

**REPORT TO THE JOINT STANDING COMMITTEE ON JUDICIARY
OF THE 128th LEGISLATURE AND
THE MAINE SUPREME JUDICIAL COURT
ON CASES HANDLED BY THE
FAMILY DIVISION
OF THE
MAINE DISTRICT COURT**



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I. INTRODUCTION

Recognizing that families and children require a system of justice that is responsive to their needs, the Maine Legislature created the Family Division within the Maine District Court to improve case management, provide information and education to parents coming into the courts, and promote alternative forms of dispute resolution. P.L. 1997, c. 269 § 1. To effectuate its goals, the Legislature created judicial officers of limited jurisdiction, now called Family Law Magistrates (magistrates), and gave those judicial officers the authority to hear certain types of disputes. 4 M.R.S. § 183(D). The Maine Supreme Judicial Court quickly promulgated rules and orders governing the practice, procedure, and administration of the magistrates and the Family Division. Since the inception of the Family Division, those rules and orders have been amended to increase effectiveness and efficiency, and to ensure that the Family Division is truly “responsive to the needs of families.” 4 M.R.S. § 183.

At the time that it created the Family Division, the Legislature also determined that it would require the Judicial Branch to “keep statistical records relating to the cases handled by the Family Division and report this information to [the Joint Standing Committee on Judiciary] by February 15th of each odd-numbered calendar year.” 4 M.R.S. § 183(3). Pursuant to that requirement, the State Court Administrator presents its 10th report concerning the Family Division.

II. FAMILY DIVISION OVERVIEW

A. Operational Rules

The Maine Supreme Judicial Court adopted the first distinct Rules for the Family Division of the Maine District Court, effective April 6, 1998. The current rules, now part of the Maine Rules of Civil Procedure, M.R. Civ. P. Chapter XIII,¹ outline the procedures to be followed in domestic relations proceedings (family matters), authorize magistrates to handle disputes involving children (e.g., child support, divorce with children, paternity, parental rights and responsibilities), and establish a process for managing cases and addressing child support in accordance with the child support guidelines. M.R. Civ. P. 110A.

B. Magistrates

The judicial officers of limited jurisdiction, now known as Family Law Magistrates,² are highly qualified and well-regarded members of the Maine Bar. Pursuant to statute, 4 M.R.S. § 183(1)(A), Family Law Magistrates must be members of the Maine Bar (licensed attorneys) and with experience in family law, who “shall devote themselves solely to the official duties of the position.”

¹ The current rules can be found at http://www.courts.maine.gov/rules_adminorders/rules/mr_civ_p_plus_index.html

² The Family Law Magistrate title replaced the Case Management Officer title on September 17, 2005. See P.L. 2005, ch. 384 (effective September 17, 2005).

4 M.R.S. § 183(1)(B). Although magistrates are judicial officers with many of the same powers as district court judges,³ there are some limitations.⁴

C. Family Matters Case Processing

1. Case Management Conference

The heart of the magistrate process is the case management conference. In keeping with the Family Division goal to provide a system of justice that is responsive to the needs of families and the support of their children, the magistrate's primary objective at this initial conference is to address promptly the family's situation to assure that the children's needs, including the provision of financial support, are being met. *See* 4 M.R.S. §183. During this initial contact with the parties, the magistrate will also identify the issues on which they agree and those on which they do not agree, provide guidance on court processes and procedures, and schedule other pre-trial events, including mediation and a parent education program. *See* 4 M.R.S. §183.

In most cases, the initial case management conference is held within 35 to 45 days after the complaint or applicable motion is filed. At the close of each

³ Magistrates are judicial officers of limited jurisdiction. Their authority is defined in: 4 M.R.S. § 183(1)(D)-(G); M.R. Civ. P. 110A; and, Family Law Magistrate Authority, Me. Admin. Order JB-05-18 (effective August 1, 2005).

⁴ Magistrates are not authorized to hear and decide contempt motions or post-judgment motions to enforce when there are issues other than child support, preside at contested final hearings when there are issues other than child support, even by agreement of the parties, or to conduct proceedings in divorce actions without minor children. Family Law Magistrate Authority, Me. Admin. Order JB-05-18 (effective August 1, 2005).

conference, the magistrate is required to issue a case management order, M.R. Civ. P. 110A(b)(1), and may issue other agreed-to orders, such as temporary orders governing parental rights and child support. 4 M.R.S. § 183(1)(D).

When the parties are not able to agree on all issues, even after mediation, hearings are necessary. Depending on the needs of the family, a magistrate may conduct a hearing immediately following the conference or later in the process. M.R. Civ. P. 110A(b)(1). Every final order issued by a magistrate may be reviewed by a district court judge, if one of the parties files an objection to the order within 21 days after the decision. M.R. Civ. P. 118(a). Following review by a judge, a dissatisfied party has a right of appeal to the Supreme Judicial Court. M.R. Civ. P. 118(b).

