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REPORT AND TRAINING AND EXPERIENCE
RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT

September 14, 2022
OFFICE OF
APPELLATE COURTS

STANDING COMMITTEE FOR LEGAL
PARAPROFESSIONAL PILOT PROJECT

ADM19-8002

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I. INTRODUCTION AND BACKGROUND

Minnesota's Legal Paraprofessional Pilot Project (Pilot Project) aims to increase access to civil legal representation in case types where one or both parties typically appear without legal representation. The Minnesota Supreme Court (Supreme Court) adopted court rule amendments on September 29, 2020, which authorized the Pilot Project, effective March 1, 2021.

The Pilot Project permits legal paraprofessionals, under the supervision of a Minnesota licensed attorney, to provide legal advice and, in some cases, representation to a client in court and mediation in two legal areas, landlord-tenant disputes and family law disputes.

The Legal Paraprofessional Pilot Project Standing Committee (Standing Committee), which administers the Pilot Project, filed an interim report and recommendations in December 2021. The interim report included five amendment recommendations to Rule 12 of the Supervised Practice Rules, and an additional recommendation to extend the Pilot Project through March 2024.

The five Rule 12 amendment recommendations were as follows:

1. Amend Rule 12.01(e) to remove the prohibition against providing advice and representation in court or at mediations if the family law case involves allegations of domestic abuse or child abuse.
2. Amend Rule 12.01(b) and (c) to include the establishment of child support.
3. Amend Rule 12.01(a) to eliminate the requirement that a "district court have an established Housing Court or a dedicated calendar for housing disputes" for a legal paraprofessional to provide services in that court.
4. Amend Rule 12.01(f) to clarify Appendix 1 to Rule 12 of the Supervised Practice Rules.
5. Add eligibility to provide advice and representation in Order for Protection and Harassment Restraining Order cases to the scope of work in which a legal paraprofessional may provide services.

The sixth recommendation was:

6. Extend the Pilot Project and continue the amended Supervised Practice Rules that govern the Pilot Project to March 31, 2024.

The Supreme Court opened a public comment period on the Standing Committee's recommendations in January 2022. Six written comments were submitted. Three of the submissions expressed support for all or most of the recommendations. Three additional written comments articulated concerns with the amendments that would expand the scope of the Pilot Project into cases involving domestic abuse, noting that legal paraprofessionals may not have adequate skills and training to effectively provide legal advice and representation in those types of cases.

After reviewing the written submissions, the Court determined that approval of the recommendations that were supported by the written submissions would be adopted. The

adopted amendments included recommendations 2, 3, 4, and 6, and were effective as of May 1, 2022.¹

The Court ordered a public hearing on recommendations 1 and 5. The hearing was held on May 17, 2022², and representatives from the Minnesota State Bar Association (MSBA) Family Law Section and its Domestic Abuse Committee, the St. Paul and Ramsey County Domestic Abuse Intervention Project, Standpoint, and the Minnesota Coalition Against Sexual Assault spoke in opposition to the adoption of recommendations. The groups conveyed concerns about a lack of training and awareness on the affects of domestic and sexual abuse on the complexity of a legal proceeding and the safety of victims in these cases.

Following the public hearing the Court adopted the Standing Committee's recommendations to remove the prohibition against providing advice and representation in court or at mediations if a family law case includes allegations of domestic or child abuse, except when a child protection case has been filed. The Court also adopted the recommendation to permit legal paraprofessionals to provide advice and representation in Order for Protection and Harassment Restraining Order cases.

Prior to the amendments taking effect, the Standing Committee was directed to develop and define training and/or experience requirements for legal paraprofessionals to provide these expanded services in Order for Protection and Harassment Restraining Order cases. To establish the training and experience requirements, the Standing Committee was required to minimally, consult with the victim-survivor agencies and advocates who provided comments to the Court: the MSBA Family Law Section and Domestic Abuse Committee, the St. Paul and Ramsey County Domestic Abuse Intervention Project, Standpoint, and the Minnesota Coalition Against Sexual Assault (victim-survivor agencies).

