



EL PASO COUNTY LOCAL RULES

For Family Courts

PART ONE – GENERAL RULES

RULE 1.01 **SCOPE, AUTHORITY, AND APPLICATION OF LOCAL RULES**

- (A) These rules are the Local Rules of the Courts of El Paso County, Texas. They shall govern proceedings in the District Courts, Specialty Courts, and the Statutory County Courts at Law of El Paso County, Texas, for the purpose of securing uniformity and fairness in those proceedings and to promote justice.
- (B) These rules are adopted by the trial judges of the district and county courts at law acting in council pursuant to the inherent power of courts to control and guide the trial and disposition of causes, and pursuant to the provisions of the Supreme Court’s order of February 4, 1987, as amended, the Regional Rules of Judicial Administration, and to the provisions of the Court Administration Act, Section 74.093, Government Code, as they now exist, or as they may be hereafter amended.
- (C) These rules are standing orders of all district and statutory county courts of this county, now existing or as may be created hereafter. Knowing or intentional violation of these rules may be punished by contempt or other sanctions authorized by law or by rules of procedure as the trial judge may deem appropriate.
- (D) If any provisions in these rules are found to conflict with any statutes or other statewide rules, the statutes or statewide rules shall prevail.

RULE 1.02 **SELF-REPRESENTED LITIGANTS**

- (A) Any natural person proceeding on their own behalf without an attorney shall be expected to read and follow these Local Rules, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, the Texas Code of Criminal Procedure, and the Texas Rules of Appellate Procedure, as may be appropriate in the particular case. Failure to comply may be sanctioned or punished in accordance with applicable provisions of all these rules. Self-represented litigants shall be responsible for providing the clerk with current addresses, email addresses, and telephone numbers, and shall also be responsible for providing copies of all papers filed to all other parties or attorneys. Such filed papers shall always contain the current address, email address, and phone number of the self-represented party. The

clerks of the courts shall provide a self-represented party a copy of this Rule 1.02 at the time a petition or an answer is filed. Courts may use video conferencing for remote hearings.

- (B) Resources to assist self-represented litigants may be found online or in the law library located at the Enrique Moreno County Courthouse. For those seeking the assistance of lawyers, it may also be helpful to contact the local El Paso Bar Association.

RULE 1.03 PRIVATE SERVICE OF PROCESS:

Process service must be handled in accordance with Rule 103 of the Texas Rules of Civil Procedure.

RULE 1.04 COURT SECURITY:

All persons entering the courtroom or suite of offices assigned to a court are subject to search by the bailiff or anyone else responsible for security. All counsel and parties shall be alert to security risks and shall notify the court or bailiff of any security concerns.

RULE 1.05 EMERGENCY AND SPECIAL SESSIONS; TEMPORARY ORDERS:

- (A) Except in emergencies, when the clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a judge until it has been filed and assigned to a court as is provided in these rules.
- (B) If the judge of the court to which such case is assigned is absent or is occupied with other matters, such application may be heard by any other district or county court at law judge who may sit for the judge of the court in which the case is pending and who shall make all orders, writs and process returnable to the court to which the case is assigned.
- (C) Hearings on applications for temporary injunctions, temporary receiverships, and the like, shall be set in the court to which the case has been originally assigned by consulting with that court in compliance with these local rules.
- (D) All applications for ex parte relief shall state whether, within the knowledge of applicant and applicant's attorney, the opposing party is represented by counsel and, if so, the name of such counsel, and whether or not such counsel/party has been apprised of the application for ex parte relief.
- (E) Except for cases filed under the Texas Family Code, the party requesting such temporary relief shall be present in court at the time such relief is requested, unless the court waives this requirement for good cause shown.

- (F) Whenever immediate action of a judge is required in an emergency when the clerk's office is not open for business, the case shall, nevertheless, at the earliest practicable time be docketed and assigned to a court as provided by these rules, and all writs and process shall be returnable to the assigned court.
- (G) Family cases are not governed by this Rule 1.05. See Part Four of these Local Rules.

