

MAINE STATE LEGISLATURE

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REPORT TO THE JOINT STANDING COMMITTEE ON JUDICIARY
OF THE 126th 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

In 1997, the Maine Legislature passed enabling legislation, creating the Family Division of the Maine District Court. P.L. 1997, c. 269 § 1. The stated purpose of the Family Division is to “provide a system of justice that is responsive to the needs of families and the support of their children.” 4 M.R.S. § 183. To help the District Court respond to the needs of families, the Legislature authorized the creation of judicial officers of limited jurisdiction, called Family Law Magistrates (Magistrates). 4 M.R.S. § 183 (1). The legislation identified case management, education for the parties, and alternative dispute resolution (mediation) as important tools in Family Division proceedings. 4 M.R.S. § 183. It authorized the Maine Supreme Judicial Court to promulgate rules and orders governing the practice, procedure, and administration of the Family Division. 4 M.R.S. § 183. Finally, section 183(3) directed 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 of the Legislature having jurisdiction over judiciary matters in each odd-numbered calendar year. 4 M.R.S. § 183(3). This report is submitted in accordance with that subsection.

II. Family Division Overview

A. Statutory Authority.

Title 4 Section 183 of the Maine Revised Statutes, outlines the parameters of the Family Division, defines the jurisdiction of Magistrates, authorizes the Maine Supreme Judicial Court to adopt rules governing the practice, procedure and administration of the Family Division, directs the State Court Administrator to provide staffing, within available funding, and requires

statistical reporting to the Legislature and Supreme Judicial Court in odd-numbered calendar years.

B. Operational Rules.

The Maine Supreme Judicial Court adopted distinct Rules for the Family Division of the Maine District Court, effective April 6, 1998. On January 1, 2009, the Court abrogated those rules, and in their place adopted rules for the Family Division as part of the Maine Rules of Civil Procedure. See M.R. Civ. P. Chapter XIII. The current rules outline the procedures to be followed in domestic relations proceedings (Family Matters), authorize Magistrates to handle cases involving children (e.g. child support, divorce with children, paternity, parental rights & responsibilities), and establish a process for managing cases and addressing child support in accordance with the Child Support Guidelines. M.R. Civ. P. 110A.

C. Magistrate Knowledge and Experience.

All Family Law Magistrates must be members of the Maine Bar (licensed attorneys) and have experience in family law. 4 M.R.S. § 183(1)(A). In addition, Magistrates need knowledge of case management principles, family dynamics, child development, domestic violence and mediation techniques. Family Law Magistrates must devote themselves solely to the official duties of the position, and 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. 4 M.R.S. § 183(1)(B). The Maine Code of Judicial Conduct governs Magistrate conduct. 4 M.R.S. § 183(1)(C); *See also* M. Code Jud. Conduct.

D. Roles and Responsibility of Judicial Officers

1. Role of Judges.

Judges may preside over all Family Matters cases. 4 M.R.S. § 152 (11); see also M.R. Civ. P. 110A(a).

In particular, judges may:

- Conduct proceedings in all family matters cases whether or not the parties have minor children;
- Conduct all proceedings in divorce cases not involving minor children;
- Preside at contested final hearings involving minor children when there are issues in dispute other than child support;
- Hear and decide contempt motions in all case types;
- Manage all post-judgment motions to enforce as well as hear and decide all motions to enforce when there are issues other than child support;
- Hear all post-judgment motions, other than those solely related to child support; and
- Preside over all cases that a Magistrate is authorized to hear.

