



Municipal Court Temporary Restraining Order Checklist



The checklist, approved by Judicial Council, is intended as an educational tool to assist Municipal Court Judges in drafting comprehensive and thorough Temporary Restraining Orders (TRO).

Reminder:

Be available by telephone or remotely when the Superior Court is not in session or when the plaintiff is filing a criminal complaint and wants to simultaneously file for a TRO. This applies even during Superior Court hours.

- Confirm with law enforcement, assisting with the TRO, whether they are on a recorded line.
If not on a recorded line, the judge **must** make contemporaneous notes of the plaintiff's testimony and the reasons for issuing or denying the TRO and any weapons seizure.
- Confirm with law enforcement that the DVCR has been reviewed and there is no existing TRO or if the other party has a TRO/FRO against the plaintiff. DVCR includes checking for Criminal Stalking, Sex Offender, and Pretrial Release no contact orders issued in Criminal court. It also includes Promis Gavel and ACS as well as Extreme Risk Protective Orders (ERPO).
- Confirm that the plaintiff has been afforded the services of the Domestic Violence Response Team and/or local domestic violence provider.
- Review all available information for the parties, including ensuring emergency contact numbers and email addresses have been given to law enforcement for subsequent hearings.

- Place the law enforcement officer and the plaintiff under oath to determine the following:

- *Do not ask the victim for their address on the record – home or place of employment.*
- *Confirm whether one or more predicate acts were committed by the defendant and that they are properly checked off on the TRO.*
- *Confirm that a TRO is necessary to protect the plaintiff from immediate danger or further acts of domestic violence.*
- *Confirm if there have been any reported or unreported acts of domestic violence (prior history between the parties).*
- *Confirm contact information of the plaintiff.*
- *Address custody, parenting time, and paternity as appropriate.*
- *Confirm whether the victim needs emergent support – rent, mortgage, food, needs for children, etc.*
- *Address weapons and determine whether probable cause exists for a search warrant. Specifically:*
 1. Probable cause to believe that an act of domestic violence has been committed by the defendant;
 2. Probable cause to believe that a search for and seizure of weapons is “necessary to protect the life, health or well-being of the victim on whose behalf the relief is sought,” and
 3. Probable cause to believe that the weapons are located in the place to be searched.

- Establish a record including findings of fact.
- Confirm that all information is fully set forth by the officer in the body of the complaint as articulated by the plaintiff.
- If a Temporary Restraining Order is **GRANTED**:

- *Confirm the return date is within ten (10) days (check to make sure it is not on a holiday or weekend).*
- *Review the document for accuracy.*
- *Sign and issue the Order in conformance with Court Rules.*
- *Ask the Plaintiff if they have any questions.*

- If a Temporary Restraining Order is **DENIED**:

- *Advise the plaintiff on the record of the right to an immediate de novo hearing of the denial to an on-call Superior Court Judge.*
- *If the plaintiff wishes to exercise this right, law enforcement shall contact the on-call Superior Court Judge immediately.*
- *If the plaintiff does not wish to appeal, the police will indicate same in the TRO, submit it electronically through the eTRO system to the Superior Court for Administrative Dismissal.*
- *Ask the Plaintiff if they have any questions.*