5383

Fax 312-508-5380

ckcervenka@willensonlaw.com

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SENT VIA EMAIL

Committee Secretary
Illinois Supreme Court Rules Committee
222 N LaSalle St., 13th Floor
Chicago, Illinois 60601
abowne@illinoiscourts.gov

Re: Public Comment on Proposal 19-01 (P.R. 0265)

Dear Committee Secretary,

I am writing to express my support for Proposal 19-01 (P.R. 0265), amending the rule on solicitation of clients. If adopted, this amendment would protect survivors of domestic and sexual violence from further harm at the hands of abusive partners by ensuring that their abuser cannot subvert the judicial and law enforcement mechanisms that are designed to keep them safe.

The need for change in this rule became apparent while I was working with survivors of domestic violence, providing representation in obtaining orders of protection against abusive partners. I spoke with many clients who had just taken the incredibly brave and difficult step in filing an order of protection, so that they could safely leave their partner. In 2018, several clients disclosed to me that their abusive partner had received a solicitation letter from an attorney informing them of the legal proceeding and offering a consultation. While this does not sound unethical, or harmful in the average legal proceeding, orders of protection proceedings, which arise under the Illinois Domestic Violence Act (IDVA), *always* occur in an intensely dangerous and crucial time in an abusive relationship. Filing for an order of protection means that a survivor is ready to leave the relationship, and they are seeking the court's protection for themselves, and often their children. Orders of protection are initially sought and granted on an emergency, *ex-parte* basis only if the court makes a finding that further notice to the respondent, the abuser, would create a possibility of further harm to the petitioner.¹ The order of protection is served on the respondent by a law enforcement officer trained in safety measures to safely remove that person from the vicinity of the petitioner. Sending a letter to a respondent in this kind of proceeding undermines the legislative intent behind the IDVA, and other proceedings where the court upon a finding of the possibility of further harm issues an *ex-parte* order on an emergency basis, such as the Illinois Civil No Contact Order Act, the Illinois Stalking No Contact Order Act, and portions of the Illinois Criminal Code.

¹ See 750 ILCS 60/217

Survivors of domestic violence are afforded extra protections by law for a reason, especially when they have made the crucial decision to leave their abuser. The time when a survivor attempts to leave her abuser is typically the most dangerous, and even highly lethal, time in the relationship.² Respondents should only be notified of any protective order proceeding by a law enforcement officer – not by a letter from an attorney. Informal notice to an abuser that their partner has filed for a protective order will only serve to escalate the violence toward the petitioner- who deserves the court, and the legal profession’s protection and support. Adopt the amendments as written in Proposal 19-01 (P.R. 0265) and ensure that we as attorneys do not contribute, even accidentally, to the perpetration of violence against survivors.

Sincerely,

Caitlin Cervenka

Caitlin K. Cervenka

² See, The National Coalition Against Domestic Violence, Factsheet: Why do victims stay? Accessed June 22, 2020 <https://ncadv.org/why-do-victims-stay>