

§183. Family Division of District Court

There is established within the District Court a Family Division that has jurisdiction over family matters filed in District Court. The Family Division shall provide a system of justice that is responsive to the needs of families and the support of their children. The Supreme Judicial Court may adopt administrative orders and court rules governing the practice, procedure and administration of the Family Division. These practices and procedures must include, but are not limited to, education for the parties, case management and referral services to mediation and other alternate dispute resolution techniques. [PL 1997, c. 269, §1 (NEW); PL 1997, c. 269, §2 (AFF).]

1. Family law magistrates. The Chief Judge of the District Court, with the approval of the Chief Justice of the Supreme Judicial Court, shall employ family law magistrates. In selecting family law magistrates, the Chief Judge shall give proper consideration to achieving statewide geographical representation in the Family Division.

A. Family law magistrates must be members of the Bar of this State and must have experience in the area of family law. Other qualifications may include interest, training or experience in mediation and other alternate dispute resolution techniques, domestic violence, child development, family dynamics and case management. [PL 2005, c. 384, §1 (AMD).]

B. Family law magistrates shall devote themselves solely to the official duties of the position. Family law magistrates may not engage in the private practice of law or in any employment, occupation or business interfering with or inconsistent with the discharge of their duties. The Chief Judge of the District Court shall determine the salaries of the family law magistrates. [PL 2005, c. 384, §1 (AMD).]

C. Family law magistrates are governed by the Maine Code of Judicial Conduct. Family law magistrates serve at the pleasure of the Chief Judge of the District Court. [PL 2005, c. 384, §1 (AMD).]

D. Family law magistrates shall employ appropriate case management techniques and have jurisdiction to hear and dispose of the following matters:

(1) Interim orders in actions involving the establishment, modification or enforcement of child support;

(2) Interim orders in actions involving divorce, legal separation, parentage or parental rights, including interim orders in postjudgment proceedings arising out of these actions, except that a contested motion concerning interim parental rights and responsibilities, excluding interim child support orders, may be determined by the family law magistrate only if both parties consent to determination of the issue or issues in dispute by the family law magistrate;

(2-A) Parental rights and responsibilities and parent-child contact orders entered pursuant to Title 19-A, section 4006, subsection 5 and section 4007, subsection 1, paragraph G to make such orders consistent with subsequently entered orders in matters included in subparagraphs (1), (2) and (3);

(3) Final orders in any of the matters included in subparagraphs (1) and (2) when the proceeding is uncontested;

(4) Final orders in a contested proceeding when child support is the only contested issue;

(4-A) Applications for writs of habeas corpus to facilitate the attendance of proceedings by and return of a party who is incarcerated;

(4-B) Requests for access to confidential Department of Health and Human Services child protective records in accordance with Title 22, section 4008. The family law magistrate may review records in camera to determine whether to grant access; and

(5) Other actions assigned by the Chief Judge of the District Court. [PL 2015, c. 296, Pt. C, §1 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

E. Interim orders in any of the matters included in paragraph D, subparagraphs (1), (2) and (2-A) are effective immediately and are subject to de novo review by a judge at the final hearing. Final orders in any of the matters included in paragraph D, subparagraphs (3) and (4) are subject to appellate review in the same manner as any final order of the District Court. The family law magistrate shall inform the parties of the rights of review established in this paragraph. [PL 2005, c. 384, §1 (AMD).]

F. A family law magistrate has the power to impose punitive and remedial sanctions in a summary proceeding for contempt occurring in the actual presence of the family law magistrate and seen or heard by the family law magistrate. The Maine Rules of Civil Procedure relating to summary contempt proceedings apply to a family law magistrate exercising the contempt power under this paragraph. [PL 2005, c. 384, §1 (AMD).]

G. The Chief Judge of the District Court may allow family law magistrates to wear robes when presiding over any proceeding. [PL 2011, c. 3, §1 (AMD).]

H. The Chief Judge of the District Court may employ a retired family law magistrate to serve on a per diem basis as an active retired family law magistrate. An active retired family law magistrate employed pursuant to this paragraph has the same jurisdiction and is subject to the same restrictions as before retirement. An active retired family law magistrate serves at the direction of the Chief Judge of the District Court and is compensated at the per diem rate of \$250 per day or \$150 per half-day, as long as the total of the per diem compensation and the active retired family law magistrate's state retirement pension received in any calendar year does not exceed the annual salary of a family law magistrate. Active retired family law magistrates are entitled to receive reimbursement for any expenses actually and reasonably incurred in the performance of their duties. [PL 2013, c. 159, §6 (NEW).]

[PL 2015, c. 296, Pt. C, §1 (AMD); PL 2015, c. 296, Pt. D, §1 (AFF).]

2. Additional staff. The State Court Administrator shall provide other necessary staff to the Family Division, within the limits of funds available, and shall seek to take full advantage of federal funding, including reimbursements.

[PL 1997, c. 269, §1 (NEW); PL 1997, c. 269, §2 (AFF).]

3. Reports. The State Court Administrator shall keep statistical records relating to the cases handled by the Family Division and report this information to the Supreme Judicial Court annually and to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15th of each odd-numbered calendar year.

A. The State Court Administrator shall evaluate the functioning of the family law magistrates in providing a system of justice that is responsive to the needs of families and the support of their children in light of the jurisdiction given to the family law magistrates under this section. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 1999 with recommendations, if any, for changing the duties provided in subsection 1, paragraph D. [PL 2005, c. 384, §1 (AMD).]

B. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining the justification for the particular geographic assignments of the family law magistrates. [PL 2005, c. 384, §1 (AMD).]
[PL 2013, c. 159, §7 (AMD).]

4. Pilot project. Notwithstanding the jurisdictional limitations of subsection 1, the Chief Justice of the Supreme Judicial Court may establish a pilot project in which one or more family law magistrates have jurisdiction to hear and dispose of all elements of a divorce action when both parties consent.

Orders of the family law magistrate are subject to appellate review in the same manner as any final order of the District Court.

[PL 2007, c. 466, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 1997, c. 269, §1 (NEW). PL 1997, c. 269, §2 (AFF). PL 2003, c. 39, §1 (AMD). PL 2003, c. 84, §§1,2 (AMD). PL 2003, c. 688, §C1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 384, §1 (AMD). PL 2005, c. 385, §1 (AMD). PL 2007, c. 466, Pt. A, §2 (AMD). PL 2011, c. 3, §1 (AMD). PL 2013, c. 159, §§6, 7 (AMD). PL 2015, c. 296, Pt. C, §1 (AMD). PL 2015, c. 296, Pt. D, §1 (AFF).

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