4 M.R.S. § 152 (11); see also M.R. Civ. P. 110A, 110B & 120.

2. Role of Magistrates.

Magistrates are judicial officers of limited jurisdiction. They have the authority to:

- Conduct case management conferences and issue case management orders;
- Enter interim orders relating to the care and support of children when the parties are in agreement;
- Preside at contested interim hearings in actions involving establishment, modification or enforcement of child support;
- Preside at contested hearings concerning interim parental rights and responsibilities if both parties consent;
- Modify the parental rights provisions of a protection from abuse order to conform to an order entered in a Family Matters proceeding;
- Conduct status or pretrial conferences;

- Enter a default or default judgment;
- Preside at final, uncontested hearings and enter a judgment or order;
- Preside at final, contested hearings when child support is the only contested issue and enter a judgment or order;
- Enter post-judgment orders by agreement of the parties; and
- Preside at and enter final orders in contested post-judgment proceedings when child support is the only contested issue.

4 M.R.S. §183(1)(D)-(G); M.R. Civ. P. 110A; JB-05-18.

Magistrates do not:

- Conduct proceedings in divorce actions without minor children;
- Hear and decide contempt motions;
- Hear and decide post-judgment motions to enforce when there are issues other than child support; or
- Preside at contested final hearings when there are issues other than child support, even by agreement of the parties.

4 M.R.S. §183(1)(D)-(G); M.R. Civ. P. 110A; JB-05-18.

E. Family Matters Case Processing

1. Case management conference.

The heart of the Magistrate process is the case management conference. The District Court's goal is to conduct an initial case management conference within 45 days after the filing of the complaint or applicable motion. 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 promptly address the family's situation to assure that the children's needs are being met, including the provision of financial support. *See* 4 M.R.S. §183. The Magistrate will also identify the issues on which the parties are in agreement and those on which they do not agree, help them understand the court process,

and schedule other pre-trial events, which usually include mediation and attendance at a parent education program. See 4 M.R.S. §183. Depending on the circumstances of the case, the Magistrate may conduct a hearing immediately following the conference or later in the process. M.R. Civ. P. 110A.

2. Self-represented litigants.

The initial conference is an important means of assuring that the needs of the parties' children are addressed and it is also an opportunity for self-represented litigants to learn more about the court process and the steps through which their case will proceed. Historically, in nearly 50% of the domestic relations cases filed, both of the parties were self-represented. In nearly 75% of the domestic relations cases filed, at least one of the parties is self-represented. More recently, the Magistrates and clerks report that the number of self represented litigants is on the rise and that in nearly 60% of the Family Matters cases filed, both of the parties are self-represented. Although Magistrates cannot provide legal advice, the information they provide about family law and case processing is invaluable to the large number of parents who appear in court without an attorney.

3. Mediation.

Another integral part of the case management process is mediation. The Family Division enabling legislation required that the Family Division adopt certain practices and procedures, including referral to mediation and other alternative dispute resolution techniques. 4 M.R.S. § 183. In turn, Rule 110A of the Maine Rules of Civil Procedure provides that when "...the parties cannot reach an interim agreement on all issues...mediation shall be promptly scheduled..." M.R. Civ. P. 110A. Family Matters mediations are most often facilitated by a professional mediator trained by the Court Alternative Dispute Resolution Service (CADRES).

M.R. Civ. P. 110A(b)(4)(B); *See also* M.R. Civ. P. 92. If an agreement is reached through mediation and is approved by the court it may be entered as an interim or final order. 4 M.R.S. § 183. When the parties are able to reach agreement without a contested hearing, the length of disruption and uncertainty in the lives of Maine’s children and families is reduced.

4. Right to object.

If a party is dissatisfied with a Magistrate’s final order, the party can request that a judge review it by filing an objection to the order within 21 days of the decision. M.R. Civ. P. 118. Following review by a District Court Judge, a dissatisfied party has a further right of appeal to the Supreme Judicial Court. M.R. Civ. P. 118. A statement of these rights appears at the end of all final orders signed by a Magistrate.

F. Family Division Funding.

Pursuant to statute, 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). Accordingly, the Family Division is, in part, supported by federal child support funds, by means of a cooperative agreement with the Department of Health and Human Services Office of Integrated Access and Support, Division of Support Enforcement and Recovery (DSER). The agreement with DSER provides for two-thirds reimbursement for 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 eight (8) Magistrates and approximately 30 Family Matters court clerks. In addition, the State of Maine receives partial reimbursement for the salaries and benefits of certain employees in the Family Division office.

