



# **St. Clair County**

## **DOMESTIC RELATIONS LOCAL RULES**

**2012**

The Twentieth Judicial Circuit Court would like to acknowledge and give thanks to the following Committee members who gave of their time and talent to complete the Domestic Relations local rule revisions.

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## **PART 8 DOMESTIC RELATIONS**

### **8.01 Notice of Dispute as to Child Custody.**

If custody, visitation, removal or access to child(ren) is in dispute, either party shall inform the assigned judge at the initial case management conference or as soon as a dispute is known to exist. The assigned judge shall issue a mediation order and set the case for a mediation status within forty-five (45) days.

### **8.02 Financial Disclosure Statement of Income, Expenses, Property & Debt**

Pursuant to Illinois Supreme Court Rule 201 (c)(2), and other relevant Supreme Court rules that may be adopted, a sworn Financial Disclosure Statement must be filed by the parties no later than forty-eight (48) hours before hearing on a pleading seeking to establish, modify or otherwise affect issues of support or maintenance or disposition of property, whether temporary or permanent in nature. If such affidavit has been filed for purposes of a hearing on a temporary relief, an additional affidavit need not be filed prior to a hearing for permanent relief unless there has been a change in financial circumstances. Failure to comply with this rule may result in sanctions pursuant to Illinois Supreme Court Rule 219(c). The parties may opt out of the requirements of the Rule by written agreement and with the permission of the court, or the court may waive this requirement at the court's discretion. The court adopts a uniform financial statement disclosure form available on the Circuit Clerk's website at <http://www.circuitclerk.co.st-clair.il.us/DocumentsForms/Family+Division/>

### **8.03 Position Statement**

In any disputed case involving property, attorney's fees, custody, visitation, maintenance, child support then the attorneys and/or pro se parties shall file a statement of proposed resolution of all issues not less than seven days before final hearing. The court adopts a Model 8.03 Position Statement



and said document is available on the Circuit Clerk's website at <http://www.circuitclerk.co.st-clair.il.us/DocumentsForms/Family+Division/>.

If the issues before the court are on limited grounds, it is only necessary to submit the appropriate attachment from the Model 8.03 Position Statement (*i.e.* if disputed issues concern child support only, then submit "Attachment C - Child Support Worksheet").

#### **8.04 Emergency Matters**

Designation of a matter as an "emergency" is an extraordinary measure. The proponent of an alleged emergency matter shall have the burden of proving the existence of an emergency. Matters designated "emergency" shall be heard at the discretion of the Court:

- (A) Without notice to opposing party – No less than two (2) business days notice shall be given to the opposing party unless the emergency qualifies for ex parte relief. If no prior notice is given to opposing party, proponent must comply with local rule 601(B).
- (B) If the Court determines that the matter does not meet the criteria for emergency relief, an order so finding shall be entered. If such a finding is made, the party or the party's counsel who responds to a motion propounded as, but found not to be, an emergency may be entitled to reimbursement by the proponent for actual expenses and attorney fees incurred in responding to said motion.

#### **8.05 Domestic Violence Orders of Protection**

##### **(A) Emergency Order of Protection**

Petitions for emergency orders of protection shall generally be heard by the judge assigned to the Domestic Violence Courtroom. Petitions for emergency orders of protection shall be heard promptly and need not be scheduled in advance. Hearings on Petitions to dissolve or modify emergency orders of protection shall be given priority by the Court.

**(B) Pending Domestic Relations Cases**

It is the goal of this circuit to have all proceedings related to a child(ren) conducted by a single judge where possible. Therefore, when domestic violence allegations arise while a pending Domestic Relations case is pending, and all allegations of the Petition for an Emergency Order of Protection (EOP) involve custody, visitation, removal or access to a child(ren), the EOP shall be heard by the judge assigned the Domestic Relations case if that judge is available.

**8.06 Case Management Conference St. Clair County**

**(A) Domestic Relations and Family Cases**

The assigned judge shall convene a case management conference in domestic relations and family cases no later than sixty (60) days from the date of filing.

