

PRACTICE NOTE #2

CHILD YOUTH AND FAMILY ENHANCEMENT ACT

PROVINCIAL COURT OF ALBERTA
RED DEER FAMILY & YOUTH COURT
TRIAL READINESS AND PRETRIAL CONFERENCE PROTOCOL
(Effective August 1, 2013)

The new Protocol differs from its predecessor in several ways, including the following:

- a. The process for selecting Trial dates shall commence prior to or immediately upon the completion of the JDR (Judicial Dispute Resolution).
- b. Before applying for Trial dates a TRF must be completed by each side (called either Party or a Litigant) in the Court action. The TRF requires each Party to provide various types of information, including the issues to be determined at trial, and each Party's witness list. While that list is subject to change, every effort must be made by each Party to submit it in as precise a form as possible to assist the Court in determining whether an adequate number of days have been reserved for Trial.
- c. A completed TRF must be submitted before Trial dates are formally confirmed on the record in Court; and
- d. Pre-Trial Conference will now be required.

The specifics of the Trial Readiness Protocol are as follows:

1. Applicability. Child Youth and Family Enhancement Act (CYFEA) Trials scheduled for more than 1 day shall be case managed according to this Protocol, subject always to the discretion of the Court.
2. Protocol Overview. An application shall proceed according to the following stages:
 - a. Preliminary Stage. This stage comprises the early Court dates before the granting of Initial Custody.
 - b. Initial Custody Stage. Initial Custody must be dealt with within the timelines set out in the CYFEA on Temporary or Permanent Guardianship (TGO and PGO) applications.
 - c. Requesting JDR Stage. Once Initial Custody is addressed (or if not an issue) the next step is to request a JDR hearing. The procedure is as follows:

- i. Upon the granting of Initial Custody, the matter shall be adjourned for 2 weeks to a Trial Times Request date for the purpose of setting a date for JDR. All Parties, including each Self-Represented Litigant (SRL) shall obtain (from the Trial Coordinator (TC), a Family Court Clerk, online or otherwise) the JDR form to be signed and presented to the Family Court Clerk prior to the JDR proceeding.
- d. Requesting Trial Times Stage. Once the JDR is set or upon completion of the JDR the next step is to request Trial Times. The procedure is as follows:
- i. Upon the JDR date being set, or upon completion of the JDR, the matter shall be adjourned for 2 weeks to a Trial Times Request date. All Parties, including each Self-Represented Litigant (SRL) shall obtain (from the Trial Coordinator (TC), a Family Court Clerk, online or otherwise) that portion of the Trial Readiness Form (TRF) appropriate for that Party (Applicant or Respondent) and within 1 week appear at the Trial Coordinator's office and select a trial date.
 - ii. The purpose of the Trial Times Request date is to request Trial Conference and Trial Dates. These dates are collectively referred to as "Trial Times".
 - iii. Before requesting Trial Times at the Trial Times Request date, counsel for each party, and each SRL, must complete their respective portion of the Trial Readiness Form (TRF). The TRF requires a Party to provide various types of information, including the issues to be determined at trial and a Party's witness list. While that list is subject to change, every effort must be made to submit it in as precise a form as possible to assist the Court in determining whether an adequate number of days have been reserved for Trial.
 - iv. If counsel or a SRL has not completed his or her portion of the TRF, the Presiding Judge on the Trial Times Request date shall provide whatever directions and impose whatever sanctions he or she determines to be appropriate.
 - v. Before the matter is called in Court on the Trial Times Request date, all lawyers and SRLs must attend the Trial Coordinator's (TC's) Office and provide to the TC one copy of the TRF with each Party's portion completed. The TC in conjunction with the Judges' office shall then provide the Parties the following Trial Times:

- A. A Pre-Trial Conference (approximately 60 days before the start of Trial); and
 - B. Tentative Trial dates.
- vi. When the matter is called in Court on the Trial Times Request date, counsel and SRLs shall advise the presiding Judge of the status of the TRF and the Trial Times. Counsel may appear by agent. Any SRL who has participated in the completion of the TRF must be present.
- e. General. As matters of general practice:
- i. Whenever a JDR is booked, a subsequent docket date within two weeks of the JDR shall also be booked;
 - ii. A JDR must be completed before the Pre-Trial Conference is held, unless a Judge says otherwise;
 - iii. Trial dates shall now only be selected by counsel for the Director and other Parties, in consultation with SRLs; and
 - iv. Once Trial Times are confirmed, any application to withdraw as counsel of record must be made to the Trial Judge;
 - v. The Assistant (or Acting Assistant) Chief Judge may grant Directions where the Trial Judge is not available;
 - vi. If it becomes apparent for any reason that the Trial may not proceed as scheduled, or that further Trial Dates or Directions are required, the matter shall be forthwith brought forward before the Trial Judge; and
 - vii. Where counsel for a Party loses contact with that Party, or where counsel for a Director learns the caseworker has lost contact with the Party, counsel in either case shall forthwith bring the matter forward before the Trial Judge for advice and directions.
3. The Pre-Trial Conference (PTC). The following shall govern the PTC:
- a. The PTC shall be ordinarily held before the Trial Judge approximately 60 days before the first day of Trial.

- b. Only the assigned Trial Judge may issue Directions which in any way would limit or expand the scope of evidence to be entered at Trial.
 - c. The assigned Trial Judge shall ordinarily be seized of the file upon reviewing the TRF. In extraordinary circumstances a different Judge may be required to conduct the PTC, in which case that Judge is neither seized nor disqualified from the conduct of the Trial.
 - d. Unless otherwise directed in advance by the PTC Judge, all Parties and all counsel shall attend the PTC.
4. Implementation Date. The implementation date for the Trial Readiness Protocol shall be August 1, 2013.
 5. Documents and Trial Binders. Unless the Trial Judge directs otherwise, Counsel (or any SRL intending to apply to enter any documents into evidence without calling the makers of these documents as witnesses) shall:
 - a. Provide the documents to all other Parties or their Counsel, (this includes all letters of support, professional or expert reports, Affidavits and the like) and forward these to all other Parties no less than 60 days before the first day of Trial;
 - b. Prepare and deliver a Trial Binder to all other Parties and to the Clerk's Office for the attention of the Trial Judge at least 7 business days before the first day of Trial.
 - c. Any Party taking issue with any document(s) included in the Trial Binder of any other Party may seek Directions from the Trial Judge before the first day of Trial.
 6. Agreed Statement of Facts. Counsel shall submit, at least 7 days before Trial, an Agreed Statement of Facts indicating, at a minimum:
 - a. The names, birthdates and ages of the child(ren);
 - b. The dates and nature of any significant Orders granted (e.g. Apprehension, Initial Custody, Temporary Guardianship); and
 - c. Any other significant, relevant information, inclusion of which is likely to save on Trial time.