

## Administrative Code of Elkhart County Courts

### **I. Administrative Review of Case Allocation System**

Not later than October 1 of each year, the Administrative Judge with the Court Administrator shall review the caseload plan to determine if adjustments should be recommended to the judges of the circuit and superior court.

### **II. Family Law**

#### **A. Mission of Family Court.**

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.

#### **B. Trial Rule 81.1**

Trial Rule 81.1 procedures will be utilized in all Elkhart County Family Law Court cases as allowed by law.

#### **C. Bundling of Cases**

##### **1. Definition**

Bundling means multiple case types heard by a single judicial officer when those cases involve the same family members.

##### **2. Pragmatic Approach**

**Additional considerations, but not limited to, as allowed by Rules of Trial Procedure**

##### **81.1 (A) (1) (vi)**

The Elkhart Family Court takes a pragmatic approach to the bundling of cases. The Judicial Officers and the Office of Family Court Services will consider these factors when determining 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?

The Elkhart Office of family Court Services has the authority to issue required forms in this process.

### **3. Case types that may be considered for bundling**

Bundling is not presumed to apply to juvenile delinquency matters. The coordination of cases model and bundling is available at the discretion of the judicial officer hearing the criminal delinquency matter.

#### **D. Adoption of the Family Justice Initiative Reforms.**

See:

##### ***Family Justice Initiative Principles:***

[https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0021/19173/family\\_justice\\_initiative\\_principles\\_final.pdf](https://www.ncsc.org/__data/assets/pdf_file/0021/19173/family_justice_initiative_principles_final.pdf)

##### ***Family Justice Initiative Pathways:***

[https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0016/19114/family\\_justice\\_initiative\\_pathways\\_final.pdf](https://www.ncsc.org/__data/assets/pdf_file/0016/19114/family_justice_initiative_pathways_final.pdf)

##### ***Family Justice Initiative Landscape:***

[https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0018/18522/fji-landscape-report.pdf](https://www.ncsc.org/__data/assets/pdf_file/0018/18522/fji-landscape-report.pdf)

##### ***Family Justice Initiative Pathways, Protocols and Templates:***

[Family Justice Initiative: Protocol Development and Appendices: Pathways Protocols and Templates - Children, Families & Elders - National Center for State Courts \(oclc.org\)](#)

#### **E. Adoption of the 13 Principles of Family Justice Initiative:**

1. Applied to DR, DC, DN, JP, GU and AD, Grandparent Visitation and Change of Name cases

The 13 Principles of Family Justice Reform are divided into four sections:

##### **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

## **F. Principles of the Problem-Solving Approach**

Applied to DR, DC, DN, JP, JC, GU and AD, Grandparent Visitation and Change of Name cases.

The Court adopts the Problem Solving and Cooperation Model. That is:

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.

6. Problem Solving and Cooperation is an alternative approach to the adversarial system that does harm to children and families.

**G. Alternative Dispute Resolution Effective January 1, 2024**

1. Applied to DR, DC, DN, JP, GU and AD, Grandparent Visitation and Change of Name cases.

This Rule is discretionary or at the request of the parties or on the court's own motion for cases in the Streamlined or Tailored Pathway. See section 409. If the Problem-Solving Settlement Conference has not been successful, then this Rule is mandatory for cases in the Judicial/Specialized Pathway, Alternative Dispute Resolution methods as described in the Indiana Rules of Alternative Dispute Resolution shall occur, including, but not limited to mediation pursuant to Ind. ADR Rule 2 et seq. This includes Online Dispute Resolution. (ODR).

2. The Court may excuse the requirement for good cause shown. There must be a detailed written statement of sufficient fact and weight for the court to waive this rule. All individuals are advised that the Courts do not favor requests for waiver from the requirements of this rule, and that waiver requests should be sought only in exceptional instances and not as a matter of course.

**H. Office of Family Court Support Services Effective January 1, 2024**

The Elkhart Office of Family Court Support Services has been established.

That Office shall provide services that include but not limited to:

1. Development of forms required for filing such as Case Questionnaires, Case Specific Flow Charts, Summons, form of pleadings and forms of order and any other document preparation to assist with information, case management, assessment and evaluation of individuals, cases, and programs.
2. Identification of cases and evaluation of cases for bundling as defined in section 402.3.
3. Triage of cases and assignment to Pathways as defined in section 409.
4. Case management.