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)(b); 2 C.F.R. § 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).

Because the Family Division is currently dependent on federal child support 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 do not assist the District Court by conducting proceedings in other case types.

G. Family Division Caseload

1. Resource Allocation: Number and assignment of Magistrates.

There are eight (8) Magistrates who provide statewide coverage, which may include traveling to 28 District Court locations. The amount of Magistrate time at each location depends on the size of that court's domestic relations caseload. Please see the Appendix A for a chart listing the approximate number of Magistrate days assigned to each court per month.

The heavy volume of court filings and the limited number of Magistrates (8) creates a challenge for the court to address each family's case in a timely manner. This was a particular challenge in 2012 since there was a Magistrate position vacancy that affected dockets over several months.¹ The Chief Judge of the District Court minimized the effect of this vacancy on

¹ The vacancy occurred when the Governor appointed a Magistrate to serve as District Court judge. One vacancy represents a 12.5 percent shortfall.

Family Matters dockets by reassigning Judges and Magistrates to keep these priority cases moving forward, thereby stretching the Judicial Branch's already limited judicial resources and negatively affecting other case types.

2. Case Scheduling

Magistrates, judges and clerks work hard to prevent backlogs in family cases that would increase the time to resolution in those cases. The Chief Judge of the District Court, along with the Family Division, works with clerks and Magistrates on an ongoing basis to develop, implement and refine scheduling practices to make the most efficient and effective use of court and litigant time.

In part, the ability of the courts to manage these caseloads is attributable to the Supreme Judicial Court's scheduling model adopted in 2005. *Report of the Judicial Resource Team to the Maine Supreme Judicial Court (JRT), September 19, 2003*. That scheduling model organized the trial courts into eight (8) regions and established trial court efficiency measures to manage caseloads. *JRT at pp. 9-11*. The scheduling model affects the Family Division in several ways, including: (1) the utilization of case completion standards for Family Matters; (2) the facilitation of judicial assistance between courts within a region; and (3) the utilization of managed trial lists for cases requiring more than two hours of hearing time. *JRT at pp. 9-11, 13-14 & 30*.

As a result of efforts related to the JRT "new model for scheduling", judges and Magistrates are able to complete pending Family Matters at nearly the same rate as new cases being filed. In fact, in 2012 most courts kept up with the new filings in Family Matters, clearing cases at an average rate of over 95%. More importantly over the past decade, the time in which Family Matters cases are resolved has been cut in half. Between 2004 (just prior to the JRT

implementation) and 2012, the average number of days to resolution for original family matters decreased by approximately 100 days. This reduction in the time it takes to reach resolution in a Family Matters case reduces the length of disruption and uncertainty in the lives of Maine's children and families.

In addition to system-wide scheduling priorities, the District Court has established timelines that seek to have families appear before a Magistrate for an initial case management conference within 35-45 days of the filing of a complaint or motion. Informal polling of court clerks indicates that 20 out of the 28 district courts meet this scheduling goal. Given the Magistrate vacancy in 2012, it is notable that nearly 72% of courts met the goal to get families before the court in an expedited manner. *Id.*

3. Cases Handled by the Family Division in 2012: 2012 Statistics

In calendar year 2012 there were 8,575 new (original) Family Matters filed in the District Court.² In addition to new cases, the Judicial Branch also tracks the number of family cases coming back to court through the filing of post-judgment motions.

In calendar year 2012, there were 5,885 post-judgment motions filed. Through these motions, parties usually ask the court to modify child support, to change the primary residence of a child, to change parent-child contact arrangements, to 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. Appendix B includes a table showing the number of new cases and post-judgment motions filed in each court location.

