Reducing Barriers to Safety: Securing Economic Relief Through Protection Orders

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Safety is of utmost importance to victims and responders of domestic abuse, sexual assault or stalking, but it is difficult to achieve in light of the dependency and staggering costs of abuse. Economic insecurity affects survivors’ ability to leave an abusive relationship, recover from assault and make decisions about their future and the justice system. As the primary tool for physical safety, protection orders must also account for survivors’ economic needs. This can be accomplished in three ways. First, orders can offer the security to leave a relationship and find independence. Next, protection orders can allow survivors to maintain their school, work and housing, which protects their economic stability. Lastly, protection orders can provide financial restitution for the costs of the crimes committed by the offender.

All states offer no contact and stay away provisions. Whether outlined in the law or under the intention of safety, CPOs should always prohibit the offender’s presence and interference at the survivor’s home, workplace, schools, childcare provider or anywhere else needed for economic security. Equally vital, many states also authorize various forms of specific economic relief by statute. These provisions help meet the immediate and long-term needs of survivors so that
they may remain safe and independent. The most common provisions include child and spousal support; possession or use of a vehicle or other personal property; ordering possession or maintenance of the residence and utilizes or providing alternative housing; and, restitution for medical expenses, bills, tuition, child care and other costs from the abuse. Most statutes also have general “catch all” provisions so that attorneys and judges can act freely to protect a survivor by addressing her or his unique safety requirements.

Survivors can access a protection order with economic relief either through the civil or criminal justice systems. Civil orders give the victim more control over initiating the order and requesting relief. However, they are much more likely to succeed if they have an attorney, which may be financially difficult for the victim. In the criminal system, prosecutors can request and judges can issue economic relief in No Contact Orders for the duration of the proceedings, in CPOs ordered as part of a plea negotiation, or in CPOs ordered post-conviction through incarceration, probation or parole. Advocates, civil attorneys and prosecutors should ask questions about economic impacts and the connection to safety from the outset of a case, which should be reflected in the Victim Impact Statement in criminal court. Intake and protection order request forms should also reflect the economic costs and barriers survivors are facing as well as the legal options for economic relief.

Orders of protection fail to uphold safety if they are not enforced. One of the simplest ways to ensure enforcement is to construct the order to be specific and thorough, but realistic. Orders should outline the time and place to transfer property and who will mediate the exact amounts and schedule of the offender’s monetary payments, and the consequences for violation. These can include tying compliance to income deduction orders, civil judgment, civil or criminal contempt, and probation or parole conditions. Offenders are less likely to violate if courts hold regular review hearings to monitor their compliance, which also keeps survivors safer by putting the burden on the system, limiting contact between the parties and providing a mechanism for them to file a report or motion to modify the order.

Despite the clear value of pursuing economic relief in CPOs, it is a severely underused remedy. This stems from a lack of awareness on the part of survivors and from entrenched hesitation from requesting attorneys and the judiciary. However, addressing the economic needs of survivors benefits both the survivor’s safety and the justice system itself. Economic relief is enshrined within protection order law and is a critical and legal mechanism to achieve safety, offender accountability and justice. Advocates, attorneys and judges must recognize the role that they play in helping survivors achieve safety and justice and work to overcome the barriers to this goal.