II. SUMMARY OF CONSULTATION TO ESTABLISH TRAINING AND EXPERIENCE REQUIREMENTS FOR CASES INVOLVING DOMESTIC ABUSE.

The Standing Committee appointed a workgroup to research and work with stakeholders to develop initial recommendations for the larger Standing Committee. In addition to the victim-survivor agencies and MSBA representatives, the Standing Committee invited representatives from the Minnesota Paralegal Association (MPA), the Institute for the Advancement of the American Legal System (IAALS), and the Minnesota Judicial Branch's Domestic and Sexual Violence Program to join the workgroup.

The workgroup met three times in three weeks. During the first meeting, the Standing Committee presented on the Pilot Project, MPA presented on the Minnesota Certified Paralegal program, and IAALS presented information on how other states provide expanded legal services with legal paraprofessionals. During the second meeting, the victim-survivor agency representatives provided information about training needs, offerings, and their recommendations on possible

¹ See [Supervised Practice Rule 12](#) and [Order Establishing Public Hearing and Promulgating Amendments to Rules Governing Legal Paraprofessional Pilot Project](#), April 1, 2022.

² [Minnesota Supreme Court Proposed Amendments to Minnesota Supervised Practice Rules, Public Hearing](#), May 17, 2022 (recording).

requirements. In preparation for the third meeting, members of the Standing Committee met to draft proposed training and experience requirements for the workgroup to review and react to.

The Standing Committee workgroup members, joined by the MJB's Domestic and Sexual Violence Analyst, met to discuss, and review the perspectives and input shared during the three workgroup meetings. The Standing Committee met a few more times to refine and finalize its Rule 12 amendment recommendations for the Court's consideration.

III. TRAINING AND EXPERIENCE REQUIREMENTS RECOMMENDATIONS

Based on the input received from the participants in the Standing Committee's workgroup discussions, the Standing Committee respectfully recommends amendments to Rule 12.01 Scope of Work, Rule 12.02 Eligible Legal Paraprofessionals, and Rule 12.04 Standing Committee for Legal Paraprofessional Pilot Project as outlined below.

A. Additional amendments to Rule 12.01(e). The Standing Committee recommends additional amendments to rule 12.01(e) to exclude cases where sexual assault or abuse is included in the pleadings of the case from the scope of services legal paraprofessionals may provide. This recommendation recognizes the concerns raised by the advocacy agencies and other community representatives who met with the Standing Committee. Providing advice and representation in sexual assault cases has complexities that expand beyond those involved in domestic violence cases. Sexual assault cases often intersect with other crimes, legal matters, and system partners, such as medical teams and law enforcement, and safety concerns are magnified. At this time, the Standing Committee agrees with the workgroup's input that the unique and additional complexities involved in sexual assault cases requires further analysis and discussion to determine the appropriate amount of training and experience.

The Standing Committee also acknowledges the Court's observations in its Order Amending Rules Governing Legal Paraprofessional Pilot Project, filed June 16, 2022 (June 2022 Order), that use of the term "allegations" is vague. To provide clarity to Pilot Project participants on when certain cases are excluded from the scope of work, the Standing Committee specifies that allegations or disclosures of sexual assault be present in case pleadings.

Recommendation:

12.01(e) Under no circumstances shall a legal paraprofessional provide advice or appear in court or at a mediation under this paragraph if *a petition for child in need of protection and services has also been filed under Minn. Stat. Ch. 260C³*, nor shall they provide advice or appear in court or at a mediation under this paragraph if the pleadings include allegations or disclosures of sexual coercion, nonconsensual sexual acts, or other forms of sexual violence.

³ The language in italics represents the amendment to Rule 12.01(e) approved by the Court in the [June 2022 Order Amending Rules Governing Legal Paraprofessional Pilot Project](#) (June 2022 Order).