2. Party Education: Unrepresented Litigants

In addition to case processing, education and mediation are integral parts of the case management performed by magistrates. At the initial conference, the magistrate is expected to ensure that the needs of the parties' children are addressed, that the case is on track for appropriate disposition, and to explain court processes and events.

Currently, in nearly 56% of the family matters cases filed, both of the parties are unrepresented and, in nearly 78% of the family matters cases filed, at least one of the parties is unrepresented. Although magistrates cannot provide

legal advice, they can and do provide valuable information about family law, case processing, and community resources.

3. Mediation

The Legislature has determined that mediation should occur in almost all Title 19-A⁵ family cases involving children. 19-A M.R.S. §§ 251(2), 1804. *Cf.*, 19-A M.R.S. § 4010. To effectuate that goal, each magistrate and judge enforces Rule 110A(b)(4)(B) of the Maine Rules of Civil Procedure, which directs that when “the parties cannot reach an interim agreement on all issues... mediation *shall* be promptly scheduled...” (Emphasis added). With the assistance of trained mediators, many parties are able to reach agreement without a contested hearing, thus reducing the disruption and uncertainty in the lives of Maine’s children and families.

D. Family Division Funding

The State Court Administrator is required to “provide other necessary staff to the Family Division, within the limits of funds available, and shall seek to take full advantage of federal funds, including reimbursements.” 4 M.R.S. § 183(3). Through a cooperative agreement with the Department of Health and Human Services Office of Integrated Access and Support, Division of Support

⁵ No such provision has yet been enacted for the guardianship, adoption or name change cases now heard in the district court but adjudicated pursuant to Title 18-A.

Enforcement and Recovery (DSER), the Family Division is, in part, supported by federal child support funds. The agreement with DSER provides for two-thirds reimbursement for all court costs eligible under Title IV-D of the Social Security Act (related to the establishment of paternity and child support enforcement), 45 C.F.R. Parts 302 and 304, including the salaries and benefits of the magistrates and family matters court clerks. In addition, the State receives partial IV-D reimbursement for the salaries and benefits of certain employees in the Family Division office.⁶

Because the Family Division is financially dependent on those federal child support reimbursement funds, magistrates may only handle cases in which child support is an issue. They do not, for example, preside over conferences or hearings in divorce actions not involving minor children. Similarly, magistrates are prohibited from conducting any proceedings or issuing any orders in other case types.

E. Family Division Caseload

1. Resource Allocation: Number and Assignment of Magistrates

There are eight (8) magistrates and (1) active retired magistrate who

⁶ Reimbursement is subject to offset to account for the portion of the family matters caseload that is not eligible under the federal guidelines. 45 C.F.R. § 304.20(2), (3), (4) & (8); 45 C.F.R. § 304.21; 2 C.F.R. Part 225 App. A(C); 2 C.F.R. Part 225 App. A(E)(2)(a); OMB Circular A-87. Notably, federal regulations prohibit use of these federal child support funds to pay for the salaries and benefits of judges, or for court costs and activities associated with cases not involving child support or paternity. *Id.*; *see also* 45 C.F.R. 304.21(b)(2)-(5).

provide statewide coverage, which may include traveling to any or all of the 28 district court locations. The amount of magistrate time at each location depends on the size of that court's family matters caseload. The heavy volume of court filings and the limited number of magistrates creates a challenge for the court to address each family's case in a timely manner. To address this challenge, the Chief Judge of the Maine District Court carefully monitors information on case completion and case scheduling, and redeploys magistrates to locations with the greatest need.

2. Case Scheduling

Judicial officers and clerks strive to resolve all family cases efficiently and effectively. As a result of efforts initially begun in 2003 to streamline process and improve service, and the on-going implementation and refining of scheduling practices, including the use of block scheduling (discussed in our 2015 Report), judges and magistrates are able to complete pending family matters at nearly the same rate as new cases being filed. In fact, in 2015 most courts kept up with the new filings in family matters, clearing cases at an average rate of over 97%. As the numbers below reflect, "keeping pace" with the new filings is, in itself, an arduous task.

3. Cases Handled by the Family Division in 2015: 2015 Statistics

In calendar year 2015 there were 7,481 new (original) family matters

filed in the district courts.⁷ In addition, during the same period, there were 5,498 post-judgment motions filed. Through these motions, parties may ask the court to change a previously-issued order. The requests made vary widely, but include requests to modify child support, change the primary residence of a child, change parent-child contact arrangements, and impose penalties for failure to comply with provision(s) of an existing court order, or to enforce the support or visitation provisions of an order.

Of the 12,979 original and post-judgment family matters filed in the district court during calendar year 2015, approximately 8,480 cases were initially handled by a magistrate. In order to handle those cases, magistrates conducted 17,898 events during calendar year 2015.⁸

These events fall into three major categories: conferences, interim hearings, and final hearings. Magistrates conducted 10,614 conferences, 614 interim hearings, and 6,670 final hearings during this time period. Conferences usually take between 15 and 30 minutes, with initial case management conferences—most notably those with both parties unrepresented—requiring the greatest amount of time. Interim and final hearings, which occur less frequently than conferences, comprise a large part of the magistrates' time in court.

