

Young Lawyers Section – 5/21/19

**DOMESTIC VIOLENCE
PROTECTION ORDER (DVPO)
VOLUNTEER ATTORNEY
PROGRAM**

**AN AMAZING
PRO BONO OPPORTUNITY
FOR YOU.**

1) Providing vital legal assistance to a vulnerable population.

2) Minimal time commitment (4-6 hours attorney time; case completed within 30 days.)

3) Courtroom/Trial Skills practice
(if you're looking for that sort of thing.)

BEFORE YOU GET THE CASE:

- 1) Your client (the Petitioner) will have filed their DVPO Petition.
- 2) A judge will have issued an Ex-Parte Temporary Protection Order.
- 3) A date will have been set for the “14 Day Hearing” where the Respondent can be present and the question of whether the DVPO should be renewed for up to one (1) year will be decided.

PREPARING YOUR CASE

- 1) Familiarize yourself with the Petition.
- 2) Meet with and prepare Client for the “14 Day Hearing.”
 - > Focus on § 6.a. of the Petition.
 - > Secondarily, focus on § 6.a. Part II of the Petition.
 - > If applicable, focus on § 6.b. of the Petition.

PREPARING YOUR CASE – CONT.

- 3) File your Notice of Appearance.
- 4) Subpoena witnesses, if necessary.
- 5) Prepare exhibits (3 copies, please.)
- 6) Come prepared with the technology necessary to present any audio or video recordings. (Courtroom technology is circa 2001).

THE 14 DAY HEARING

- 1) THE ROLL CALL – the court will address the “quick” cases first.
 - > Continuances
 - > Defaults (Respondent no-shows)
 - > Dismissals (Petitioner no-shows)
 - > Agreements (to entry of the DVPO or dismissals)

THE 14 DAY HEARING – CONT.

2) CONTESTED HEARINGS

- > Informal hearings governed by the Idaho Family Law Rules with relaxed evidentiary standards.

THE 14 DAY HEARING – CONT. II

3) PRESENTING YOUR CASE

Through your witnesses and physical evidence, you need to demonstrate by a preponderance of the evidence that (a) there is qualifying relationship between Petitioner and Respondent, and (b) there is an immediate and present danger of domestic violence to the Petitioner from the Respondent.

IMMEDIATE AND PRESENT DANGER

Includes, but is not limited to, situations in which:

- 1) Respondent has recently threatened Petitioner with bodily harm, or
- 2) Respondent has engaged in domestic violence against the Petitioner, or
- 3) There is reasonable cause to believe bodily harm may result.

Idaho Code § 39-6306

DOMESTIC VIOLENCE

(I.C. § 39-6303(1))

- 1) Physical injury, or
- 2) Sexual abuse, or
- 3) Forced imprisonment, or
- 4) A threat of any of the above.

CASES INVOLVING CHILDREN

- 1) IDHW Child Protection Investigation: typically ordered by the ex-parte hearing judge if Petitioner alleges abuse or neglect of children.
- 2) Children as Witnesses: (i) in-camera interviews per IFLR 119(C) or (ii) on the stand testimony per IFLR 119(D)
- 3) Temporary Custody Orders can be included in DVPOs per I.C. § 39-6306(1)(a)
 - > Please do not argue custody in your case-in-chief. We will address custody when crafting order.

PERSONAL BELONGINGS

Petitioners and Respondents will frequently want to argue about their stuff which has been left in the other party's residence.

If a quick and rancor-free agreement can be reached at the hearing, the court will include directions for retrieval of items in the order.

The moment the parties start to bicker, they will be directed to Family Law Court or Small Claims to divide their property.

QUESTIONS?