5. Monitoring of time standard as defined by section 411.
6. Research and development of programs.
7. Providing education opportunities for judicial officers, staff, attorneys, Court Appointed Special Advocates and Guardian ad Litem, parents and the community.
8. Enhance ADR opportunities
9. Facilitate Problem Solving Settlement Conference upon request and Court approval.

See:

[Family Justice Initiative: Protocol Development and Appendices: Pathways Protocols and Templates - Children, Families & Elders - National Center for State Courts \(oclc.org\)](#)

#### **I. Model Time Standard Adopted. Effective January 1, 2024:**

This Rule adopts the National Center for State Courts Model Time Standard for Dissolution/Divorce and Allocation of Parental Responsibility as follows:

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 \(ncsc.org\)](#)

#### **J. Case Management Standards: Streamlined:**

Uncontested Dissolutions may be set for Final Hearing upon expiration of the 60 day waiting period.

#### **K. Case Management Standards: Tailored and Specialized/Tailored Pathways**

1. 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 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 at this meeting.

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

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

4. 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.

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

6. Alternative Dispute Resolution held by day 150 after filing.

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

8. For good cause shown the court may extend or continue these timelines and case management orders.

#### **L Adverse Childhood Experiences (ACE)**

The Elkhart County Family Court will strive to provide Trauma informed care by providing processes that recognize the trauma in individual's lives as represented by the ACE's. There will be a continuing effort to bring educational opportunities to judicial officers, court staff, attorneys, guardian ad litem's, CASA's, Family Court Services Staff, Probation, Detention and all other professionals working with children and families in the Family Court.

See:

[Center on the Developing Child at Harvard University](#)

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

[Learn About Child Development | CDC](#)

[HOPE - Healthy Outcomes from Positive Experiences](#)

### **III. Photographing, recording, and broadcasting in court**

#### **(a) Introduction**

The judiciary is responsible for ensuring the fair and equal administration of justice. The judiciary adjudicates controversies, both civil and criminal, in accordance with established legal procedures in the calmness and solemnity of the courtroom.

Photographing, recording, and broadcasting of courtroom proceedings may be permitted as allowed by Judicial Conduct Rule 2.17. These rules are meant to ensure that the fairness and dignity of the proceedings are not adversely affected.

**(b) Definitions**

As used in this rule:

- (1) "Media coverage" means any photographing, recording, or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment.
- (2) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, periodical, press association, wire service, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency including under I.C. § 34-46-4-1.
- (3) "Court" means the courtrooms, the courthouse, hallways in the courthouse and its entrances and exits.
- (4) "Judge" means any judicial officer that presides over a proceeding.
- (5) "Photographing" means recording a likeness, regardless of the method used, including digital or photographic methods. As used in this rule, photographing does not include drawings or sketches of the court proceedings.
- (6) "Recording" means the use of any analog or digital device to record audio or visually preserve court proceedings. As used in this rule, recording does not include handwritten notes on the court record, whether by court reporter or by digital or analog preservation.
- (7) "Broadcasting" means a visual or audio transmission or signal, by any method, of the court proceedings, including any electronic transmission or transmission by sound waves.

**(c) Photographing, recording, and broadcasting prohibited**

Except as provided in this rule, court proceedings may not be photographed, recorded, or broadcast. This rule does not prohibit courts from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel.

**(d) Media coverage**

Media coverage may be permitted only on written order of the judge as provided in this subdivision. The judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report court proceedings.

(1) *Request for order*

The media may file a **Request for Access Pursuant to Judicial Conduct Rule 2.17: Form A** required. The form must be filed at least ten court days before the portion of the proceeding to be covered unless good cause is shown.

A completed, proposed order on **Order for Access Pursuant to Judicial Conduct Rule 2.17: Form B** must be filed with the request.

The judicial officer assigned to the proceeding must rule on the request. Filer must provide service of process to all parties in the case pursuant to the Rules of Trial Procedure. The filing of the Motion or requirements of this Rule does not make the filer a party to the case.

(2) *Hearing on request*

The judge may hold a hearing on the request or may rule on the request without a hearing.

(3) *Factors to be considered by the judge*

In ruling on the request, the judge is to consider the following factors:

- (A) The importance of maintaining public trust and confidence in the judicial system.
- (B) The importance of promoting public access to the judicial system.
- (C) The parties' support of or opposition to the request.
- (D) The nature of the case.
- (E) The privacy rights of all participants in the proceeding, including witnesses, jurors, and victims.
- (F) The effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding.
- (G) The effect on the parties' ability to select a fair and unbiased jury.
- (H) The effect on any ongoing law enforcement activity in the case.
- (I) The effect on any unresolved identification issues.
- (J) The effect on any subsequent proceedings in the case.
- (K) The effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness.



