

**REPORT TO THE JOINT STANDING COMMITTEE ON JUDICIARY
OF THE 132nd 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

The Maine State Legislature created the Family Division of the Maine District Court in 1997 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; P.L. 1997, ch. 269. To carry out this central purpose, the Legislature authorized the use of family law magistrates¹ to process family matters in a way that ensures children’s needs are met.

When the Maine Legislature founded the Family Division and authorized the creation of family law magistrates, it also directed the State Court Administrator to “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.” 4 M.R.S. § 183(3).

Pursuant to this requirement, the State Court Administrator presents this 14th biennial report concerning the Family Division. The following report provides an overview of Family Division case processing, data on cases handled by the Family Division in calendar years 2023 and 2024, and an update on initiatives of the Family Division for the same period.

¹ The family law magistrates were originally called “case management officers.”

II. Family Division Overview

a. Statutory Authority and Operational Structure

The purpose, authority, and scope of the Family Division are outlined in Title 4, Section 183 of the Maine Revised Statutes. Title 4, Section 183 also authorizes the Supreme Judicial Court to adopt court rules to govern the practice, procedure, and administration of the Family Division. The Maine Supreme Judicial Court adopted court rules outlining the procedures to be followed in family matters in 1998, and those rules are now part of the Maine Rules of Civil Procedure. *See* M.R. Civ. P. 100-129.

b. Family Matters Case Processing

When a family matter is filed, it is set on one of two tracks, depending on whether the case involves children. If the case does not involve children, it will be managed and heard exclusively by a judge. In the cases where the parties can reach an agreement, the judge will hold an uncontested hearing. If the parties are unable to reach an agreement, the judge will manage the case and hold a final contested hearing.

In contrast, except for post-judgment motions for contempt involving children, which are referred directly to a judge, M.R. Civ. P. 110A(b)(6)(C), all family matters involving children are assigned first to a family law magistrate. M.R. Civ. P. 110A(a). Family law magistrates are judicial officers with limited

jurisdiction. 4 M.R.S. §§ 183(1)(D)-(F); M.R. Civ. P. 110A; *Family Law Magistrate Authority*, Me. Admin. Order JB-05-18 (effective August 1, 2005). Family law magistrates are required to be “members of the Bar of this State and must have experience in the area of family law.” 4 M.R.S. § 183(1)(A). Furthermore, family law magistrates must have “training or experience in mediation and other alternate dispute resolution techniques, domestic violence, child development, family dynamics and case management.” *Id.*

Sixty-five percent of the family law magistrates’ salaries and benefits are covered by federal funds allocated to Maine under Title IV-D of the Social Security Act. 4 C.F.R. § 304.2(b)(2). Currently, there are eight family law magistrates serving Maine’s district courts. They are all well-respected and qualified members of the Maine Bar with substantial experience in family law and a strong commitment to public service. As explained below, the work the family law magistrates perform provides a significant benefit to Maine’s families and to the Maine Judicial Branch.

i. Case Management Conference

To promptly assess and address a family’s needs, family law magistrates conduct a case management conference as the first step in processing family matters involving children. At the case management conference, the family law magistrate (1) explains the court process to the parties, (2) helps the parties identify issues on which the parties agree, (3) enters interim court orders, and (4) determines how to

help the parties resolve any issues remaining in dispute. Based on what the family law magistrate learns at the case management conference, the family law magistrate may order the parents to attend a parent education program, refer them to meet with a mediator, and/or schedule an interim hearing.

