



**CIVIL STALKING PROTECTION ORDER MEDIATION PILOT PROJECT**

**FREQUENTLY ASKED QUESTIONS**

**What is mediation?**

Mediation is a voluntary process in which a mediator facilitates communication and negotiation between the parties to assist them reach a voluntary agreement regarding the allegations in the civil stalking protection order (CSPO) petition. Whether and how a case resolves depends on the parties.

In mediation, the parties have control over the outcome of the case. In litigation, control over a cases' outcome, i.e., granting or denying of the CSPO, is in the hands of a judge or magistrate. Although the goal of mediation is to reach a voluntary agreement, you are not required to reach an agreement in mediation. If the mediation is unsuccessful, the case will go back before a judge or magistrate to determine the granting or denying of the protection order.

**Who will mediate my case?**

A mediator can be a magistrate, lawyer or non-lawyer professional who meets established training requirements. Mediators are neutral and impartial third parties, who

- Do not give legal advice;
- Do not have a financial interest in the outcome of the case;
- Do not make decisions about the case;
- Do not have the power to grant or deny the CSPO.

A mediator helps parties discuss their conflict so that they are better able to develop and analyze options to voluntarily resolve the dispute if they want to do so.

**Can my case be mediated?**

Although mediation is generally not allowed for CSPO cases, the Supreme Court of Ohio established a pilot project to study the usefulness of mediation in certain CSPO cases. This

Court was selected among Ohio's 88 counties to participate in the pilot project. Not all CSPO cases can be mediated.

**Who determines whether a case will be offered mediation services?**

The decision to offer mediation in is at the discretion of the Court and mediator on a case by case basis.

**What cases are not appropriate for mediation?**

Mediation is not appropriate under any of the following circumstances:

- The petitioner is a family or household member of the respondent.
- The allegations involve domestic violence or a sexually oriented offense.
- The mediation may result in excusing the violence or violent conduct or would be used to negotiate any type of violence alleged in the petition.
- The petitioner cannot negotiate without fear, intimidation, or concern for the safety of a family or household member.
- There is ongoing physical violence.
- There are threats of serious physical harm or the threatened use of firearms.
- There is coercion or intimidation based on past violence.
- The petitioner fears the respondent despite the safety precautions.
- Respondent's controlling or manipulative conduct or hostility toward the petitioner or the mediation process will not allow a positive or successful outcome.
- Any other circumstance deemed relevant by the court or mediator that puts the petitioner, respondent, or mediator at risk of harm or abuse.

**What participants can expect?**

Mediation conferences are relatively informal, even though they are official Court proceedings.

- Mediation is voluntary. If you elect to mediate, you can refuse to continue with the mediation at any time.

- The parties should expect to be treated respectfully by the mediator and other party, including his or her lawyer and victim advocate.
- The mediator will meet separately with the parties to make sure there is no coercion, explain how mediation works, and ascertain the parties have capacity to mediate.
- Mediation may take place in one room or in separate rooms, depending on safety concerns. When the parties are in separate rooms, the mediator will go from one room to the other communicating with each party important information.
- Mediation communications are confidential. Unless the parties and mediator give written permission to disclose, the information discussed during the mediation cannot be disclosed.

There are few exceptions to the confidentiality rule. The mediator will let the Court know if:

- (1) An agreement has been reached. The parties will decide how the agreement will take effect.
- (2) The mediation did not occur. The case will be set for a full hearing.
- (3) The mediation was terminated. The case will be set for a full hearing.
- (4) No agreement reached. The case will be set for a full hearing.

### **What the court expects?**

The Court expects parties to come to mediation with an open mind and to demonstrate respect for all participants throughout the mediation process.