PART TWO – LOCAL ADMINISTRATION AND LOCAL ADMINISTRATIVE JUDGE

- (A) The Local Administrative Judge shall be selected by the majority of vote of members of the Council of Judges at the regular meeting for the month of March of each odd-number year and shall serve terms of two years. A separate policy on the election process shall be passed by the majority of the Council of Judges.
- (B) The terms of office shall be from April 1 to March 31.
- (C) The Local Administrative Judge will perform the duties as outlined in Texas Government Code Sec. 74.092 and Rules 9 and 10(d) of the Rules of Judicial Administration.
- (D) The local administrative judge or a majority of the judges will call meetings of the judges at least once each month (generally the last Thursday of each month), and as needed. The local administrative judge shall preside over such meetings and in his/her absence the district or county presiding judge shall serve as temporary chair.
- (E) In order to give effect to the El Paso Council of Judges' policy of maintaining the status quo of existing dockets upon the change of the presiding judge of any court, the local administrative judge, upon a majority vote of the Council of Judges, shall have the authority to transfer any one or any number of cases from any court to another court of equal jurisdiction randomly selected by the Council of Judges or by the Regional Administrative Judge.
- (F) VEXATIOUS LITIGANTS –
 1. An individual deemed a vexatious litigant pursuant to Texas Civil Practices & Remedies Code Sec. 11.101 is prohibited from filing new litigation as a self-represented litigant unless the person obtains permission to file litigation from the local administrative judge.
 2. The clerk of the court, upon receipt of a petition for permission to file by a vexatious litigant, shall immediately deliver the petition to the local administrative judge.

PART FOUR - FAMILY LAW CASES

All the rules for civil cases apply to family law cases unless specifically addressed in statute or part four. Additional cases to which part four applies: CPS cases, Protective Order Court, Judicial Bypass (parental notification), and Order of Referral. In light of special procedures that may apply to CPS case, the special procedures are available from the Child Protection Court. Certain family law cases may be filed by the Attorney General of the State of Texas, and those are subject to special provisions in the Family Code and the procedures adopted in that Court. Courts may use video conferencing for remote hearings.

RULE 4.01 FILING AND ASSIGNMENT OF FAMILY LAW CASES:

- (A) Family law cases include divorce, protective orders, child protection, name changes for adults or children, paternity, annulment, custody, property division, and post-judgment actions such as contempt, modification, and enforcement.
- (B) Juvenile cases are to be filed separately and assigned to the appropriate district court with juvenile jurisdiction.
- (C) Family law cases shall be heard by associate judges upon orders of referral from the district courts and county courts at law pursuant to Chapter 54 of the Government Code. Any family law case may be assigned to another family court by order of the Judge of the court in which the case is pending and with the consent of the Judge of the court to which the case is transferred which is randomly selected by the Council of Judges or by the Regional Administrative Judge.
- (D) Should a person choose to represent themselves, resources are available at the law library located in the Enrique Moreno County Courthouse to guide in Family Law cases. Judges, clerks, and court staff are prohibited from giving anyone legal advice.

RULE 4.02 EMERGENCY MATTERS, ANCILLARY PROCEEDINGS, AND TEMPORARY ORDERS:

- (A) Notwithstanding a timely filed objection to a referral for the trial on the merits, ancillary proceedings and temporary order hearings may be scheduled and heard by associate judges and not by the referring court unless otherwise directed.
- (B) To assist in the orderly operation of the court, the duration of such hearings is assumed to be no more than a half hour unless otherwise specifically requested at time of scheduling.

RULE 4.03 UNCONTESTED MATTERS:

Uncontested matters shall be handled by an uncontested docket as directed by the referring

and or associate judges. No schedule or setting will be required for such dockets.

RULE 4.04 FINANCIAL INFORMATION STATEMENTS; INVENTORY AND APPRAISEMENT; AND PRETRIAL PROCEDURE:

The Family Courts shall establish policies to govern financial information statements, inventories and appraisements, and pretrial proceedings.

RULE 4.05 MEDIATION RULES IN FAMILY COURT:

The Courts encourage resolution of disputes by alternative dispute resolution methods to include mediation as provided by statute.

RULE 4.06 JURY DEMAND AND WITHDRAWAL OF JURY DEMAND:

A copy of the jury demand or withdrawal of jury demand shall be provided to the referring court and to the associate judges by the attorney filing same when filed with the district clerk.

RULE 4.07 OBJECTION TO REFERRAL:

- (A) Objection to referral shall apply to trial on the merits only. A copy of the filed objection shall be provided to the referring court and to the associate judges by the attorney filing same when filed with the District Clerk.
- (B) All withdrawals of objection to referral shall be made with the concurrence of all parties and a copy shall be provided to the referring court and to the associate judges when filed with the district clerk. If the case proceeds to trial before the associate judge, the objection is deemed withdrawn or waived.