One of the family law magistrate's primary roles is to ensure that the children's financial needs are met while the case is pending. If the parties are unable to agree to an interim order of child support at the case management conference, the family law magistrate will hold an interim child support hearing immediately following the conference or not more than 63 days after the case management conference. M.R. Civ. P. 108(f)(2). All interim orders entered by a family law magistrate may be "decided de novo [i.e., anew] at the final hearing." M.R. Civ. P. 110A(b)(7).

ii. Mediation

The Legislature has determined that when minor children are involved in a family matter, the court must refer the parties to mediation, except for "extraordinary cause shown." 19-A M.R.S. § 251(2)(B). In cases involving domestic abuse, the court may find "extraordinary cause" and waive mediation or may give the parties the option to mediate in separate rooms. At mediation, the parties are assisted by a professional mediator who is rostered by the Court Alternative Dispute Resolution Services (CADRES). All CADRES mediators are required to have a minimum of

100 hours of mediation training and experience, including at least eight hours of training related to domestic abuse issues. Mediators must also fulfill rigorous continuing education requirements to remain active on the mediator roster. For a fee of \$160,² parties are given up to two three-hour mediation sessions with the court mediator to develop their own creative solutions specially tailored to their nuanced and unique family issues.

iii. Final Hearing

When the parties are unable to reach a full agreement through mediation, the court will schedule their case for a final hearing. Pursuant to M.R. Civ. P. 114(b), a family law magistrate may enter a final order (1) relating to child support, (2) on other issues by agreement of the parties or when the matter is unopposed, and (3) on all elements of final contested actions for divorce with children, legal separation with children, parentage, or parental rights and responsibilities provided that the parties consent to the family law magistrate hearing the case and the family law magistrate determines that it is reasonably likely that the hearing can be completed within three hours. A judge will preside over all other final hearings in family matters. *See* 4 M.R.S. § 183(1)(D); M.R. Civ. P. 110A(5)(B)(ii).

² The fee is generally allocated equally between the parties. Parties who cannot afford the mediation fee can apply for a fee waiver.

All final orders of a family law magistrate are subject to review by a district court judge if a party files an objection within 21 days after entry of the family law magistrate's final order. M.R. Civ. P. 118(a). When an objection is filed, a judge will review the record established before the family law magistrate and, with or without a hearing, may (1) adopt, modify, or reject the order, (2) set the matter for further hearing, or (3) recommit the matter to the family law magistrate with instructions. M.R. Civ. P. 118(a)(2). A party whose timely objection to the family law magistrate's order was unsuccessful may appeal from a judge's final judgment in accordance with the Maine Rules of Appellate Procedure. M.R. Civ. P. 118(b).

iv. Post Judgment Motions

When there has been a “substantial change in circumstances” since the entry of the most recent decree, and a modification would serve the best interest of a child, a party may ask the court to change provisions relating to parental rights and responsibilities in that decree by filing a post-judgment motion to modify. *Neudek v. Neudek*, 2011 ME 66, ¶ 10, 21 A.3d 88 (discussing 19-A M.R.S. § 1657(1)) (quotation marks omitted); M.R. Civ. P. 110A(b)(6)(B). Parties may also file motions to enforce or for contempt when the opposing party fails to comply with an existing court order. M.R. Civ. P. 110A(b)(6)(B); M.R. Civ. P. 66(d). All post-judgment motions asking to modify or enforce provisions related to minor children are assigned to a family law magistrate for case management. M.R. Civ. P.

110A(b)(6). Motions for contempt, however, are referred to a judge. M.R. Civ. P. 110A(b)(6)(C). For the last two state fiscal years, post-judgment matters have comprised approximately 30% of the total number family matters proceedings handled by district courts in Maine.

c. Cases Handled by Family Division in Calendar Years 2023 and 2024

As stated above, there are currently only eight family law magistrates to serve the entire state of Maine—a number that has not increased since 1997. The family law magistrates carry a heavy caseload and bring enormous benefit to families in Maine. To illustrate, in calendar year 2023, there were 6,539 original family matters³ and 2,860 post-judgment motions⁴ for a total of 9,399 family matters filed. In calendar year 2024, the total filings increased slightly to 9,440 and consisted of 6,574 original family matters and 2,866 post judgment motions.

