Special Processes & Procedures

Procedures for Cases Involving Family or Household Members
Trial Rule 81.1

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Ind. Trial Rule 81.1 addresses the special problems faced by families/households with multiple cases in Indiana's judicial system. Under certain conditions, Trial Rule 81.1 allows a judge to use "Family Procedures" and exercise jurisdiction over all cases involving the same family or household (as defined). Family Procedures are defined in the rule as the coordination of proceedings, processes, and information sharing among cases in a court or courts involving family or household members. The goal of the rule is to avoid uninformed or inconsistent rulings in multiple cases involving one family or household and therefore, better serve children and families in our courts.

Using this rule

- When a court intends to use Family Procedures for a case, it must enter an order notifying all parties to this case of the court's intentions.

- A party has 15 days after notice of this order is sent to object to their case being selected to be heard using Family Procedures.

- This court order also affects a party's ability to request a change of venue from the judge. Only those motions for change of venue permitted by Indiana Trial Rule 76 may be granted for cause once this notice is sent.

- Within 30 days after a case is selected, the court must provide a list of all cases the court will hear using Family Procedures to each party to all these cases.

- The court can set concurrent hearings on some issues and rule on the admissibility of evidence for each separate case.

- When using Family Procedures, if multiple cases are being heard before one judge, the judge must choose whether to maintain the separate integrity and docket numbers for each case but hear the cases together or consolidate a

family's cases into a single case number in which instance the other case(s) would be closed.

In almost all situations, our office recommends that courts maintain the separate case numbers when using Family Proceedings for the following reasons:

- The use of common case numbers
  - could pose challenges to court case management systems;
  - has the potential to skew a court's statistics;
  - could cause confusion as to the burden and proof, and
  - may confuse parties on deadlines for when to file appeals and other pleadings.
- The confidentiality of the records in cases joined under one case number can also become very problematic.

Under Ind. Access to Court Records Rule 2(B)(4), the parties to a case have access to all the records in the case (except in certain situations such as protective orders). T.R. 81.1 provides records excluded from public access remain confidential to the added parties, even if all cases are consolidated into a single case. This means the trial court or clerk must remember somehow which parties in the consolidated case can access which records.

Instead of consolidating these cases into one common case, in almost all situations, our office recommends "rubber banding" the separate cases together and having common hearings. This means the court must enter similar orders and make entries in each "bundled" case CCS.

T.R. 81.1(H) provides a specific situation where consolidation of cases is required (: Juvenile Paternity (JP) cases for multiple children of the same two parents.

Reasons to consider consolidation for this specific situation include:

- Financial Reasons to consolidate:
  - The Child Support Calculator gives an incorrect amount. If a separate child support calculation is done in each JP case, the total amount of child

support due will be too high. The Child Support calculator was designed to provide a single amount for all shared children.

- o Case Closure. ISETS closes a support case automatically when the case is down to less than $500 and payments are not being made. If there are three JP cases that are not consolidated, each with $499 still due in each case, ISETS will close all three cases resulting in a possible loss to the custodial parent of $1,497 in support.

- o If the cases are not consolidated, a $55 Clerk Annual Support fee will be assessed to each case.

- o Notification costs. Many notices (annual review and adjustment notice, clerk payment administrative fee notice, due process notices, National Medical Support notice) must be sent. Consolidating cases cuts down on costs associated with sending these notices.

- Administrative Reasons to consolidate:

  - o If JP cases for shared children remain separate cases, the judge must prepare, and sign separate but nearly identical orders and court staff must make separate docket entries on each case. If the cases are consolidated, only one order needs to be prepared, signed, and entered on the consolidated case. If the cases are consolidated, only one order needs to be issued with one docket entry.

  - o If the JP cases remain separate, the court must prepare and send separate income withholding orders, usually in separate envelopes. Since these IWOs are sent to the same employer, it is possible the employer will mistakenly believe the court is sending duplicate copies of the same IWO and therefore may respond by only sending one support amount. In addition, some employers charge their employees a fee per pay period to deduct and send child support from the employees check. These fees will add up over time. If the cases are consolidated, only one IWO is issued so there is no possibility of employer confusion.

- Enforcement Reasons to consolidate:

  - o Credit Bureau Reporting takes place when the non-custodial parent has a $1,000 arrearage in a case. If the cases are not consolidated, the non-custodial parent of three children will have a $3,000 arrearage before being reported to the credit bureaus.

- The non-custodial parent's driving license can be suspended when there is a $2,000 arrearage. If the cases are not consolidated, the non-custodial parent of three children will accrue an arrearage of $6,000 before having their license suspended.

- Casino Intercept takes place when there is a $2,000 arrearage. If the cases are not consolidated, the non-custodial parent of three children will accrue an arrearage of $6,000 before a Casino Intercept could take place.

- Federal Tax Intercept takes place when there is a $500 arrearage. If the cases are not consolidated, the non-custodial parent of three children will accrue an arrearage of $1,500 before a Federal Tax Intercept could take place.

- Financial Institution Data Match begins when the arrearage exceeds $2,000 for each case therefore a non-custodial parent would have to have an arrearage of $6,000 before the FIDM would flag the case for financial withholding if the cases are not consolidated.

- Vehicle Liens. Child support liens are automatically placed on a non-custodial parent's vehicle when the arrearage reaches $1,000. If the cases are not consolidated, the arrearage would total $3,000 before a lien is placed on the vehicle.