

Highlights of Family Law Local Rule 400 Series

It is highly recommended you read the entire Rule at www.in.gov/judiciary/rules

The primary mission of the Elkhart County Family Court is to provide a trauma informed, comprehensive, evidence based, innovative court dedicated to child and family focused decision making that results in outcomes that advance the needs of children and their families.

Family Justice Reform

The following Principles of Family Justice Reform are practiced by this Court:

A. Problem-Solving Approach

1. Direct an Approach that Focuses on Problem Solving
2. Involve and Empower Parties. Online Dispute Resolution (ODR)
3. Courts are to be Safety- and Trauma-Responsive
4. Provide Information and Assistance

B. Triage Family Case Filings with Mandatory Pathway Assignments.

5. Use a Service-based Pathway
6. Streamlined Pathway. Minimal Court Resources
7. Tailored Services Pathway. More than minimum but not complex. Mediation
8. Judicial/Specialized Pathway. Substantial Court and Community Resources.

C. Training and Stakeholder Partnerships

9. Training and Stakeholder Partnerships
10. Identify and Strengthen Community Partnerships

D. Data Collection, Evaluation, and Technology Innovation

11. Improve Ongoing Data Collection, Analysis, and Use of Data to Inform Case Management
12. Collect and Analyze User-Evaluation Metrics
13. Implement Innovative and Appropriate Technology.

See: https://www.ncsc.org/data/assets/pdf_file/0018/18522/fji-landscape-report.pdf

Problem Solving and Cooperative Model

This model requires:

1. Enhanced information to improve decision making.
2. Engaging the community to assist with problem solving.
3. Collaboration with social service providers and other stakeholders.
4. Linking participants with community services based on risk and need.
5. Teaching the parties cooperation and problem-solving skills throughout the process to create a life-long impact on children and families.

Bundling of Cases

If the same family has multiple family law related cases they may be bundled, that is, heard by the same judicial office and at the same time. ***LR20-TR81.1-402***

The following criteria will be utilized to make decisions if cases should be bundled:

1. How related are the factual and legal issues?
2. Are all or most parties the same?
3. At what stage of development are the cases? Is there any benefit to coordination?
4. Is this a one-time event that will be resolved in one or two visits to court?

Three Pathways

Your case will be evaluated and placed in one of Three Pathways:

Streamlined Everything or nearly everything agreed upon or do not know where other party is located. This pathway is the fastest, simplest, least expensive path through the court. Agreed Decrees and Property Settlement Agreements are available in the Access to Justice Center in the Courthouse or at www.ElkhartFamilyLaw.org. Notice by Publication is required if you do not know the whereabouts of the other party.

Tailored, Some agreement but may need help with some issues such as details of custody and parenting time and asset division. Problem Solving Settlement Conferences will be required where you sit down with the other party in attempt to come to agreement on all or as many of your issues as possible. You may then enter into mediation if all matters are not agreed upon, then you may also have relatively short courtroom hearings or courtroom trials on limited issues. The Court may enter a Case Management Order to direct the progression of your case.

Specialized/Judicial Major issues: may include contested custody or parenting time, domestic/ family violence, alcohol/drug abuse, emotional abuse, sexual abuse. This pathway will involve other professionals that may include staff from the Office of Family Court Services, Guardian Ad Litem, and community agencies staff. The Court may order individual and family assessments, substance abuse treatment, drug screening, counseling, supervised parenting time. A community based family team may be created when multiple agencies are involved in a series of interventions that are aimed at the issues presented in the case by the parents and children. Whenever, there are safety issues for anyone in the case this Pathway will be chosen. There is more Judicial oversight in this Pathway. **LR20-FL00-406**

Both parents are required to submit the Triage Questionnaire.

Available at the *Access to Justice Center* in the Courthouse
Or at www.ElkhartFamilyLaw.org

Other Parental Requirements

Parents must complete: Dissolution of Marriage: www.UptoParents.org Legal Separation: www.WhileWeHeal.org Paternity www.ProudToParent.org **LR20-FL00-409**

Transparenting for Divorcing Parents; Seasons for their Children and Peaceful Parenting for Paternity parents. **LR20-FL00-410** and all parents must submit a **Parenting Plan Proposal LR20-FL00-411.2**

Problem Solving Settlement Conference Requirement

This is the main component of any Family Law Case. The parties are required to communicate with one another, in person, virtually, in shuttle diplomacy with or without a third party facilitator. These conferences are required prior to filing. In Family Law, surprise or predator type pleadings are not acceptable. Pleading and Trial by ambush are prohibited. There are very specific rules in regard to Emergency filings and Emergency orders. When there is an immediate danger or harm alleged such matters must be reported to Child Protective Service 1-800-800-5556. The Family Court does not have the ability to perform immediate investigations, rather, the Indiana Department of Child Services through Child Protective Services has been established for those purposes.

