

GENERAL ORDER 06-05

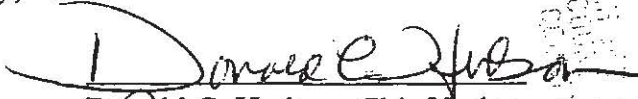
In order to facilitate the just and efficient assignment and disposition of Domestic Relations cases,

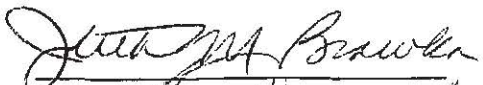
IT IS HEREBY ORDERED that by a majority vote of the Circuit Judges of the Sixteenth Judicial Circuit, the attached revised Article 15.07, 15.10, 15.26 and 15.27 of the Local Rules is adopted in and for Kane County.


IT IS FURTHER ORDERED that this Rule may be adopted by DeKalb and Kendall Counties upon the written order of the Presiding Judge of the county.


Enter this 10th day of January, 2006.

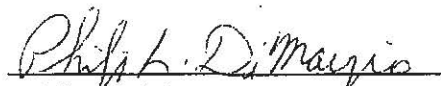
DEPARTMENT OF
CIRCUIT CLERK
KANE COUNTY
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Donald C. Hudson, Chief Judge


Judith M. Brawka



F. Keith Brown



Michael J. Colwell

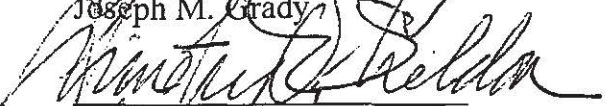

Philip L. DiMarzio



James T. Doyle

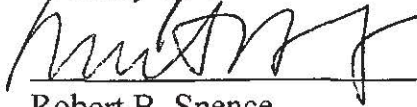

Donald J. Fabian

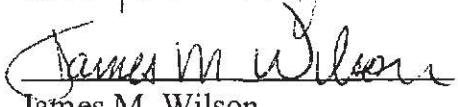

Joseph M. Grady

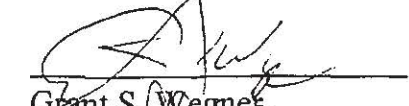

Kurt P. Klein

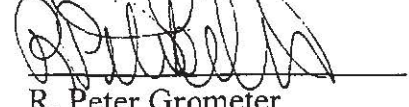

Timothy O. Sheldon


Robbin J. Stuckert


Robert B. Spence


James M. Wilson


Grant S. Wegner


R. Peter Grometer

Article 15- PROPOSED CHANGES
Per November 2, 2005 Judges Meeting

Summary:

Two new sections are proposed for Article 15 of the Local Rules of the Sixteenth Circuit:

Proposed Local Rule 15.26 will establish a timetable requiring divorcing parties and any petitions with custody issues, at the judge's discretion, to: (1) participate in mediation within one hundred and fifteen days of filing status; (2) prepare for and attend pretrial conferences regarding the request for custody evaluators and representatives of the child's interests as well as setting discovery deadlines and a trial date within one year of filing status. Proposed Local Rule 15.26 also provides for a bifurcated ruling on custody, as the goal of the proposed rule is to have all custody issues resolved within one year of filing of any petition for custody. Language has been added in 15.26 (6)(C) that states, "It shall be the responsibility of the parties to provide a court reporter for the proceedings unless otherwise ordered by the court."

Proposed Local Rule 15.27 utilizes the Kane County Diagnostic Center and creates a child custody evaluation protocol for "604(b)" Witnesses. The purpose is to supply the court with qualified evaluators and provide greater standardization of the reports received by the judges. The rule creates a procedure for generating operational processes, rules and forms, as well as monitoring the ethical conduct of the evaluators. Required qualifications of potential evaluators are also set out in the proposed rule.

15.07 JUDGMENTS FOR DISSOLUTION OF MARRIAGE, LEGAL SEPARATION OR DECLARATION OF INVALIDITY

(a) All documents purporting to affect the status of marriage shall conform to the provisions of:

- (1) 750 ILCS 5301 et seq.
 - (2) 750 ILCS 5/401 et seq.
 - (3) 750 ILCS 5/402 et seq. all as from time to time amended and shall contain findings relating to:
 - (4) Jurisdiction of the subject matter and of the parties
 - (5) The date and place of marriage
 - (6) Whether any children were born or adopted to the marriage, their names and birth dates, and whether the wife is pregnant
 - (7) Such additional findings as may be appropriate.
- (b) Local Rule 15.26 shall apply to all petitions where custody is in dispute
- (c) It shall be the responsibility of the person seeking to effect the marital status, or his or her attorney, to present to the trial judge, in a single package the following:
- (1) Judgment Order
 - (2) Fully Completed Certificate of Dissolution, Declaration of Invalidity or legal Separation (IDPH Form VR 700)
 - (3) Report of Proceedings (unless waived)
 - (4) Fully completed order for withholding unless there is no support or maintenance obligation (750 ILCS 5/706.1 et seq.)
 - (5) Joint Parenting Agreement and Joint Parenting Order containing appropriate findings pursuant to 750 ILCS 5/602.1 if joint custody of the child(ren) has been approved by the Court.