² This filing data excludes 729 cases, such as emancipations and foreign judgments, not amenable to individual case counts indicating whether children were involved.

Of the 14,460 original and post-judgment Family Matters filed in the District Court during calendar year 2012, approximately 9,055 were proceedings initially conducted before a Magistrate.³ New complaints and post-judgment motions generally require more than one court event before disposition, and Magistrates report handling 17,610 events during calendar year 2012.

These events fall into three major categories: conferences, interim hearings and final hearings. Magistrates conducted 12,713 conferences, 541 interim hearings, and 4,329 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 self represented—requiring the greatest amount of time. Between 2011 and 2012 the number of interim hearings conducted increased only slightly from 533 to 541 (increase of 8) while the number of final hearings conducted increased more sharply from 3,894 to 4,329 (increase of 435). Although the Magistrates conducted far fewer interim and final hearings than conferences, these hearings are more time consuming, lasting anywhere from an hour to a full day.

4. 2012 Block Scheduling Model

Under the direction of the Chief Judge of the District Court, the Family Division worked with Magistrates and clerks in several courts to implement block scheduling in post-judgment child support dockets to streamline child support cases. Beginning in 2012, several courts in central Maine piloted block scheduling for all Magistrate dockets. This “block” scheduling sets expectations about how many matters of a particular type should be scheduled for any given

³ The remaining cases represented divorce cases without children as well as enforcement and contempt motions that do not fall within the jurisdiction of the Magistrates. An additional number of motions to enforce child support only may have gone before Magistrates as well, but court data is not refined enough at this time to identify and isolate those cases.

“block of time.” By scheduling matters based upon historical time estimates, waiting time for parties is reduced, cases are most often completed when scheduled, and Magistrate “down” time between cases is avoided by providing for several cases to be scheduled for an assigned time period.

Historically, without block scheduling, each Family Matter would be assigned 30 minutes of court time, regardless of the case dynamics. Some case events would finish in 10 minutes, leaving the additional 20 minutes of scheduled court time unscheduled without an easy way to bring in additional parties for case resolution. On the other hand, the more complicated case events could not be completed within the 30-minute timeframe that resulted in delays for other cases subsequently scheduled that day or return trips to the courthouse for those parties. Block scheduling allows a number of cases to be scheduled at once, allowing the Magistrate to quickly address the cases needing less time and to spend additional time on cases with more complex or contested issues.

Under the block system, in any given 1.5-hour period the court may hear a variety of cases scheduled for that block based upon the goals of allowing an opportunity for parties to be heard and effective case processing. For example, in any given block there may be three cases that take only 5-10 minutes of court time to effectively address the parties’ needs along with several other more complex or contested cases that require significantly more court time to address the parties’ needs.

It has been demonstrated that assigning each matter within a case the same amount of pre-determined time is not an efficient use of court resources and results in delays and frustration for parties. The first year of the block-scheduling project has shown promising results. It will continue to be evaluated and the techniques that are most effective will be expanded to other

courts in 2013 in an effort to effectively manage the increasingly complex cases, and to provide service to increasing numbers of self represented litigants.

III. Conclusion

The Family Division has enabled the District Court to make significant progress in timely addressing the needs of Maine's children and families involved in court proceedings. The Magistrates continue to garner widespread respect through their dedication and hard work, as well as their commitment to bringing the parties before the court as soon after the filing of a complaint as possible. There is still work to be done.

The Judicial Branch will endeavor to further increase responsiveness 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 co-parenting education to Maine's families.

Compared to the resources available to courts in other states, Maine has reason to be proud of the work that the Family Division continues to accomplish.