**(B) The purpose of the case management conference is to prevent delay in the disposition of the case by achieving early court intervention and compliance with Supreme Court Rule 218. In addition, the conference is to promote settlement, to determine whether custody, visitation, removal or access to child(ren) is at issue, to set discovery limits & hear discovery motions and to monitor compliance with Court Orders, Children First and Mediation.**

**(C) Failure to Appear**

Failure of counsel or pro se parties to appear at the case management conference or any future court date scheduled by the Court may result in dismissal for want of prosecution or default upon the Court's own motion. Any motion to set aside a dismissal or default for violation of this rule shall be heard by the judge that dismissed the case or entered the default.

- (J) At the first pre-trial conference, a scheduling order shall be entered including, but not limited to, a date for final hearing if no custody issues exist, and a later date for a final hearing that would address custody issues.
- (K) If an attorney either does not appear or is not properly prepared to go forward with the pre-trial conference as set forth herein, sanctions may be requested by the opposing party.

#### **8.07 Mandatory Future Court Dates**

Every active case shall have a future court date.

#### **8.08 Children First Program in St. Clair County**

Prior to the entry of a final order regarding custody, the parents shall attend the Children First Program as required by Supreme Court Rule 924. A certificate of satisfactory completion must be filed no later than sixty (60) days after the initial case management conference. A Children First Parenting Education Internet Class is available for good cause shown by a parent who cannot physically attend the class. A prior Court order is required to use the Internet version. This requirement shall not be waived except for extreme hardship shown.

#### **8.09 Children First Program in Monroe, Perry, Randolph and Washington**

The Children First Program may be used as directed by the presiding judge of that county.

#### **8.10 Certificate of Dissolution, Invalidity of Marriage or Legal Separation**

No Judgment of Dissolution, Invalidity of Marriage or Legal Separation shall be entered without simultaneous submission of the Certificate from the Illinois Department of Public Health, Division of Vital Records.



#### **8.11 Attorney Qualification in Child Custody Matters**

- (A) This circuit shall maintain a list of approved attorneys qualified to be appointed in child custody and visitation matters covered under Section IX of the Supreme Court Rules as guardians ad litem, child representatives, or attorneys for children.
- (B) In order to qualify for the approved list, each applicant for the list shall meet the following minimum requirements.
1. Each attorney shall be licensed and in good standing with the Illinois Supreme Court.
  2. Each attorney shall have attended the education program created by the Illinois State Bar Association for education of attorneys appointed in child custody cases or equivalent education programs consisting of a minimum of ten (10) hours of continuing legal education credit within the two (2) years prior to the date the attorney qualifies to be appointed.
  3. To remain on the approved list, each attorney shall attend continuing legal education courses consisting of at least ten (10) hours every two (2) year period and submit verification of attendance to the Office of the Chief Judge and Presiding Domestic Relations Judge at the time of attendance or upon request. The ten (10) hours may include courses in child development; ethics in child custody cases, relevant substantive law in custody, guardianship and visitation issues, domestic violence, family dynamics including substance abuse and mental health issues, and education on the roles and responsibilities of guardians ad litem, child representatives, and attorneys for children. Attendance at any additional programs sponsored by this circuit may be included as a portion of this continuing education requirement.

4. Each attorney must adhere to the minimum duties and responsibilities of attorneys for minor children as delineated in Supreme Court Rule 907.
- (C) Each attorney places on the approved list for this circuit shall be paid by the parties to the litigation as ordered by the judge handling the case or as agreed between the parties. The court may enforce the orders and judgments as in other proceedings, including but not limited to, the imposition of sanctions or allowing the withdrawal of the appointed attorney.
- (D) If the Court finds that the parties are both indigent, the Court may appoint an attorney from the approved list to serve pro bono.
- (E) The Chief Judge and/or the Presiding Judge of the Family division shall maintain the list of approved attorneys and shall rotate the appointment of pro bono representatives.
- (F) Each attorney on the approved list shall only be required to accept one (1) pro bono appointment each calendar year.
- (G) The Chief Judge of this Circuit maintains the authority to remove any attorney from the list of approved attorneys based upon the failure of any appointed attorney to perform as provided in Supreme Court Rule 907.