15.10 SETTING OF CASES ON COURT CALLS

(a) General:

Pre-trial and trial dates must be obtained from the Court. All other dates shall be obtained from the scheduler, subject to approval of the Court.

- (1) The scheduling of courts dates involving a Petition where custody is in dispute shall be subject to Local Rule 15.26
- (b) Changes in court dates initiated by the Court:
- (1) Whenever the assigned judge determines it necessary to reschedule a court date, the scheduler, at the direction of the assigned judge, shall prepare an order for signature by the assigned judge.
 - (2) A copy of the order shall be sent by the scheduler to all attorneys of record in the case.
 - (3) Whenever possible, attorneys of record shall be contacted by the scheduler beforehand to obtain a mutually acceptable date.

15.26 PETITIONS FOR CUSTODY DETERMINATION

(a) The goal of this court is to have all custody issues set for trial within twelve months after the filing of the Petition, whether it is for Dissolution of Marriage, paternity, change of custody, or any other petition where custody is an issue. Therefore, in all Petitions where custody is an issue, the procedure shall be:

- (1) FILE PETITION FOR CUSTODY DETERMINATION
Discovery shall be subject to Local Rule 15.24
- 2) SIXTY-DAY INITIAL STATUS DATE AFTER FILING

- (A) Any initial custody agreement between the parties shall be tendered to the court in a written disclosure and proof of compliance with Local Rule 15.23 should be tendered at this time.
 - (B) If a petition for temporary custody has been entered or a custody issue remains and, if the court finds that it is in the best interests of the children and the process; the court, in its discretion, may order the parties to participate in mediation under Local Rule 15.22, in an attempt to resolve outstanding custody issues.
 - (C) If at any time during the proceedings for dissolution of marriage, the court finds that it is in the best interests of the children and the process; the court, in its discretion, may order the parties to participate in mediation under Local Rule 15.22.
 - (D) A return date shall be established that is not longer than 115 days from filing status.
- (3) AT A DATE NO LONGER THAN ONE HUNDRED AND FIFTEEN DAYS FROM FILING STATUS
- (A) Any custody mediation agreement between the parties and the mediator's written report must be tendered to the court no later than 115 days from filing status date.
 - (B) If no mediation agreement was achieved between the parties, an initial pretrial conference may be set.
 - i. At the initial pretrial conference the parties shall present to the court a memorandum indicating whether they are requesting a guardian ad litem, an attorney for the child or a child representative, and; whether a 750 ILCS 604(b) evaluation is being requested, including names of proposed evaluators as provided by Local Rule 15.27. The memorandum shall include proposed dates for deposition and completion of written discovery, the estimated length of the trial, and when it is reasonably anticipated that parties will be ready for trial.
 - ii. An initial pretrial order may appoint, in the court's discretion, an attorney for the child, a guardian ad litem and/or 750 ILCS 604(b) evaluators, and allocate costs for the same. In addition, the court may order appropriate discovery cutoff dates, and a second custody case management conference date shall be set within ninety days thereafter.
- (4) SECOND PRETRIAL CONFERENCE
- (A) A second pretrial conference shall be set ninety days after the initial pretrial conference. All reports, including the GAL's shall be reduced to writing and tendered to the court and counsel no less than three days before the conference. All Supreme Court Rule 213(f)(1) and 213(f)(2)-opinion witnesses and their opinions shall be disclosed by this date. At this time the anticipated length of trial, in light of all disclosed witnesses, will be determined.
 - (B) The court shall enter any appropriate orders regarding a discovery and Supreme Court Rule 213(f)(3) disclosure schedule, including cut-offs, and set a trial date. A final pretrial conference shall be set one week prior to trial.
- (5) FINAL PRETRIAL CONFERENCE
- The final pretrial conference shall be conducted the week prior to trial, at which time the parties shall present all proposed exhibits pre-marked, any motions in limine, a disclosure of witnesses testifying and the order of proofs, and a trial memorandum.
- (6) TRIAL
- (A) All custody trials shall commence within twelve months after the filing of the Petition for Dissolution of Marriage, unless good cause is shown.
 - (B) Each custody trial should be held on consecutive days if possible.

(C) All custody trials shall have a record. It shall be the responsibility of the parties to provide a court reporter for the proceedings unless otherwise ordered by the court. Court rulings shall conform to Local Rule 15.26(b) and other rules and statutes, where applicable.