APPENDIX

A. Number of Family Law Magistrate Days per Court per Month

B. Maine District Court – Family Matters Filings (01/01/12 – 12/31/12)

Appendix A

**NUMBER OF MAGISTRATE DAYS
PER COURT PER MONTH
2012**

COURT	NUMBER OF MAGISTRATE DAYS PER MONTH
AUGUSTA	8
BANGOR	11
BELFAST	5
BIDDEFORD	11
BRIDGTON	3
CALAIS	2
CARIBOU	3
DOVER	2
ELLSWORTH	5
FARMINGTON	2
FORT KENT/MADAWASKA	2
HOULTON	3
LEWISTON	15
LINCOLN/MILLINOCKET	2
MACHIAS	2
NEWPORT	2
PORTLAND	24
PRESQUE ISLE	4
ROCKLAND	5
RUMFORD	2
SKOWHEGAN	5
SOUTH PARIS	3
SPRINGVALE	9
WATERVILLE	6
WEST BATH	8
WISCASSET	3
YORK	4
<p>Numbers are based on a four-week month. These numbers fluctuate somewhat. There may be a temporary shift in FLM time to a court that reports a backlog. Also, holidays and vacation time can reduce the number of days at a court location.</p>	

Appendix B

MAINE DISTRICT COURT
Family Matters Filings*
01/01/12 - 12/31/2012

	Divorce Complaints w/ Children	PR&R and Paternity Complaints	Divorce Complaints w/o Children	Total FM Original Complaints	Post-Judg. Motions Divorce w/ Children	Post-Judg. Motions PR&R	Post-Judg. Motions w/o Children	Total Post- Judgment FM Motions	TOTAL FM FILINGS (Original and Post- Judgment)
Augusta	182	145	200	527	216	94	17	327	854
Bangor	254	193	248	695	281	125	42	448	1143
Belfast	102	88	106	296	90	64	8	162	458
Biddeford	185	99	199	483	236	128	22	386	869
Bridgton	86	55	88	229	96	24	12	132	361
Calais	22	21	34	77	31	15	7	53	130
Caribou	39	35	55	129	45	22	4	71	200
Dover-Foxcroft	39	25	49	113	66	25	4	95	208
Ellsworth	147	78	110	335	139	43	19	201	536
Farmington	62	53	64	179	104	55	7	166	345
Fort Kent	27	26	18	71	48	30	15	93	164
Houlton	41	40	37	118	57	19	9	85	203
Lewiston	254	260	275	789	318	202	16	536	1325
Lincoln/Millinocket	60	39	39	138	56	9	3	68	206

* Due to the deadline of this report the statistics are preliminary as of 12/31/12 but final year-end data are not yet available. Due to data constraints, Post-Judgment Motion data are approximate.

Appendix B

MAINE DISTRICT COURT
 Family Matters Filings*
 01/01/12 - 12/31/2012

	Divorce Complaints w/ Children	PR&R and Paternity Complaints	Divorce Complaints w/o Children	Total FM Original Complaints	Post-Judg. Motions Divorce w/ Children	Post-Judg. Motions PR&R	Post-Judg. Motions w/o Children	Total Post- Judgment FM Motions	TOTAL FM FILINGS (Original and Post- Judgment)
Machias	42	29	52	123	52	20	4	76	199
Newport	71	55	60	186	114	33	16	163	349
Portland	485	298	504	1287	556	217	58	831	2118
Presque Isle	46	55	49	150	56	40	5	101	251
Rockland	98	77	78	253	135	60	10	205	458
Rumford	55	55	50	160	50	46	8	104	264
Skowhegan	140	98	134	372	133	81	11	225	597
South Paris	46	63	83	192	90	57	10	157	349
Springvale	208	139	164	511	228	105	27	360	871
Waterville	117	104	117	338	109	73	23	205	543
West Bath	170	97	147	414	212	71	44	327	741
Wiscasset	74	53	82	209	96	46	10	152	361
York	80	33	88	201	112	21	23	156	357
State TOTALS*	3132	2313	3130	8575	3726	1725	434	5885	14460

* Due to the deadline of this report the statistics are preliminary as of 12/31/12 but final year-end data are not yet available. Due to data constraints, Post-Judgment Motion data are approximate.