#### **8.12 Mediation of Custody and Visitation**

- (A) This circuit shall maintain a list of approved persons qualified to be appointed as mediator in child custody and visitation matters covered under Article IX of the Supreme Court Rules.
- (B) This Circuit Court expressly adopts and incorporates by reference the Local Court Rules for the Twentieth Judicial Circuit, Mediation of Custody and Visitation Issues Program consisting of six (6) pages as Addendum A to these rules.

#### **8.13 Uniform Order of Withholding**



Each order of child support or maintenance shall include a form Uniform Order for Support, Child Support Data Sheet, Child Support & Maintenance Worksheet and Order/Notice to Withhold Income for Child Support. The Uniform Order shall include a provision for payment of the Maintenance/Child Support Clerk Collection Fee.

Upon expiration, termination or modification of support, the person owing support has the responsibility to terminate the Uniform Order of Withholding.

#### **8.14 Judgment of Dissolution Required Provisions**

Each Judgment of Dissolution of Marriage must contain the following provisions, unless such provision does not apply. Each such provision shall be separately captioned to aid the Court in review of the proposed judgment:

1. The basis for personal and subject matter jurisdiction
2. The grounds for the dissolution
3. The statutory net income of the parents and the dollar amount of the child support pursuant to the statutory guidelines of 750 ILCS 5/505 and any deviation therefrom.
4. The identification of the parent(s) who shall cover the child(ren) for medical insurance and uninsured medical expenses.
5. The provision that maintenance is waived, reserved or awarded; if awarded, the type and duration of maintenance.
6. The award of sole custody of the child(ren) with a finding of best interest and a visitation schedule for the non custodial parent.
7. In case of Joint Custody, a Joint Parenting Agreement or Order per 750 ILCS 602.1 with the requisite language and findings.
8. The assignment of non-marital property, award of marital property and allocation of debt.

9. Where applicable, a QDRO or QILDRO or other pension/retirement document. An Order setting forth who is responsible for preparing same. A future status date for its entry. Failure of counsel to comply with this rule may result in the Court's refusal to entered the proposed judgment.

#### **8.15 Formal Orders**

If a case is taken under advisement by the Court it shall be decided within sixty (60) days per Local Rule 1.08. If the counsel is preparing a typewritten version of a handwritten order, the order shall recite same and a status date shall be given to submit the typewritten version. The Order is valid as of the handwritten version.

#### **8.16 Social Security Numbers**

The Circuit Clerk may certify a copy of the document with only the final four numbers of the Social Security number. Child support data sheets shall be filed with full social security numbers and placed under seal. See also Supreme Court Rule 138.

#### **8.17 Notice of Claim for Bail Bond Disbursement Pursuant to a Domestic Support Judgment/Lien**

1. In criminal and traffic cases where a bond has been posted pursuant to the provisions of 725 ILCS 5/110-7 and Supreme Court Rule 530, and the Court orders a judgment and conviction be entered and the bond to be applied, and where a Notice of Claim for bond disbursement pursuant to a domestic support judgment has been filed in the criminal/traffic case prior to disbursement of any bonds, a Notice setting the matter for hearing shall be provided to all interested parties.

2. The court shall refer to any Notice of Claim for bond disbursement pursuant to a domestic support judgment which has been filed by an interested party and/or their attorney.

3. The Notice of Claim for bond disbursement pursuant to a domestic support judgment shall be sent to the prosecuting attorney, the Defendant (and defense attorney of record) and any other

claimants of record with a proof of service by sending same by U.S. Mail to the last known address as listed in the court file.

#### **8.18 Rule on Admissibility of Medical and Mental Health Records**

Mental health records are governed by statute, including but not limited to 740 ILCS 110/1 et. seq.

If at least 30 days' written notice of the intention to offer the following documents in evidence is given to the opposing party, accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof: bills, records and reports of hospitals, doctors, dentists, orthodontists, registered nurses, licensed practical nurses and physical therapists, or other health-care providers.

If the opposing party objects to the authenticity of such documents produced pursuant to this rule, such objection shall be filed in writing no later than 21 days prior to hearing. Said objection shall be heard prior to the hearing at which said documents are to be introduced as evidence. The court shall have the discretion to apportion costs of proving authenticity and/or foundation.

Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.

#### **8.19 Model Forms**

The court adopts as model forms for St. Clair County those available on the Circuit Clerk's Website at <http://www.circuitclerk.co.st-clair.il.us/DocumentsForms/Family+Division/>



**ADDENDUM A**  
**Local Court Rules for the**  
**Twentieth Judicial Circuit**  
**Mediation of Custody and Visitation Issues Program**

**RULE 1.      DEFINITIONS**

- A. Mediation: When the word “mediation” is used herein, it means a cooperative process for resolving conflict with the assistance of a trained court-appointed, neutral third party, whose role is to facilitate communication, to help define issues, and to assist the parties in identifying and negotiation fair solutions that are mutually agreeable. Fundamental to the mediation process, describes herein, are the principles of safety, self-determination, procedural informality, privacy, confidentiality, and full disclosure of relevant information between the parties.
- B. Impediment. When the word “impediment” is used herein, it means any condition, including but not limited to domestic violence or intimidation, substance abuse, or mental illness, the existence of which, in an individual, or in a relationship, may hinder the ability of any party to negotiate safely, competently, and in good faith. The identification of forms of impediment is designed not to require treatment, but to insure that only parties have a present, undiminished ability to negotiate are directed by court order to mediate. Mediation is based on a full disclosure of all facts related to the disputes so that a fair and equitable agreement can be achieved by the parties.

**RULE 2.      MEDIATION MANDATORY**

- A. Matters subject to Mediation: The designated judge shall order mediation of any contested issue of parental responsibility, custody, visitation, guardianship, removal or access to children arising in any action not otherwise determined to be ineligible pursuant to this program. The parties may not proceed to a judicial hearing on contested issues arising relating to custody as defined by Supreme Court Rules until the mediation process has been concluded and its outcome has been reported to the court unless by specific leave of court.
- B. Prerequisite to Mediation: The parties referred to mediation by the court shall complete the parent education program prior to starting mediation or as soon after starting mediation as the parent education program’s schedule allows.
- C. Commencement of Mediation: The mediation process shall commence as provided by Supreme Court Rule 923(a) (3). In no event shall mediation occur before a case has been screened for eligibility pursuant to safety protocols for mediators. The designated judge shall be advised by counsel and/or the parties concerning:
1. Impediment of the parties as defined herein. Reason to believe that an impediment may exist should result in referrals that may address the impediment(s) to mediation.

2. Other circumstances exist which would unreasonably interfere with mediation.
3. Mediation shall not be required if the court determines, upon motion of a party, that a case is ineligible for mediation. Said motion shall be supported by affidavit setting forth specific facts detailing why mediation would be inappropriate.

D. Discovery: Discovery may continue through the mediation unless otherwise ordered by the Court.

### **RULE 3. REFERRAL ASSIGNMENT PROCEDURE**

A. Upon the court's order for the parties to participate in mediation, a mediator may be selected by agreement of the parties for the list of qualified mediators maintained by the chief Judge or his/her designee. Absent an agreement, the trial judge shall select the mediator and assign the mediator a 45-day status date on the issue of progress of the mediation. The mediators shall be compensated by the parties at the rate agreed to by the parties and the mediator.

1. The Court shall designate in its order what percentage of the mediation fee should be paid by the party and/or whether the case is a reduced fee case.
2. The parties shall contact the mediator within seven days after the referral order is signed for the purpose of setting an appointment.
3. The Attorneys shall encourage the parties to mediate in good faith. The parties shall participate in mediation in good faith.
4. On or before the status date set by the court for parties who are participating in mediation, the mediator shall submit a report to the court and the parties' legal counsel, which shall include the information required by these Rules.

B. Conflict of Interest.

1. If the mediator appointed has or had any possible conflict of interest, including but not limited to, a current or previous therapeutic, personal or economic relationship with mother, father, child, sibling, step-parent, grandparent, household member, counsel or anyone else directly involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the court shall appoint another mediator.
2. A mediator who is a mental health professional shall not provide counseling or therapy to the parties or their children during or after the mediation. An attorney-mediator may not represent either party in any matter during the mediation process or in a dispute between the parties after the mediation process.

