

GUIDELINES FOR REFERRALS OF DOMESTIC VIOLENCE VICTIMS TO PRO SE CLINICS/USE OF PRO SE FORMS

Applicants screened into clinic

1. Client has FPO and no abuse has occurred after FPO; no other legal issues
2. Client has FPO and custody and OP does not appear to be going to challenge custody; no other legal issues
3. Client has been abused but has no FPO, did not go to shelter, does not want to pursue FPO; no other legal issues

Applicants screened out of clinic

1. Client has FPO and abuse has occurred after FPO.
2. Client has FPO and custody is challenged.
3. Client does not have FPO, is primary caregiver and custody is challenged
4. Client does not have FPO, but abuse was very serious.

Referring domestic violence victims to pro se clinics

Our office has been conducting pro se clinics in family law (divorce, custody, modification and contempt) for over 10 years. I did all of the divorce clinics for at least 7 years--these are now conducted by pro bono attorneys.

All potential family law clients (except contempt applicants, who simply send in their prior court order) fill out a divorce clinic application, custody clinic application, or modification application. Potential clinic applicants are screened for domestic violence in divorce and custody cases--they are asked to check off the types of violence, when it last occurred, and whether they have an FPO. We also have a separate Parenting Plan clinic, which both divorce and custody litigants can attend.

We require all prospective divorce and custody clients to be separated for 30 days, unless they are served with divorce petition before that time. If client says that they have no place to go, we would ask them to go to shelter for the 30-day period. If client has filed for FPO and been turned down, we will try to assist them in getting FPO. We usually do not "buy" the statement that they are too afraid to leave--we will try to assist these persons to leave.

Potential clients are given interviews if they appear to have recent (abuse within the last 2 months) and/or serious (choking; threats to kill self, spouse, or children; threats made with a weapon; abuse requiring hospitalization) abuse; or if there is a contested custody action by what

appears to be the primary care-giver parent (I screen in cases where there has been a separation of 6 months or more, even if there is no “agreement” if the person appears to have a stable situation with the children going on). Potential clients may be screened out of services altogether if they too much property (over \$10,000 in equity in a home or what looks like a hefty pension).

If an applicant states that they have not had any abuse since the separation, or in the last 2 months, and if they have not tried to get a protective order, they would typically “start in the clinic.” If an applicant has obtained a protective order, and has custody of the children, and has not had problems with abuse since the P.O., I would probably “start them in the clinic.”

Some clients who go through the interview process are also placed in the clinic. Even though there may be serious abuse, potential clients may be placed in the clinic if there are not any other legal issues. If abuse is not contained by an FPO, our approach is to start working with the prosecutor’s office and the “risk team” on an individual case. We open “safety” cases under the 37 code. We communicate with the prosecutor and law enforcement to see if criminal charges are appropriate and to make sure the prosecutor has the information they need in the criminal process.

When clients report abuse on application and are given interviews to assess safety, we look to “lethality” issues. Is the OP out of control? Has OP started systematic terrorization patterns? Has OP threatened suicide, homicide lately? If those answers are yes, we would probably not clinic.

With this approach in mind, I have drafted what are essentially my guidelines for these referrals. I would also point out that Randy Minor conducts clinics at the law school. They allow clients to “self-select” for direct representation—but it is my understanding that everyone starts out in the clinic. We have been moving in this same direction.

During the 10 years that we have conducted these clinics, we have trained individuals who have been abused, individuals who are illiterate, individuals who cried and said they could not do it without an attorney, individuals who had never been inside the courthouse before, etc. What I have found is that if you give people concrete information regarding the process, they are very appreciative and **will try** to do it on their own and will be fairly successful.