

QB FAMILY LAW TOWN HALL MEETING
January 15, 2019 at 12:30 pm
Courtroom 1801 in Calgary and 317 in Edmonton

AGENDA

1. Welcome

2. Family Resolution Week (Mandatory Early Intervention Case Conferences (EICC's), JDR's, and Mandatory Pre-Trial Conferences)

- September 1, 2018: Pilot family resolution week. 1 justice assigned.
 - 6 EICC. 3 mandatory PTC. 1 family JDR
- Feedback received re: family JDRs.
 - Trying to schedule family JDRs in civil slots. Should see some improvement
 - JDR takes up 2 days of Judges time, which is why they've been cut back
 - Not eliminating, just cutting back
- Need to consider other options:
 - Red Deer JDRs are only ½ days
 - Any suggestions?
 - Remember that some cases are suitable for summary trial
- Some confusion around options for case conferences:
 - Before 2010 could book PTC by phone. Being used as case conferences. Replaced with 4.10 and decision that you couldn't get Case Conference without application on notice
 - Forms are going to be in "Family Forms" on court website
 - Specific things can be attached, but attachments are limited
 - EICCs (Early Intervention Case Conference)
 - Form on Court website for parties to complete
 - Since September 1, 2018 can request
 - Only received 6 requests since September 1
 - Still must go into Chambers with approval letter and clerk prepares Order
 - Still will be ordered in chambers by CGO
 - Parenting a priority when heading to special chambers
 - Bring you calendar! Changes to dates only under exceptional circumstances
 - Lawyers do not draft these
 - Mandatory PTC (Pre-Trial Conference)
 - Since September 1
 - If 3 days or longer **or** if there is one self rep it must go to PTC
 - Having some success in resolution with these
 - Form on website
 - Rule 4.10 Case Conferences
 - Tend to be ordered when file seems out of control, which require structure
 - Still happening Monday afternoons
 - Only scheduling 1 for 1 hour.
 - Backed up to March. Starting to use un-booked PTC slots
 - PN3 applies to 4.10 so use the form attached

3. Practice Notes 7 & 8 – changes and proposed implementation date

- In works over 2 years.
- July 31, 2018 proposed changes posted to Court Website asking for feedback
- Finalized and approved by Court Executive Board
- Hoping to have vote end of January
- **Proposing MARCH 1, 2019 implementation**
- As soon as approved (end of January) they will be posted (likely early February)
- Changes summary:
 - PN7:
 - Two orders
 - Preliminary where must select parenting expert w/in 14 days
 - Second intervention order w/in 30 days
 - Want to monitor better
 - Parenting expert after 3 months must provide very brief report to court
 - Parenting Coordinator removed
 - Not regulated
 - If you want a coordinator you should be under *Arbitration Act*
 - Parenting Expert now defined
 - Report back to Judge who made order who decides about case management
 - Prohibition on applications without leave
 - PN 8
 - Evaluation ordered **and** matter set for trial at same time
 - Within 6 days report from expert to judge
 - Process for critique for expert evaluation
 - Prohibit on applications without leave

4. Lifting Suspension on ADR (status)

- 8.4.3(a) 8.5(1)(a) enforcement of these rules from Feb 2013
- Required ADR before trial
- More opportunities to ADR in private sector
- Aiming for **APRIL 1** but not yet finalized

5. Practice Note 5 Expansion

- Effective 2018 Nov 1
- Required to fill out Form 1 if allegation of sexual assault in custody
- Effective Feb 1 expanded to Calgary, Red Deer and Grande Prairie
- System in place for quick turnaround
- No mandated case management
- When report received:
 - Case Conference held
 - Can we resolve? Or Case Management? Or other process?
- **When EPO obtained as a result of sexual abuse:**
 - **DON'T FORGET ABOUT PN5** so investigation can be launched

6. Protection Order Templates/EVV Oral Hearing Order and Lead Times

- Emergency Viva Voce hearings

- Since Sept 1 piloting templates
- 3 templates on Court Website
 - Revoking
 - Maintaining
 - Schedule oral hearing
- Goal:
 - Get consistency throughout the province
 - Involved the police and RCMP for wording
 - No one leaves the courtroom without order in hand
 - 2 months. Recognizes respondent not seeing child(ren) as a result of the Order
 - Trial coordinator office good at adding dates to meet this goal
- This is what the CGO clerks are using
- Speed in generating is better. More streamlined