RULE 4.08 COURT SETTINGS:

- (A) Requests to cancel a court setting shall be made in writing, unless expressly excused by the court, and only with the concurrence of all parties. The cancellation notice shall state the parties' concurrence.
- (B) Settings will be arranged through the Family Law Court Coordinator. Requests for settings may be required to be in writing, may specify the amount of time needed, and may be filed with the clerk, as directed by the Family Law Courts.
- (C) Attorneys shall confirm in writing with the Family Law Court Coordinator at least one week in advance of a hearing scheduled with duration of three hours or more. Parties must confer and advise the court that the said hearing is still needed. Failure to so confirm one week in advance may result in cancellation of the hearing by the court.

RULE 4.09 PROPOSED ORDERS OR DECREES:

All proposed orders or decrees submitted to an associate judge which must be ratified or approved by the referring court shall include a signature line for the “Judge Presiding.”

RULE 4.10 JUDICIAL BYPASS OF PARENTAL NOTIFICATION:

- (A) The court coordinator will immediately deliver the application to the judge of the court to which the case is randomly assigned.
- (B) If the judge is not available, the court coordinator will hand deliver the application to the Council of Judges. Another court will be randomly selected to handle the matter. The application will then be hand-delivered to that court. I rewrote this one. Not all family courts are on this wheel and cases must be randomly reassigned.

RULE 4.11 65th DISTRICT COURT RULES FOR CHILD PROTECTION CASES

(A) Filing child protection cases

1. Child protection cases (CPC) and adoptions stemming from a child protection case are to be filed in the 65th District Court.
2. CPC cases shall be heard upon orders of referral from the district court pursuant to Chapter 201 of the Texas Family Code.
3. Pursuant to 201.005 of the Texas Family Code, a party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside over the jury trial. A copy of the filed objection shall be provided to the referring court, the associate judge and county attorney within three days by the attorney filing same when filed with the district court.

(B) Pretrial

1. To assist in the disposition of CPC cases, attorneys are directed to appear at a pretrial conference by order of the court.
2. Statements of paternity and affidavits of status shall be brought to the pretrial and filed by the full adversary hearing.

(C) Motion For Continuance:

1. Notice of filing of motion must be served on opposing counsel.

2. Any ground for continuance shall be presented to the court at least 10 days prior to the hearing absent exigent circumstances.
3. Agreed motions for continuance signed by all parties shall be granted unless the delay would unreasonably interfere with the other business of the court. Motions for continuance will not be granted absent a showing of compelling reasons, which must be clearly articulated in the motion. Requesting party must prepare a written agreement, all attorneys must sign, and the motion filed with the district clerk. The agreed motion shall be accompanied by an order setting hearing or mediation and presented to the judge. Before requesting date for hearing or mediation, the requesting party shall make reasonable efforts ascertain from the other parties whether they are available, and then inform the court coordinator of potential conflict in the attorney's schedules.
4. The requesting party shall then promptly serve all other parties/witnesses with written notice of the new setting for hearing.
5. All military leave and vacation requests shall be honored when timely filed.
6. Local Rule 3.07 governing all the courts' policies on continuances is incorporated by reference.

(D) Pretrial Motions/Preliminary Matters:

1. All motions shall be in writing and shall have a proposed order attached granting the relief sought.
2. All motions will be disposed of at the scheduled hearing, unless circumstances dictate their immediate disposal. Motion requiring immediate disposition should be submitted with a motion and order setting hearing attached.

(E) Specific Issues Between Review Hearings

1. **Agreed Motions and Orders:** Agreed motions and orders by all affected parties shall be granted without hearing if all parties are in agreement. Agreements can be made through signature or by verbal agreements memorialized in the order.
2. **Visitation and Trip Requests:** Between review hearings any party may present a written file stamped motion and proposed order regarding changes in visitation or requests. The motion shall include previous visitation orders along with clearly articulated requested changes and reason for change. All parties must agree on supervision, frequency, times and locations of visitations. The agreements must be signed by all