B. Additional amendments to Rule 12.01. The Standing Committee recommends the addition of a new subdivision under Rule 12.01 to require legal paraprofessionals to provide information to clients about available victim-survivor services. After considering the input and recommendations from the workgroup participants, the Standing Committee appreciates and understands that not all individuals who are experiencing domestic violence have sought the services of advocacy professionals. The Standing Committee therefore recommends also requiring legal paraprofessionals to provide information about these services to clients when providing advice and/or representation in Order for Protection and Harassment Restraining Order cases.⁴

Recommendation:

(g) In any family law proceeding in which the pleadings include allegations of domestic abuse or child abuse, or in any case under Rule 12.01(f), the legal paraprofessional shall provide the client with victim-survivor agency contact information.

Due to the inclusion of a new subdivision, Rule 12.01(g) requires a change to the subdivision designation:

(gh) With authorization from the supervising attorney, prepare and file documents which include but are not limited to the documents identified in Appendix 1 to these rules.

C. Additional amendments to Rule 12.02(e).⁵ The Standing Committee's recommended training and experience requirement amendments to Rule 12.02 Eligible Legal Paraprofessionals are an attempt to balance the interests and concerns raised by the victim-survivor agency representatives and the goals of the Court and the Pilot Project. The new Rule 12.02(e), adopted in the June 2022 Order, reads:

(e) Training or Experience Requirements for Certain Cases. In any family law case in which the pleadings include allegations of domestic abuse or child abuse, and in any case under Rule 12.01(f), the legal paraprofessional shall not provide advice or appear in court or at a mediation unless the training or experience requirements established by the Standing Committee for these categories of cases have been satisfied. The legal paraprofessional must submit to the Standing Committee proof that the training requirements have been completed, and the Standing Committee shall note on the roster described in subdivision (d) of this rule that the training requirements have been satisfied. The Standing Committee shall publish the training requirements on its website and provide the training requirements to all registered legal paraprofessionals and supervising attorneys.

As noted previously in this report and acknowledged by the Court in the June 2022 Order, providing representation in domestic abuse cases is complex. The cases and issues often intersect with other matters and systems. There may be additional safety concerns, and domestic abuse is traumatic for many, if not all individuals. The Court also continues to recognize, as a paramount consideration, the need to provide opportunities to address

⁴ See new Rule 12.01(f) as adopted by the June 2022 Order.

⁵ See new Rule 12.02(e) as adopted in the June 2022 Order.

Minnesota's unmet needs for legal representation. Expanding the scope of the Pilot Project is a way to continue filling that gap.

To balance the need for expanded legal representation with the concerns raised by victim-survivor agencies, the Court ordered the Standing Committee to develop training and experience requirements for participating legal paraprofessionals who provide advice and representation in cases where domestic violence is alleged. In addition to convening the workgroup described in this report, the Standing Committee also considered the time commitment to receive training, frequency, and availability of training programs statewide, experience and existing knowledge of legal paraprofessionals, and the attorney supervision requirements in the current rule.

Recommendation:

(e) Training or Experience Requirements for Certain Cases.

- (1) Training Requirements in Family Law Cases in which the Pleadings Include Allegations of Domestic Abuse or Child Abuse. A legal paraprofessional shall not provide advice or appear in court or at a mediation in a family law case in which the pleadings include allegations of domestic abuse or child abuse unless the legal paraprofessional has completed at least eight hours of training and/or education. The training and/or education must include the following objectives: the dynamics of domestic violence; domestic violence and child abuse screening, including screening for safety, lethality, and suicide; trauma-informed legal representation; understanding other systems that respond to domestic violence and child abuse and how the legal and other issues in family law cases intersect and affect the responses of other systems; and intercultural effectiveness and cultural competency.

The training must have been completed within two years prior to seeking certification under Rule 12.04(a). The training may be conducted by a victim-survivor agency, approved by the Minnesota State Board of Continuing Legal Education, or other local, state, or national organization or agency, e.g., a paralegal association.