7. Desk Divorces – comments from Divorce section

- Need policy as to when divorce rejected at counter for “short marriage”.
- What is short?
 - Settled on 6 months
 - **Include evidence as to why it was so short and not a marriage of convenience**
- Don’t put too much from settlement agreement in judgement
- 5 copies of Judgment are required
- No handwritten judgements accepted
- Don’t combine joint statement for divorce with matrimonial property claim
- Divorce and Matrimonial Property judgments are 2 different actions
 - **Do separate for matrimonial property**
- Amendments in body of Judgment NOT in preamble
- Won’t be signed in chambers

8. Comments from Family Chambers clerks

- **Counter closes at 4 o’clock**
- Amending Orders:
 - Don’t change date, judge who signed, or where signed
 - Include in bottom: Amended by....at bottom of Order
 - **DON’T CHANGE ANYTHING EXCEPT WHAT YOU ARE AMENDING**

9. Comments from Court Coordinators

- None

10. Delays in Filing Orders

- Problems getting them in timely fashion
- Even with clerks notes still need to listen to recording (even if only a week).
- Trying to think of ways to make this happen:
 - No solution yet.
- Suggestions
 - Bring draft orders with you to chambers on USB so you can revise in Library
 - If you have a draft that can be signed by the Justice, that works, too

11. Feedback from Family Bar Requested on Family Practice Note 2

- Goal of reducing lead times of 1 hour specials:
 - Reduced lead times from 5 to 6 months down to 3 months. **Dates available in April**
- Question:
 - Do you include other parties' materials or not?
 - Response:
 - Only include your own with confirming letter. It's up to the other side to provide their own materials
- Question:
 - Concern of preparing affidavits and costs: it's making parties less likely to reach resolution because they've paid for and made their case, so why settle? Let the court decide.
 - Response:
 - Culture trying to be created with reversal of filing dates was to create a culture to promote settlement **BEFORE** you get a date.
 - Explore in earnest resolution **BEFORE** securing special chambers date
- Filing deadlines and questioning afterward concise letter?
 - If you have transcripts post-filing deadlines?
 - Send directly to the Justice
 - Proposed resolution from Counsel:
 - Filing deadlines remain the same **EXCEPT** the concise letter. Leave it for just the week before the date.
 - Comment from the Court:
 - You talk about entrenchment, but counsel needs to be more considerate about what goes into the materials
 - Lately seeing (with represented parties) counsel including inappropriate and perhaps unnecessarily inflammatory material
- Email comments/concerns/questions to: family.qb@albertacourts.ca

12. Feedback from the Family Bar Requested on Family Practice Note 10 (Access to Court Files in Family Proceedings)

- There have been no application as of yet

13. Alberta Family Court Update

- Name is going to be **Alberta Family Court (AFC)**
- Had hoped to open late 2019
- Reality is that elections (Federal and Provincial) will impact progress
- Need legislation for:
 - Enabling legislation and amendments
 - Therefore, legislative timetable will drive forward progress
- Intends to consult with family bar, but wants something more concrete
- Still emphasis on early resolution both before entering court and after court proceedings have started
- More will be shared as the Court has more concrete information to share

14. Other Feedback, Questions, and Comments from the Family Bar

- January 1 2020 for implementation of Family Property Act

- Divorce Act Amendments still waiting for 3rd reading
- PTCs and filing of Form 37 and timing:
 - Can file Form 37 and then PTC? Or do you have to file PTC first?
 - Have to **attend** PTC before Form 37
- Can we consolidate Form 37 and 39?
 - Ask your PTC Judge
- How do we appropriately get new Specials Dates?
 - Once booked the triggering date doesn't change
 - Need Order from Court
 - If new counsel?
 - Cancel the date. Send a letter. It will be cancelled and set new trigger dates.
- If you have agreed to a date before going into Chambers?
 - Book date Trial Coordinator **THEN** go into Chambers to adjourn application to the date
- Comment from the Court:
 - **If filing anything after concise letter you must get it to the attention of the Justice**
 - What is the best way to find out who the Justice is?
 - Contact trial coordinator
 - Update affidavits filed 2 weeks prior so trial coordinator usually looks for new filed materials
 - Comment from bar: **Check (with Trial Coordinator) to make sure that update affidavit has been received by the Justice, because it might be missed.**
- Question: Can we get a lawyer's line for filing?
 - There is no plan for a filing line for counsel, though Clerks try to canvass the line for counsel. Clerks cannot commit to doing this all the time