C. Ethical Conduct: Inclusion of a mediator in the Twentieth Judicial Circuit approved mediators list indicates explicit agreement by that mediator to maintain high standards of



ethical practice. Failure to comply may result in removal of the mediator's name from the approved list.

#### **RULE 4.      MEDIATION PROCESS**

- A. Commencement: At or prior to the initial session, the mediator shall:
1. Determine the issues to be mediated;
- B. Safety: If an impediment affecting safety arises during the course of mediation, the mediator shall adjourn the session to confer separately with the parties, may implement appropriate safeguards such as arranging future mediations in a court facility with security, mediating with the parties in separate rooms, or making referrals to community service providers. The mediator may:
1. Terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or
  2. Proceed with mediation after consulting separately with each party and determining whether mediation in some format should continue.
- C. Competency or Good Faith: If an impediment affecting competency or good faith, but not safety, arises during the course of mediation, the mediator may make any appropriate referrals to community service providers and either:
1. Suspend mediation when there is a reasonable likelihood the impaired condition of an affected party is only temporary; or
  2. Terminate mediation when circumstances indicate an affected party's ability to negotiate cannot be adequately restored.
- D. Effect of Termination: No mediation terminated shall proceed further unless ordered by the court upon motion of a party. In the absence of such an order, the case shall be returned to the docket for adjudication in the manner prescribed by law, including possible mediation by a judge rather than a private mediator to enhance safety and the ability of each party to mediate on an appropriate basis.

#### **RULE 6.      CONFIDENTIALITY.**

- A. Privacy of Sessions: Mediation sessions shall be private. Except as otherwise provided in these Rules, the mediator shall have authority to exclude all persons other than the parties from sessions at which negotiations are to occur.
- B. Confidentiality: Except as otherwise provided by law, all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator or any other participant or observer of the mediation, except that the parties may report these communications to their attorneys or counselors. Prior to the commencement of mediation, all participants in the mediation shall sign the confidentiality agreement prescribed by these Rules.



C.

1. Limitation of Disclosure: Admissions, representation, statements and other communications made, or disclosed in confidence by any participant in the course of mediation session shall not be admissible as evidence in any court proceeding. Except as identified herein, a mediator may not be called as a witness in any proceeding by any party or by the court to testify regarding matters disclosed in a mediation session, nor may a party be compelled to testify regarding matters disclosed during a mediation session as to privileged communications. These restrictions shall not prohibit any person from obtaining the same information independent of the mediation, or from discovery conducted pursuant to law or court rule.
2. Exceptions: Admissions, representations, statements and other communications are not confidential if:
  - a. All parties consent in writing to the disclosure; or
  - b. The communication reveals either an act of violence committed against another during mediation, or an intent to commit an act that may result in bodily harm to another; or
  - c. The communication reveals evidence of abuse or neglect of a child; or
  - d. Non-identifying information is made available for research or evaluation purposes approved by the court; or
  - e. The communication is probative evidence in a pending action alleging negligence or willful misconduct of the mediator.

#### **RULE 7. ATTENDANCE AND TERMINATION OF MEDIATION**

- A. Attendance: The parties shall attend the mediation session(s) and shall attend a minimum of four (4) hours of mediation. Further participation may be extended by order of court or agreement of the parties. Mediation may be terminated or suspended prior to completion of the four (4) hours upon resolution of all mediated issues.
- B. Termination or Suspension: The mediation may be terminated or suspended at the option of the mediator or the court.
- C. Notice to Court. The mediator shall immediately advise the court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this Rule.
- D. Sanctions for Failure to Appear: If a party fails to appear without good cause at a previously agreed upon mediation conference or a mediation conference ordered by the court, the court upon motion may impose sanctions, including an award of mediator and attorney fees and other costs; against the party failing to appear.
- E. Termination with Agreement: When agreements or partial agreements are reached by the parties during mediation, the mediator shall provide a written account of the agreements to the parties and their attorneys (if any), but the mediator shall not provide this written account to the court. The mediator shall advise each party to obtain legal assistance in drafting or reviewing any final agreements. The mediator shall advise the parties that agreements reached during mediation will not be legally binding until they are reviewed by the court and signed by the judge.