- (L) The effect on excluded witnesses who would have access to the televised testimony of prior witnesses.
- (M) The scope of the coverage and whether partial coverage might unfairly influence or distract the jury.
- (N) The difficulty of jury selection.
- (O) The security and dignity of the court.
- (P) Undue administrative or financial burden to the court or participants.
- (Q) The interference with neighboring courtrooms.
- (R) The maintenance of the orderly conduct of the proceeding; and
- (S) Any other factor the judge deems relevant.

(4) *Order permitting media coverage*

The judge ruling on the request to permit media coverage is not required to make findings or a statement of decision. The order may incorporate any local rule or order of the presiding judge regulating media activity outside of the courtroom. The judge may condition the order permitting media coverage on the media agency's agreement to pay any increased court-incurred costs resulting from the permitted media coverage (for example, for additional court security or utility service). Each media agency is responsible for ensuring that all its media personnel who cover the court proceedings know and follow the provisions of the court order and this rule.

(5) *Modified order*

The order permitting media coverage may be modified or terminated on the judge's own motion or on application to the judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered under the application must be given to the parties and each media agency permitted by the previous order to cover the proceeding.

(6) *Prohibited coverage*

The judge may not permit media coverage of the following:

- (A) Proceedings held in chambers.
- (B) Proceedings closed to the public.
- (C) Jury selection.
- (D) Jurors or spectators; or
- (E) Conferences between an attorney and a client, witness, or aide; between attorneys; or between counsel and the judge at the bench.

(F) Victims of violent offenses, sex offenses, domestic abuse, and family violence

(G) Materials on counsel or court staff tables and the judicial bench.

(7) *Equipment and personnel*

The judge may require media agencies to demonstrate that proposed personnel and equipment comply with this rule. The judge may specify the placement of media personnel and equipment to permit reasonable media coverage without disruption of the proceedings.

(8) *Normal requirements for media coverage of proceedings*

Unless the judge in his or her discretion orders otherwise, the following requirements apply to media coverage of court proceedings:

(A) One television camera and one still photographer will be permitted.

(B) The equipment used may not produce distracting sound or light. Signal lights or devices to show when equipment is operating may not be visible.

(C) An order permitting or requiring modification of existing sound or lighting systems is deemed to require that the modifications be installed, maintained, and removed without public expense or disruption of proceedings.

(D) Microphones and wiring must be unobtrusively located in places approved by the judge and must be operated by one person.

(E) Operators may not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.

(F) Equipment or clothing must not bear the insignia or marking of a media agency.

(9) *Media pooling*

If two or more media agencies of the same type of request media coverage of a proceeding, they must file a joint statement of agreed arrangements. If they are unable to agree, the judge may deny media coverage by that type of media agency.

**(e) Sanctions**

Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law.

#### **IV. Domestic Relations Court**

A. Pursuant to I.C. 31-12-1.5-1, the judges of the Thirty-Fourth Judicial Circuit; that being, Elkhart County, Indiana do hereby determine that a Domestic Relations Court is established effective July 1, 2023, subject to further determination annually in January of each subsequent year.

That the social conditions of the county are such that there are a high number of divorces in the County, and more than half of all children born are born to unmarried parents creating a high number of Juvenile Paternity cases.

Children of unmarried parents have fewer economic resources, receive less parenting from their father, face a much greater risk of parental break-up leading to two to three times the risk of having serious social problems when becoming adolescents and young adults such as juvenile delinquency and teenage out of wedlock childbearing.

Children that are subject of these Domestic Relations-Family Court proceedings experience distress, anger, grief, and disbelief which may lead to mental health problems, behavior problems, poor academic performance, and risk-taking behaviors.

A systemic approach to these problems is needed. Services needed include screening, investigations, reporting, evaluation, counseling, and mediation all of which may be provided through a Domestic Relations Court.

There are between 1200 and 1300 domestic relations cases filed annually in the Elkhart County Court.

The Elkhart Superior Court 6 is the Domestic Relations Court, and the judge therein is the Domestic Relations Judge for the Thirty-Fourth Circuit, that being, Elkhart County, Indiana.