Table 1. Total Family Matter Filings

| | CY2023 | CY2024 |
|--|---------------|---------------|
| Original Family Matter Filings | 6,539 | 6,574 |
| Post-Judgment Family Matter Filings | 2,860 | 2,866 |
| Total Number of Family Matter Filings | 9,399 | 9,440 |

³ Original family matter filings include divorces with and without children, determination of parentage, parental rights and responsibilities, adoptions, guardianships, name changes, and other family matters.

⁴ Post-judgment motions in family matters include motions for contempt, motions for relief from judgment, motions to enforce, and motions to modify.

Of the 9,399 original and post-judgment family matters filed in 2023, approximately 5,517 filings were managed by the eight family law magistrates of the Maine Judicial Branch.⁵ Family law magistrates handled approximately 5,587 of the 9,440 total family matter filings in 2024. To process the family matter filings involving children, family law magistrates conducted 11,803 court events⁶ in calendar year 2023, and 11,489 court events in calendar year 2024.

Table 2. Family Matter Filings Handled by Family Law Magistrates

| | CY 2023 | CY 2024 |
|--|---------|---------|
| Total Number of Family Matters Filed | 9,399 | 9,440 |
| Number of Family Matter Filings Handled by Family Law Magistrates | 5,517 | 5,587 |
| Total Number of Family Law Magistrate Court Events to Process Family Matter Filings Handled by Family Law Magistrates | 11,803 | 11,489 |

⁵ Because family law magistrates have limited jurisdiction, they do not handle all the family matters that are filed in district court, but rather, manage family matters involving children in the following case types: child support, divorce, legal separation, parentage or parental rights. 4 M.R.S §§ 183(1)(D)-(F); M.R. Civ. P. 110A, *Family Law Magistrate Authority*, Me. Admin. Order JB-05-18 (effective August 1, 2005).

⁶ Court events include case management conferences, child support hearings, docket calls, final hearings, interim hearings, pretrial or status conferences, settlement conferences, and any hearings on motions.

III. Family Division Updates

a. Revision to the Family Division Rules of Civil Procedure

In September 2018, the Advisory Committee on the Maine Family Rules (FRAC)⁷ was established to make recommendations to the Maine Supreme Judicial Court to improve the rules of procedure for Family Division cases. The existing Family Division Rules are currently contained within Chapter XIII of the Maine Rules of Civil Procedure.⁸ Under the current framework, the general Maine Rules of Civil Procedure apply if a specific Family Division Rule does not address the matter. As a result of this co-existence, many procedures in Family Division matters are governed by rules of procedure that were developed for civil actions that do not involve the sensitive, life-shaping dynamics of families.

Following a thorough analysis of the current procedures for Family Division cases, FRAC determined that many of the civil rules of procedure are not sufficiently tailored to the needs of a Family Division case. For example, the scope of discovery permitted under the Rules of Civil Procedure is very broad and often results in unnecessary and expensive discovery practice in family matters where preservation of marital assets to support separated households should be a priority. Additionally,

⁷ FRAC members includes representatives of the Maine Family Bar, staff from the Family Division of the MJB Administrative Office of the Courts, and judicial officers. The current roster is available on the MJB website at: <https://www.courts.maine.gov/about/committees/fam-rules.html>

⁸ The Family Division Rules consist of Rules 100 to 129 of the Maine Rules of Civil Procedure.

some of the discovery options, such as requests for admissions, are not well suited for family matters where most litigants are self-represented.

Due to the breadth of civil procedures FRAC wanted to modify for Family Division cases, FRAC determined in late 2019 to move forward with proposing to the Supreme Judicial Court a standalone set of rules for Family Division cases (i.e., family, protection from abuse/harassment, child protection, and minor probate cases), rather than trying to make extensive amendments to the existing rules. Following a brief interruption to their meetings due to the onset of the pandemic, FRAC resumed its effort to develop this body of rules and has continued to meet monthly to work on this project.