⁷ This data excludes 374 cases not amenable to case counts, e.g., emancipations and foreign judgments.

⁸ We cannot accurately determine how many of these events involved proceedings filed before 2015, as both new complaints and post-judgment motions generally require more than one court event before disposition.

Interim hearings have a maximum length of 3 hours but final hearings last anywhere from an hour to multiple days.

F. Responses to Legislative Enactments

1. Maine Parentage Act Implementation

In 2015, the Legislature enacted emergency legislation entitled the Maine Parentage Act (MPA), which became effective on July 1, 2016. P.L. 2015, ch. 296 (effective July 1, 2016). The MPA offered an updated, comprehensive statutory framework for determining a child's legal parentage, patterned after (but not identical to) the Uniform Parentage Act, a uniform law (initially developed in 1973 and most recently updated in 2002) by the Uniform Law Commission.

In preparation for the implementation of the MPA, the Family Division Manager and Court Improvement Program Coordinator worked with a team of judicial officers led by the Deputy Chief Judge of the Maine District Court to review family matter (FM) clerk procedures, update all affected FM forms for statutory compliance, and research and draft new forms when necessary. The efforts resulted in the drafting and/or revision of 28 FM forms, and improved FM processes.

The Family Division Manager and Court Improvement Program Coordinator worked with the Maine Judicial Branch Office of Information

Technology (OIT) and the Department of Health and Human Services Division of Child Support and Enforcement (DSER) to update case management system (MEJIS2) capabilities to allow for accurate docketing and improvements to the DSER interface to comport with the new parenting paradigm created by the MPA, which includes the possibility of multi-party child support orders.

Concurrently, and under its own authority, DSER promulgated new, single tier child support guidelines, effective July 29, 2016. The Family Division Manager and Court Improvement Program Coordinator worked in concert with the OIT to create, test, and distribute self-calculating worksheets support orders, child support worksheets, and supplemental child support worksheets for use by judicial officers.

2. Home Court Act Implementation

In April of 2016, the Legislature enacted An Act to Ensure a Continuing Home Court for Cases Involving Children (Home Court Act or HCA), which became effective on July 29, 2016, P.L. 2015, ch. 460. The HCA expanded the jurisdiction of the Maine District Court to include adoptions, guardianships, and name change matters for certain minors when the district court has a “pending” case involving that minor.

Under the guidance of a working group chaired by Associate Supreme Judicial Court Justice Ellen A. Gorman, the Family Division Manager and Court

Improvement Program Coordinator worked with Maine Judicial Branch Court Operations and OIT staff to develop and implement processes that would allow court-involved families to more quickly achieve permanency. The members of this working group and many, many individuals throughout the Judicial Branch collaborated with the county probate courts, the Office of Vital Records, the Department of Health and Human Services, Office of Child and Family Services, and with multiple state and federal agencies to implement the Home Court Act.

To effectuate the implementation of this Act, the Supreme Judicial Court made revisions to the Family Division chapter of the Maine Rules of Civil Procedure, including the promulgation of two new rules. Administrative and clerk staff worked on the development of new docketing practices and major updates to the current case management system. These efforts resulted in the development of 30 new probate-matter specific FM forms, and the drafting and implementation of new clerk docketing procedures.

As noted above, both the MPA and the HCA became effective in July of 2016. To ensure that the individuals responsible for using the new forms and implementing the improved procedures understood how the changes wrought by both Acts should be handled, the Judicial Branch teams responsible for the implementation of the changes required by both acts worked together to create a full day of training for judicial officers and court clerks in July 2016, and an

additional half-day of training for court clerks in October 2016.

From July 29, 2016 to December 31, 2016, there were 290 Home Court Cases originally filed in or transferred into the district courts, as follows:

- 206 adoption filings
 - 61 original
 - 145 transfers
- 77 guardianship filings
 - 27 permanent
 - 13 original
 - 14 transfers
 - 34 temporary
 - 20 original
 - 14 transfers
 - 1 termination/removal
 - 1 transfer
- 7 name change filings
 - 6 original
 - 1 transfer

The district courts, probate courts, and various agencies continue to address procedural and logistical matters related to the Home Court Act. All involved are working to improve court processes for children and families.

III. Conclusion

The operations of the Family Division have assisted the district court in making significant progress in addressing the needs of Maine's children and families who are involved in court proceedings. Family Law Magistrates continue to offer information, alternative means of dispute resolution, and active case management to the parties. Judges and magistrates work in collaboration to

assist families in crisis. Moving into the future, the Family Division will continue to respond to the needs of families and the support of their children, to evaluate and manage caseloads through innovation, and to bring quality alternative dispute resolution and education to Maine's families.