(b) RULING BY THE COURT

- (1) At the conclusion of the trial, unless the court makes a determination instanter, the court shall set a status date no longer than Sixty days after closing arguments for issuance of a decision.
- (2) If there are other property issues that the court has yet to resolve, a bifurcated ruling may be made, with the court indicating its final custody ruling in advance of its complete decision being rendered. The bifurcated ruling shall be implemented immediately by final custody order pending the court's full decision being released.

15.27 CHILD CUSTODY EVALUATION

(a) AUTHORIZATION

Pursuant to the court's inherent powers to protect and act in the best interests of the children under the Illinois Marriage and Dissolution Act, the court may order an evaluation of the parties in any pre or post-judgment contested issue of parental responsibility, custody, visitation, removal or any other non-economic issue of contested custody involvement. Such Court Ordered Evaluations are authorized under the following provisions:

- (1) 750 ILCS 5/604(b)
- (2) 750 ILCS 5/605
- (3) 750 ILCS 5/602.1
- (4) 750 ILCS 5/607.1, and any other statutes as may be added or amended in time.

(b) ESTABLISHMENT OF 604(b) WITNESS CERTIFICATION

The 16th Judicial Circuit may establish a 604(b) Witness List of certified custody evaluators, each of whom may be appointed from time to time to serve in the Court Ordered 604(b) Witness Program, under the direction and at the discretion of the Chief Judge and the Presiding Judge of the Family Law Division. All 604(b) evaluators shall be subject to the following rules.

(1) APPLICANTS

Applicants for the program must file the required application with supporting documentation and meet the following minimum criteria:

- (A) Academic: Applicants must possess one of the following degrees or licenses in current good standing: Ph.d; Psy.d; LCSW; LCPC; MD; Master's Degree in Mental Health field; and possess the requisite active practice licenses required by the State of Illinois;
- (B) Professional: Applicants must have completed five (5) years of post licensure practice. Practice must include education or training in the following areas of child welfare: child development, domestic violence, physical/sexual abuse, and substance abuse;
- (C) Applicants must have the availability to conduct evaluations within a reasonable distance of Kane County;
- (D) Experience: Post licensure practice must include no less than two years experience in two or more of the following areas: families in distress, child or family experience and domestic violence;
- (E) Each applicant must sign a statement agreeing to comply with the ethical rules established by the 16th Judicial Circuit in regards to custody evaluations;
- (F) Each applicant must successfully complete an orientation program to become familiar with the local rules and reporting requirements, expectations; and
- (G) Applicants must be available to accept one pro bono assignment annually.

(2) CERTIFICATION

- (A) The roster of 604 (b) evaluators shall be maintained by the Kane County Diagnostic Center, with a copy of the roster provided to the Presiding Judge of the Family Division. The Director of the Diagnostic Center or his designee shall review each application to determine if the applicants possess the required educational background and experience to qualify as a Child Custody Evaluator.
- (B) After review of the application, the Diagnostic Center shall forward its recommendation to the Chief Judge and the Presiding Judge of the Family Division for approval.
- (C) The Kane County Diagnostic Center shall maintain the roster. Each approved Custody Evaluator must send proof of current licensure, current professional liability insurance and any change of address in a timely fashion to the Kane County Diagnostic Center, no less than annually.
- (D) An approved custody evaluator has the affirmative duty to inform the Kane County Diagnostic Center of any change in their licensure or any formal discipline. Upon receipt of this information the Kane County Diagnostic Center shall inform the Chief Judge and the Presiding Judge of the Family Division, along with any appropriate recommendations. Continued certification as a Child Custody Evaluator is at the discretion of the Chief Judge, which may include but is not limited to a review of compliance with rules for custody evaluations as well as timeliness of reports.
- (E) The Kane County Diagnostic Center may review each evaluator's performance for quality assurance, and shall report any non-compliance to the Chief Judge.
- (F) The Chief Judge has the discretion to remove a Custody Evaluator from the approved list at any time.

(3) PROCEDURE

The 16th Judicial Circuit shall develop and maintain the following:

- (A) A standard 604(b) Witness Appointment Order. Said order shall specify the issues or question upon which the expert opinion is sought; and shall address the statutory factors set forth in Section 602; and contain a section directing the evaluator to perform specific acts, including (or excluding) but not limited to: tests, collateral interviews, certain investigative actions (interviewing school officials, reviewing court records) and the like.
- (B) A 604(b) Witness Report Form, for use by the witnesses in submitting their reports to the judiciary. Said form shall consist of a summary sheet, to give the court a summary of the witness's recommendations and findings; and a narrative report, which shall include a section in which the witness addresses the statutory factors set forth in Section 602, to be included in the witness's report and recommendations (if requested by the court).