FRAC's goal is to draft a proposed set of rules that are customized for family matters and more accessible to and user-friendly for litigants through increased use of lists, instead of long, dense block paragraphs, and plainer language for litigants. In late 2023, FRAC circulated a preliminary draft of the rules for feedback from attorneys, judicial officers, and court clerks. FRAC then took 2024 to work through comments and incorporate feedback into a final draft for the Supreme Judicial Court. FRAC intends to propose to the Supreme Judicial Court the standalone set of rules for Family Division cases in early 2025. If the Supreme Judicial Court decides to move forward with FRAC's proposal, the rules will then be posted for a lengthy public comment period prior to promulgation.

b. Expansion of Maine eCourts

As of the authoring of this report, Maine eCourts are live in Androscoggin County Superior Court, Franklin Superior Court, Oxford County Superior Court, Farmington District Court, Lewiston District Court, Rumford District Court, South Paris District Court, Penobscot County Superior Court, and Bangor District Court for the following case types: family matters, child protection cases, small claims, forcible entry and detainer, foreclosures, protection from abuse, and protection from harassment. Maine eCourts are also live for the Business and Consumer Docket and the Violations Bureau (traffic violations) statewide.

As of the submission of the 2023 Family Division report, family matters were live in Maine eCourts only in the Bangor District Court. On April 1, 2024, the Maine Judicial Branch launched Maine eCourts for family and civil cases in all Region 3 courts (Androscoggin County Superior Court, Franklin Superior Court, Oxford County Superior Court, Farmington District Court, Lewiston District Court, Rumford District Court, and South Paris District Court). In June 2024, protection from abuse and protection from harassment cases went live in all existing Maine eCourts locations.

c. Funding for Parent Education and Supervised Visitation

The Maine Judicial Branch administers an annual federal grant from the Access and Visitation program of the federal Office of Child Support and

Enforcement (OCSE). The purpose of the grant is to fund a wide range of family-centered services that are critical for families involved in a divorce or parental rights and responsibilities case, including: co-parent education, mediation, supervised visitation, and development of parenting plans. The Maine Judicial Branch was selected as the administering entity for this federal grant when it was first made available to Maine in 1997 because the grant's purpose aligned with the mission of the then newly created Family Division to support the development of co-parent education programs. To aid in the administration of the grant and make recommendations as to the services the grant supports, the Supreme Judicial Court established the Access and Visitation Advisory Committee.

In 2021, the Committee researched additional opportunities for funding beyond the Access and Visitation grant to expand, without sacrificing funding to current sub-recipients, the availability of supervised visitation services for families who need this service but are not involved in the child welfare system. As a result of this effort, the Committee helped to coordinate the submission of an application for the Justice for Families (JFF) grant administered by the Office on Violence Against Women (OVW) to expand the availability of affordable supervised visitation services in Maine. In addition to supervised visits, the JFF grant application requested funding to provide domestic violence training to court-based and court-related personnel who work with families with a history of domestic violence, dating

violence, sexual assault, and stalking. The application was submitted by the Maine Coalition to End Domestic Violence (MCDEV) with the Maine Judicial Branch as a project partner.

In August 2022, OVW announced that Maine was awarded a JFF grant in the amount of \$550,000 over a three-year period to partner with (1) Home to Home to establish supervised visitation services in Lewiston, Maine, and (2) the Battered Women's Justice Project to provide domestic violence training on their SAFeR model.

1. Home to Home is a non-profit organization that has been providing supervised visitation since 2002, primarily for parents who have been ordered by the court to have supervised contact with their children as part of a family matter or protection order case. Lewiston was selected as the proposed site for expansion of their supervised visitation services because, at the time of the grant application, Lewiston District Court had the highest number of PFA filings over a three-year period (2018-2020). Despite having a population that is 55% smaller than Portland, Lewiston's three-year average from 2018-2020 was 649 PFA filings per year, as compared to Portland's average 615 PFA filings per year.

After navigating administrative requirements from the OVW, Home to Home officially started providing supervised visitation services at St. Mary's

Regional Medical Center in February 2024. Since that time, Home to Home has enrolled and provided direct services to a total of 19 families utilizing space donated by the hospital. Home to Home staff attend the weekly PFA docket at the Lewiston District Court and continue to work closely with Safe Voices, the region's domestic violence resource center, to coordinate program referrals.