- affected parties in order for the change to occur. The order must be filed with the district court and served upon all parties.
3. **Change In School Placement and Change in Substitute Care Placement:** Changes in school placement or substitute care placement shall become effective upon agreement of all affected parties. Guardian Ad Litem or Attorney Ad Litem should visit prospective placement. A notice of the agreed change must be filed with the court.
 4. **Emergency Change in Substitute Care Placement:** Emergency placements within El Paso County only may be done without hearing. Caseworker shall file a written report within two (2) working days of learning of the incident and provide to all parties and the associate court the working day thereafter.
 5. **Emergency placements outside El Paso County may be done without hearing only if by agreement signed by the Ad Litem for the child and TDPRS.**
 6. **Serious Incident Reports:** Serious incident reports shall be filed in all cases where the incident violates a court order or places the children in danger of health or safety. Cessation of visitation or changes in placement justified by the incident shall be included in the specific incident report. Serious incident reports shall be filed within two (2) working days of learning of the incident.
 7. **Extensions:** Agreed motions and orders for extensions shall be granted without hearing if the statutory requirements are met and the reasons are outlined with specificity.

(F) Hearings

1. **Persons other than attorneys who should always be present at hearings:**
 - a. Those required by law or the Family Code;
 - b. Custodial adults;
 - c. Foster parents;
 - d. Assigned caseworker;
 - e. CASA.
2. **Transcripts:** Court-appointed Attorney Ad Litem requesting a transcript of a hearing held before the associate judge must file a motion requesting a hearing transcript.
3. **Jury Requests:** At least ninety days before dismissal a party shall request a bench trial or a jury trial setting. Notwithstanding, requests for jury trial shall be made at least 30 days before the scheduled bench trial.

(G) Ad Litem

1. The court shall appoint an Attorney Ad Litem in all cases as required by Chapter 107 of the Texas Family Code, unless otherwise designated by court order.
2. The district judge will establish an Ad Litem pool from which Attorney Ad Litem will be appointed. To be eligible for the Ad Litem pool, an attorney must have completed the required Ad Litem training.
3. Responsibility of Ad Litem
 - a. Observe and adhere to all Texas Disciplinary Rules of professional conduct as well as the American Bar Association Canons and Guidelines.
 - b. Observe and adhere to powers and duties of an Attorney Ad Litem for a child under the Texas Family Code Chapter 107.
 - c. Ensure that incarcerated clients are bench warranted or otherwise requested for hearings should their presence be necessary.

(H) Guardian Ad Litem Appointments:

1. The district judge will establish a Guardian Ad Litem pool from which Guardian Ad Litem will be appointed. To be eligible for the Ad Litem pool a guardian must complete the prerequisite training or obtain a waiver for the district court.
2. Responsibility of guardian ad litem:
 - a. Client contact.
 - b. Meet with clients no less than once before the show cause hearing, thereafter every thirty (30) days.
 - c. Meet with clients after each hearing.
 - d. Guardian whose clients reside outside of El Paso County are required to communicate with clients no less than once a month and meet with them no less than every 120 days.
 - e. Guardians who represent clients less than four years shall, in addition, meet with the child's primary custodian.
 - f. Provide direction to the Attorney Ad Litem on the child's best interests.
 - g. Shall file an Ad Litem report three (3) days before hearing and provide to all parties.

RULE 4.15 RELATING TO THE ASSIGNMENT OF PROTECTIVE ORDER CASES

(A) Assignment of Protective Order Cases

1. All protective order applications filed in El Paso County pursuant to Title 4 of the Texas Family Code or Chapter 7B of the Code of Criminal Procedure shall be assigned to the 65th District Protective Order Court unless the parties to said

- application are parties to a previously filed suit for dissolution of marriage or suit affecting the parent-child relationship where a final order was rendered.
2. Protective order applications involving parties to a previously filed suit for dissolution of marriage or suit affecting the parent-child relationship where a final order was rendered shall be filed and assigned in accordance with Texas Family Code Section 85.063.
 3. Protective order applications involving parties to a pending suit for dissolution of marriage or suit affecting the parent child relationship shall be filed and assigned in accordance with Texas Family Code Section 85.062.

(B) Assignment of Family Law Cases Filed Subsequent to the Filing of a Protective Order Application

Suits for the dissolution of marriage and suits affecting parent child relationship involving the parties to a previously filed protective order case assigned to the 65th District Protective Order Court pursuant to these local rules shall be assigned to the 65th District Protective Order Court. This shall not include suits affecting parent child relationship filed by the Texas Attorney General's Office.