- F. Termination without an Agreement: Upon termination without agreement, the mediator shall file with the court a final mediator report stating that the mediation has concluded without disclosing any reasons for the parties' failure to reach an agreement.
- G. Reporting Procedures:
1. Mediator's Report: The mediator shall prepare a report on the prescribed form within ten days of the termination of the last mediation session. These reports will be filed with the Circuit Clerk.
  2. Statistics: The mediator shall prepare a statistical report for each case on the prescribed form and file them at least quarterly with the trial court administrator.
  3. Reports to the Supreme Court: The trial court administrator or his/her designee shall provide for the maintenance of records of mediations conducted pursuant to these Rules. The information shall include the number or mediations conducted the number or mediations resulting in an agreement and those resulting in no agreement. Such information shall be furnished to the Supreme Court through its administrative office once a year or at such other interval as may be directed.
- H. Appointment of a Child Representative/Guardian ad litem: If the mediator has concerns for the welfare or safety of the minor child (ren) or feels that is in the best interests of the minor(s), the mediator shall recommend to the court in the report that a child(ren) representative or guardian ad litem be appointed for the minor(s).

#### **RULE 8. ENTRY OF JUDGMENT OR ORDER**

- A. Presentation of Order: Each mediated agreement shall be presented by the parties or their attorneys (in any) to the Court within thirty (30) days following the filing of the final Mediator's Report.
- B. Approval by Court: The court shall examine the parties as to the content and intent of the agreement and shall reject the agreement in any of its provisions are found by the court to be unconscionable or contrary to the best interests of a minor child. Unless the agreement is rejected, the Court shall enter an appropriate judgment or order stating its findings and shall incorporate, either explicitly or by reference, the agreement so the terms or such agreement are also the terms of the judgment or order.

#### **RULE 9. QUALIFICATIONS AND TRAINING OF MEDIATORS**

- A. Requirements: Mediators in the Twentieth Judicial Circuit must meet all of the following requirements:
1. Formal education: A mediator must possess a degree in law or a master's or other advanced degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships or a related field or other degree program approved by the Chief Judge or his/her designee. If engages in a licensed discipline, the mediator must maintain said license in full force and effect.

2. Training: A mediator must complete a specialized training in family mediation consisting of a circuit-approved course of study or certification, consisting of at least 40 hours including the following areas:
    - a. Conflict resolution
    - b. Psychological issues in separation, dissolution and family dynamics
    - c. Issues and needs of children in dissolution
    - d. Mediation process, skills and techniques; and
    - e. Screening for and addressing domestic violence, child abuse, substance abuse and mental illness.
  3. Insurance: Court-approved mediators must secure and maintain professional liability insurance which covers the mediation process and provide evidence of insurance to the Chief Judge annually.
- B. Continuing Education: Approved mediators are required to complete ten (10) hours of circuit-approved continuing education every two (2) years of which two (2) hours must cover domestic violence issues and provide evidence of completion of to the Chief/Presiding Judge every two (2) years.
- C. Establishment of List: The Judicial Circuit shall establish a list of court-approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in this circuit Rule. The Chief Judge or his/her designee in his/her discretion may require any biographical or other relevant information from an applicant in order to determine the applicant's qualifications for inclusion on the list. For good cause shown, the Chief Judge or his/her designee reserves the right to reject the application of any person who applies and to remove any mediator from the list. Inclusion on the list by the court shall not be considered a warranty that such mediator can successfully mediate any specific dispute.
- D. Denial/Removal from List: An applicant denied inclusion on or removed from the court-approved list may appeal the decision in writing within ten (10) days to the Chief Judge or his/her designee. The Chief Judge or his/her designee shall decide the appeal after an opportunity for the applicant or mediator to be heard.
- E. Pro Bono Requirement: Each circuit-approved mediator shall agree to mediate cases for a reduced fee as assigned by the Court. The Court will rotate the assignment of reduced fee cases so as not to unreasonably burden any individual mediator.