#### **B. Domestic Relations Bureau**

1. A Court may refer contested matters involving child custody and parenting to the Domestic Relations Counseling Bureau (DRCB) or another service provider for screening, investigation, and/or report.

2. A referral may be made prior to hearing, both before and after a final decree, on a motion of either party with the consent of the Court, or on the Court's own motion.

3. Definition. "Contested matters," for purposes of this rule, shall include issues involving child custody and parenting time, which may exist both before and after the entry of a final decree.

4. Cooperation of Parties. The parties to contested matters shall meet, and cooperate, with the DRCB or other service provider as required.

5. DRCB Recommendations.

a. Upon referral, the DRCB may recommend that the parties be referred for interventions: early neutral evaluation, mediation, counseling, or case management.

b. A DRCB investigation and evaluation of contested matters involving child custody and parenting time will not be conducted by the DRCB unless the above stated interventions have failed or are found to be inadequate to protect the physical safety or emotional well-being of a minor child.

6. DRCB Reports. The DRCB shall report to the Court on all contested matters. Any reports submitted to the Court is part of the court record and parties shall receive copies of same unless otherwise ordered by the Court.

7. Confidentiality of DRCB Records. The records and reports of the DRCB contain information of a private and personal nature, and the release of that information, without court approval and supervision, could result in intentional mischief or unintentional injury to the parties, their children, or relatives. As such, the records and reports of the DRCB are confidential, and that all access to the notes, records, or reports of the DRCB shall be allowed only by order of the Court.

C. Duties of Domestic Relations Referees:

1. IC 31-12-1-7:

a. Dissolution of Marriage

b. Annulment

- c. Separation
- d. Child Support
- e. Paternity

2. Additional Duties assigned Domestic Relations Referees per  
IC 31-12-1-10

- a. Guardianships
- b. Orders of Protection
- c. Name and Gender Changes
- d. Grandparent Visitation
- e. Child Custody matters not otherwise included in  
Dissolution of Marriage and Paternity cases.
- f. Child in Need of Service; Juvenile Delinquency,  
Juvenile Orders of Protection, Termination of Parental  
Rights.
- g. Contempt, indirect and direct, proceedings to enforce  
court orders and to maintain order in the Courtroom.

3. The Domestic Relations Referees will act as presider, fact finder and make recommendations to the judge of Elkhart Superior Court 6. Only final appealable orders will need signature of the judge. The judge's signature is not required on ministerial and administrative duties and actions that are not final appealable orders.

## **V. Small Claims and Minor Offense Court**

A. With over 2,000 Misdemeanors, 1,500 Level 6 felonies, 4,000 Infractions, 2000 Small Claims, 1500 Evictions and nearly 300 Ordinance Violations, a Small Clams and Minor Offense Court is created in LR20-AR00-104.2.1 and LR20-AR00-109.3.

B. That IC 33-33-20-3 establishes the Elkhart Superior Court with 6 judges as Standard Superior Court.

C. That IC 33-29-2 allows for Small Claims and Minor Offense Courts.

D That IC 33-29-2-8 states that the minor offense and violations docket of a Small Claims and Minor Offense Court has jurisdiction over:

1. Level 6 Felonies
2. all misdemeanors
3. all infractions
- 4 all ordinance violations.

E. That IC 33-29-2-4 allows for jurisdiction over:

1. Civil actions in which the amount sought or value of the property is ten thousand dollars (\$10,000.00).
2. Possessory actions between landlord and tenant in which the rent at the time of the action does not exceed ten thousand dollars (\$10,000.00).
3. Emergency Possessory actions between landlord and tenant.

F. In addition to the authority in Section D and E above, the Small Claims/Minor Offense Referee shall have authority necessary to carry out those duties including, but not limited to:

1. Determination of probable cause,
2. Issue warrants and writs of attachment,
3. Administer oaths or affirmations,
4. Conduct all administrative duties,
5. Collection of judgments, including proceedings supplemental,
6. Enforcement of any order,
7. Direct contempt authority to maintain decorum.

G. That the Criminal and Civil Division judges of the Superior Court select a Small Claims and Minor Offense Referee.

H. That the Criminal and Civil Division judges determine from their number a judge or judges to supervise said Referee.

I. That Judges of the Criminal and Civil Divisions of the Elkhart Superior Court shall have authority to review and approve/disapprove recommendations of the Small Claims and Minor Offense Referee.