Each new filing or new event should trigger a Problem Solving Settlement Conference. Many cases will have multiple Problem Solving Settlement Conferences. Even in cases where domestic and family violence has occurred some form of conferencing or mediation may occur with a well trained facilitator, parties need not be in the same room or even in the same building or city for that matter to have a successful structured conference or mediation. There are always exceptions to the Rule in extreme circumstance and waiver of this

Rule must be requested in a filing with the court that explains in detail the reasons for requesting waiver of this Rule. **LR20-FL00-405**

Next Step- Alternative Dispute Resolution

If the Problem Solving Settlement Conference is not successful in whole or part, then the next step is Alternative Dispute Resolution. This may be mediation or some other form of ADR as allowed by Indiana ADR Rules. In mediation, parties meet with a certified mediator that has undergone extensive training to attempt to resolve the issues involved in their cases. Parties pay a mediator to assist them. There is On Line Dispute Resolution available, as well as, a lower cost mediation Program available through the Center for Community Justice. Parties may choose mediation at any time. If ordered by the court, then the parties have seven (7) days to agree on a mediator. See: [Mediators - Search \(in.gov\)](#). If there is no agreement, then the court names a panel of three and each side eliminates one and the remaining mediator is appointed as mediator for that case. Many cases will have multiple mediations and the same rules that apply to Problem Solving Settlement Conferences as to location and circumstances of the meeting apply to mediation.

Judicial Determination

If all efforts fail to resolve issues, then the Court may issue various orders and require Pre-Trial Meeting between the parties with specific tasks to be accomplished. Further Case Management Conferences and Orders, Status Conferences, Pre-Trial Conferences and Pre-Trial Orders may be utilized. This is the most time consuming and expensive process to resolve family issues, in some cases the expenses could equal that of an Ivy League education! In the end a Judicial Officer imposes a decision on the family, rather than the family making decisions for themselves.

Model Time Standards

Time Frames for children differ than time frames for adults. Children have different developmental needs than adults, Delays may cause trauma to all involved, but especially to children. Lack of time frames may cause injustice and unfairness to parties without resources and may be used by some to manipulate the system in their favor. Therefore, for Family/Dissolution/Paternity/Allocation of Parental Responsibility cases the following Time Standards have been adopted:

75% within 120 days: 180*

90% within 180 days: 240*

98% within 365 days: 425*

****The Model Time Standards for State Trial Courts*** publication of the National Center for State Courts states these times do not include statutory imposed waiting time periods. See: [Model Time Standards for State Trial Courts \(ncsc.org\)](#)

- Case Management Standards: Streamlined: Uncontested Dissolutions may be set for Final Hearing upon expiration of the 60 day waiting period.
- Case Management Standards: Tailored and Specialized/Tailored Pathways
Initial Provisional Hearing (Temporary Orders) within 21 days of filing of a request for such Provisional Hearing when it is alleged by filer that there is a need for temporary orders for housing costs, child support and payment of essential bills. Upon filing and notice to the other party Problem Solving Settlement Conference to be held within 14 days of filing. Disclosure of income tax return, three most recent pay periods required for this meeting.

Party Requested Case Management Conference with the court between Provisional Hearing and Discovery and Standard Financial Disclosure date.

Discovery concluded; Standard Financial Disclosures completed, Proposed Parenting Plan 90 days after filing with verification of completion of same filed with the court.

At the 95 days after filing, Case Review by Court Staff/Family Service Staff/Administrative Staff/Judicial Officer of all cases wherein no action/filings/hearings have occurred for possible setting of TR 41(E) hearing.

Second Problem Solving Settlement Conference if one held prior to Provisional Hearing or Initial Problem Solving Settlement Conference by day 110 after filing.

Alternative Dispute Resolution held by day 150 after filing.

Case Management and Pre-Trial Conference by day 180 of filing.

Adverse Childhood Experiences

The Elkhart Family Court is committed to provide Trauma informed processes, interventions and a physical atmosphere in the Courthouse that assures all persons of their safety and wellbeing.

See: [Adverse Childhood Experiences \(ACEs\) \(cdc.gov\)](#)

Waiver of any Rule may be requested to address personal safety issues.

Where to Find Help

Access to Justice Center in the Courthouse has “Navigator” Staff that can assist you in processes that are available including form pleading and review of those pleading to assure they are complete. They cannot give you legal advice on how best to resolve your issues or the merits of your cause. They can assist you with forms in the Center’s computers or provide paper forms. They may also assist with the e-filing process. Helpful websites: www.ElkhartFamilyLaw.org; www.in.gov/judiciary/selfhelp [Self-Help Landing Page - Indiana Legal Help](#)

Free or Low Cost Legal Help:

The Volunteer Lawyer Network, Inc. P.O. Box 1358 117 ½ N. Main St. South Bend, IN 46624 574-277-0075 volunteerinc@att.net /www.volunteerlawyernetwork.org/	Elkhart Legal Aid, Inc Elkhart Court House 315 S. Second St. Elkhart, IN 46516 574-294-2658	Indiana Legal Services South Bend Office 401 E. Colfax Suite 116 South Bend, IN 46617 800-288-8121
Notre Dame Legal Aid Clinic 725 Howard St. South Bend, IN 46617 574-631-6704 www.law.nd.edu/legal-aid-clinic/	Center for Legal Justice [Se Habla Espanol] 220 West High Street Elkhart, IN 46516 574-333-2037 574-217-4488 (fax) www.centerforlegaljustice.net	