2. The Battered Women's Justice Project (BWJP) is a collective of national policy and practice centers at the intersection of gender-based violence and legal systems. BWJP developed the SAFeR model in consultation with the National Council of Juvenile and Family Court Judges and representatives from the Association of Family and Conciliation Courts, with generous support from the U.S. Department of Justice Office of Violence Against Women. The model is informed by researchers, scholars, and expert practitioners, as well as battered and battering parents across the country and around the world. SAFeR is an approach to decision making in family matters involving intimate partner violence (IPV). It consists of four parts: (1) screening for IPV; (2) assessing the full nature and context of IPV; (3) focusing on the effects of IPV; and (4) responding to IPV in all recommendations, decisions, and interventions. The National Council of Juvenile and Family Court Judges and the Center for Court Innovation train

on the SAFeR model as part of their custody curriculum. BWJP reports it has trained approximately 20,000 people nationwide – approximately 20% of whom are judges – on the SAFeR model since its creation.

In October 2023, the JFF grant provided funding for a multidisciplinary one-day conference on the SAFeR model at the Augusta Civic Center to court-based and court-related personnel, including judicial officers, attorneys, guardians ad litem, child protection case workers, and advocates.

At the end of 2024, the MJB committed once again to sign on as a project partner for a new JFF grant. MCEDV submitted the application in January 2025, which seeks continued funding for Home to Home’s supervised visitation services in the Lewiston location, as well as funding to provide multi-disciplinary domestic violence training with a specific emphasis on creating greater opportunities for court-related professionals to meet statutory requirements for annual domestic violence training.

d. Court-Paid Retired Judge Referee Program

In the wake of the COVID-19 pandemic, the MJB has endeavored to find ways to help resolve cases experiencing delays due to the pandemic. In March 2022, the Supreme Judicial Court signed an Administrative Order establishing a program wherein the MJB covers the cost of retired judges acting as referees to conduct settlement conferences or final hearings in family matters and non-jury civil actions

(*see* Administrative Order JB-22-03). While the appointment of a referee is not a new concept, and in fact, is long established by court rule (*see* Rule 53 of the Maine Rules of Civil Procedure), traditionally parties have been responsible for the cost of a referee's services. This requirement has previously rendered the appointment of a referee unavailable to most parties who lacked the financial means for this service. Additionally, referees appointed pursuant to Rule 53 are attorneys, whereas parties utilizing a referee under this program benefit from the expertise of individuals with many years of experience as a trial court jurist.

The MJB has onboarded four retired judicial officers as court-paid referees who compensated at the same rate of active retired judges pursuant to 4 M.R.S. § 157-D. Parties or judicial officers may seek the appointment of a referee for a settlement conference or final hearing for a family matter by submitting a request to an internal screening committee that interfaces directly with the referees to coordinate the appointments. While the referees are physically located throughout the state, they can take statewide appointments with the utilization of Zoom proceedings.

As of December 31, 2024, the referees have successfully resolved 48 cases, thereby removing those cases from the courts' pending trial lists and allowing district court judges to address other matters with the limited time they have for family matter trials.

IV. Conclusion

The Family Division of the Maine Judicial Branch remains committed to its statutory purpose of providing “a system of justice that is responsive to the needs of families and the support of their children.” 4 M.R.S. § 183. In calendar years 2023 and 2024, the district courts not only continued processing a high volume of family cases, many of which were handled by the eight family law magistrates, but Maine Judicial Branch administrators also worked diligently to implement improvements to the Family Division case processing and the experience of families when they come to court. Projects such as increasing the availability of free supervised visitation and referee settlement conferences at no cost to the court user, and the longer-term project of improving the court rules for family cases, all speak to the Maine Judicial Branch’s continuing efforts to make the processes more accessible and better tailored to meet the needs of the families the Family Division serves.