



Domestic Relations & Domestic Violence in Time of Crisis

Trauma-Responsive Practices
for Children, Families and Elders

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Issue Brief 4 of 4

The purpose of this brief is to help courts oversee cases involving families in a trauma-responsive manner during and after the pandemic with special attention to the increased risk and vulnerabilities associated with domestic violence.

Stressors & Vulnerabilities Occasioned by the Pandemic

The pandemic has brought added stressors to Domestic Relations, particularly economic and interpersonal. Societal factors occasioned by the Pandemic such as unemployment, social isolation and insecurity increase the risk of domestic violence. The societal factors translate in court into increased claims, motions to modify and motions to collect in dissolutions, child support, parenting-time and domestic violence.

Families that were under stress pre-COVID will find that stress accelerated now. During challenging times, conflict can become more volatile. For these reasons, this issue brief focuses on domestic conflict and what courts can do considering increased risk.

Caseload Implications Occasioned by the Pandemic

As articulated in the [Children, Family, and Elders Overview](#) document, several factors point to an almost certain backlog and a difficulty for courts to

stay on top of new filings in domestic relations. As courts work to address backlogged cases and new filings, often in a virtual environment, there are procedural, operational, and physical changes that courts can implement that provide improved safety. For more case management tips, see [Children, Family and Elders Overview: Addressing Backlog and New Filings](#).

Recent data indicates that at least 70-80% of domestic cases involve one or more unrepresented parties.¹ This means that most parties are acting without the support that can come through an attorney.

Other briefs in this series discuss the challenges of remote hearings, such as concerns about credibility and maintaining control of the hearings. In a domestic context, courts must look out for safety concerns for parties and family members.

¹ [The Landscape of Domestic Relations in State Cases \(NCSC, 2017\)](#)



Trauma-Responsive Case Management

[Family Justice Principle 3](#) directs that court processes should “empower parties to make their own decisions and should be proactive in ensuring the safety of the parties, children, and others involved in the case. . . court processes should be designed to minimize re-traumatization and to facilitate effective participation by parties, including children, who have experienced trauma.”

An example of this is a court facilitating access to victim advocates, either remotely or on-site. “Providing information about (and assuring an understanding of) process and service options in a safe, protected environment can facilitate informed determinations by parties about their safety and their lives.”²

“Courts must be knowledgeable and aware of the signs and dynamics of domestic violence, child abuse, substance abuse, and other critical issues to ensure safety and a fair process in each case . . .

. . . Screening with reliable tools should be ongoing and behavior-specific rather than relying on labels. When screening reveals possible signs of violence, abuse, or trauma, further assessment to ascertain the nature and extent of any risk to the parties, children, or others is warranted.”

[Principles for Family Justice Reform, pp 5-6](#)



Case Management Out of Court

Nationwide, courts have retrofitted processes to assist parties remotely. Not only does this help advance resolution, but parties have expressed satisfaction with virtual processes. In some cases, parties may be safer when they can participate remotely. Victim advocates are also available remotely in many jurisdictions.

In Miami-Dade as well as King County (Seattle), court staff provide legal assistance, procedural information, mediation services, and even supervised visitation and assessment services, all virtually.

Communications with the Public

Through the court website and in any documents produced by the court, courts should advise parties as to how to conduct court business under the current circumstances. This information should include how to file motions and how hearings will be conducted. Courts should also provide information on how to obtain protection orders and victim advocate services.

Preparing to Hold Trauma-Informed Hearings

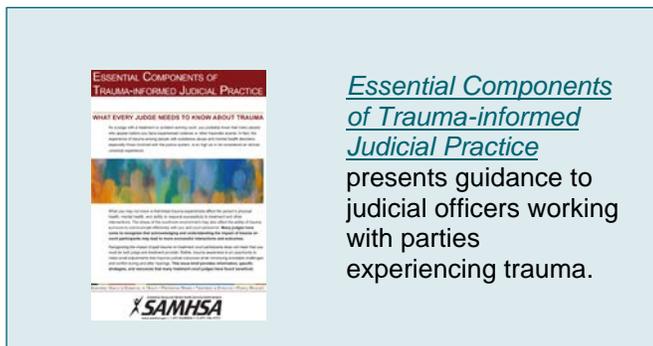
Consider how individual parties can best access processes, bearing in mind that not all parties have access to highspeed internet or unlimited data plans. Consider whether it is safer for parties to appear from their own home, or in-court.

Once the forum is set, provide clear information and instructions on how the hearing or court event will

² [Principles for Family Justice Reform, p 6.](#)

proceed and what participants can expect. The parties should know who will participate, when they will be asked to speak, and what decisions will be made in this hearing.

Holding Trauma-Informed Hearings



Schedule time-certain hearings. They lower the anxiety of waiting and respect people’s schedules.

- Identify everyone’s name and role in the hearing.
- State clearly the purpose of the hearing and what participants can expect.
- Acknowledge the challenges of the current situation.
- Maintain procedural justice principles - voice, respect, understanding, and neutrality.
- Understand and watch for triggers such as direct eye contact, raised voices, sudden noises or approach from behind.
- Allow time and space for response – don’t rush.
- Check for understanding during the hearing.
- Provide real-time documentation of the outcome and next steps, if any.