- (2) Training for Cases Under Rule 12.01(f). A legal professional shall not provide advice or appear in court or at a mediation in a case seeking an order for protection under Minn. Stat. § 518B.01 or a harassment restraining orders under Minn. Stat. § 609.748 unless the legal paraprofessional has completed the training set forth Rule 12.02(e)(1) and the following additional training:
 - (a) three hours of continuing education that must include, at a minimum, the following objectives: the law and procedure governing proceedings seeking orders for protection under Minn. Stat § 518B.01 and harassment restraining orders under Minn. Stat. § 609.748 and the differences between orders for protection and harassment restraining orders; preparation of pleadings and other documents; the legal and other consequences of

issuance of an order for protection or a harassment restraining order including implications for other legal proceedings, and

- (b) three hours continuing education on evidentiary hearings in order for protection and harassment restraining order cases including a mock evidentiary hearing or shadowing the supervising attorney at one evidentiary hearing for an order for protection under Minn. Stat. § 518B.01 and one evidentiary hearing for a harassment restraining order under Minn. Stat. § 609.748.

The training must have been completed within two years prior to seeking certification under Rule 12.04(a). The training may be conducted by a victim-survivor agency or approved by the Minnesota State Board of Continuing Legal Education or other local, state, or national organization or agency, e.g., a paralegal association.

- (3) Upon application by the supervising attorney and legal paraprofessional, the Standing Committee may waive the training requirements set forth in Rules 12.02(e)(1) and 12.02(e)(2)(a) if the legal paraprofessional has demonstrated substantial experience in family law cases involving domestic abuse and child abuse, and cases involving orders for protection and harassment restraining orders. In considering a waiver request, the Standing Committee shall consider whether the substantial experience provides sufficient knowledge of the objectives set forth in Rule 12.02(e)(1) and Rule 12.02(e)(2)(a).

D. Additional amendments to Rule 12.04. Minor additional amendments to Rule 12.04 are also recommended to support the amendments to Rule 12.01 and 12.02.

Recommendation:

Rule 12.04 Standing Committee for Legal Paraprofessional Pilot Project.

(b) for evaluating the results and outcome of the pilot project and making further recommendations to the Supreme Court; ~~and~~

(c) for submitting, reviewing, investigating, and resolving complaints made against legal paraprofessionals and supervising attorneys, including removing legal paraprofessionals from the roster and prohibiting supervising attorneys from participating in the pilot project if there is a good cause to do so. Rostered legal paraprofessionals and supervising attorneys shall cooperate with standing committee investigations and failure to cooperate may be the basis for removal from the pilot project; and

(d) for approving continuing education credits required under Rule 12.02(e).

IV. CONCLUSION

The Standing Committee believes that the recommended training and experience requirements will increase the Pilot Project's positive impact and delivery of quality legal paraprofessional services to parties. The Standing Committee also acknowledges for the Court's awareness that if the proposed amendments are approved, as proposed or with modifications by the Court, several additional discussions will need to occur, and processes and protocols established to support the implementation of the new rules. Some examples of work the Standing Committee anticipates include, but are not limited to:

- Additional discussion and analysis of training and experience requirements for cases involving sexual assault allegations,
- Procedures and/or protocols for screening cases for domestic abuse, child abuse, and sexual abuse,
- A waiver request process and revised application and complaint process forms,
- Time and resources for agencies and programs to organize and/or develop training opportunities to meet the needs set forth in the new rules.

The Standing Committee appreciates the input and cooperation it received from Aprille Beyer, Minnesota Paralegal Association; Michael Houlberg, Institute for the Advancement of the American Legal System; Tiffane Wolter, MSBA Family Law Section; Debra Bulluck, MSBA Family Law Section Domestic Abuse Sub-Committee; Nikki Kelly, Standpoint; Artika Roller and Ashley Sturz, Minnesota Coalition Against Sexual Assault; Maria Maier, St. Paul Intervention Project; and Melia Garza, Minnesota Judicial Branch Domestic and Sexual Violence Analyst.

Respectfully Submitted,

STANDING COMMITTEE FOR
THE LEGAL PARAPROFESSIONAL PILOT PROJECT