Considerations for Remote Hearings

Considerations of procedural fairness overlap considerably with elements of trauma-informed

hearings. NCSC has produced a [Bench Guide form Judges](#) on meeting the core elements of procedural fairness in a remote hearing context.

Remote-hearing practices informed by Procedural Fairness include:

- Using the “waiting room” function of many virtual platforms to give participants time to log in.
- Explaining how the remote hearing will work in plain language in writing ahead of the hearing, with a video on the court’s website, and at the beginning of the hearing.
- Checking in to make sure people are still connected, especially participants who are connected by phone or only by audio. Do not assume that silence is assent.
- Not treating an [inability to connect as a failure to appear](#).
- Providing real-time documentation of the outcome and next steps, if any, at the conclusion of the hearing.

What You Don’t See on Camera



Parties experiencing abuse or exploitation may be susceptible to coaching or pressure by someone in the room with them. During virtual hearings:

- Ask everyone in the room with the party to identify themselves.
- You can also ask parties to pan the camera around the room to see who is present.
- Rather than question parties about “domestic violence,” ask whether the party has felt unsafe, intimidated, or threatened.

The National Network to End Domestic Violence, Safety Net Project created this technology safety and privacy [toolkit](#) for survivors.

In-Person Hearings

Follow social distancing guidelines in the courtroom as well as in security, hallways, elevators, and restrooms. See NCSC's pandemic resource paper, [Considerations for Reopening the Courthouse](#). Social distancing requirements, such as space between seats and time-certain hearings are trauma-responsive practices too.

Hybrid Hearings

Hybrid hearings are hearings in which some individuals are in the courtroom and others are participating remotely. Tips from remote and face-to-face hearings apply, though these tips may be particularly useful:

- Everyone in the courtroom should speak into a microphone to be clearly heard by remote participants.
- Some courts are using [“meeting owls” or similar technology](#) that automatically focus in on the participant speaking in the hearing.
- Check in to make sure remote participants can hear clearly at the beginning, and periodically during, the hearing, and prior to making a ruling.

Court Practices and Portals

Ex parte Protection Orders can be screened to determine if they are appropriate for a virtual hearing, for example, if parties are not cohabitating.

Many courts are holding evidentiary hearings for protection orders virtually, as they would any other contested proceeding.

Utah’s Online Court Assistance Program (OCAP) assists users with divorce, protection orders and other court forms through a series of guided questions. Parties can save, make changes, and print final documents. The e-filed documents are automatically provided to the other parties.



Arizona uses the AZPOINT portal to walk users through forms for orders of protection and to provide notification of the same. The portal also directs users to victim advocates and has a “Safety” button on each screen. Once paperwork is received through the portal, the court can conduct telephonic or video evidentiary hearings as needed.



Court Staff & Secondary Trauma

No development of a trauma-informed approach should neglect the effects of trauma on court professionals and service providers themselves; what is sometimes termed "secondary trauma." The court environment can be especially challenging in courts dealing with volatile domestic relations cases. A 2017 NCSC article, [Secondary or Vicarious Trauma Among and Court Personnel](#) provides a general introduction to the concept and symptoms, and some approaches to mitigation.

The NCSC webinar [Addressing Court Workplace Mental Health and Well-being in Tense Times](#) is a useful resource for court staff working with the public. The National Center on Domestic Violence, Trauma and Mental Health has created this [Resource Hub](#) with updates, resources, and tip sheets to support domestic violence and sexual assault advocacy organizations and coalitions in responding to the trauma, mental health, and substance use-related needs of survivors and their families.

Additional COVID-19 Domestic Violence Resources for Courts and Parties

As stay-at-home orders expand to contain the spread of the virus, women with violent partners increasingly find themselves isolated from the people and resources that can help them. Courts can help protect parties by providing access to supports in the community.

Immigrant Victims have special vulnerabilities. This document summarizes protections available.



[WomensLaw.org](#) offers an online legal hotline in addition to plain-language legal information for victims of abuse.

Consider developing a resource guide for people experiencing domestic violence in your community. [Here is an excellent example out of Fairfax County, Virginia:](#)

The infographic 'Staying Safe at Home' provides practical advice for domestic violence survivors during the COVID-19 pandemic. It includes a 24-hour hotline number (703-360-7273) and a list of safety tips.

- YOUR LIVING SPACE:**
 - Set separate spaces or times to use certain areas.
 - Be aware of safe rooms with exits and which rooms have doors or windows that lock.
 - Think of other people you can go or send other family members to in an emergency or long term.
 - Try to avoid being in rooms with items that could be used as weapons.
- PLAN AHEAD:**
 - Keep track of important items you may need in emergency or if you leave, such as phones, money, ID, car keys, medical cards and medications.
 - Make a list of safe contacts and emergency resources.
 - Arrange daily tasks on-line or work with people you trust.
- TAKE CARE OF YOURSELF:**
 - Be aware of signs and facts that might tell you violence is coming back and take care of yourself and your own emotional needs.
 - Use safe apps and services to help you maintain your reactions.
 - Talk with kids and other family members about things you can do together that help them feel safe.
 - Get or renew your gun safety training.
 - Review call records and internet histories that show you are seeking help.