

**NOTICE OF PROPOSED ADOPTION OF
LAPORTE COUNTY LOCAL FAMILY LAW RULES**

LaPorte County citizens and members of the bar are hereby notified that the LaPorte County Judiciary proposes the adoption of the LaPorte County Local Family Law Rules attached hereto.

Comments from the bar and public should be submitted in written form by July 11, 2008 to LaPorte Superior Court 2, 300 West Washington Street, Ste 202, Michigan City, Indiana 46360.

The proposed rules will be adopted, modified or rejected by the LaPorte County Judiciary by July 31, 2008. If so approved the effective date of the rules will be January 1, 2009.

June 1, 2008

The LaPorte County Judiciary

LAPORTE COUNTY LOCAL FAMILY LAW RULES

LR 46FL00 Rule 01: Statement of Policy

A. Consistent with Indiana Code 31-15-2-17 which provides for the settlement of divorce disputes by agreement of the parties, it is the decided preference of the courts of LaPorte County that the attorneys and parties engaged in a divorce proceeding strive to resolve their disputes concerning their children and property by agreement. That preference rests upon the belief that when divorced parents are able to communicate, cooperate and compromise with each other, their children are less likely to be psychologically harmed by the break-up. Conversely, where parents adopt an adversarial approach toward each other in the divorce process, children are much more prone to suffer a loss of confidence, self-esteem, to fare poorly at school and in their interpersonal relationships, to suffer emotionally and financially and, ultimately, to resent their parents.

B. Consistent with that philosophy of encouraging a cooperative approach to divorce, it is noted that Indiana Code §31-15-2-4 provides as follows: “A proceeding for dissolution of marriage is commenced by the filing of a petition entitled ‘In Re the marriage of _____ and _____.’” Accordingly, counsel and parties are directed to utilize the word “and” in all dissolution and post-dissolution pleadings, as opposed to the adversarial term “versus” or its abbreviated versions of “v.” or “vs.”. Pleadings improperly captioned may be returned by the court for corrections and refiling.

LR 46FL00 Rule 02: Mandatory Parenting Class Attendance

A. In any cause of action for dissolution of marriage [divorce] involving a minor child or children under the age of sixteen [16] years, both parents prior to the issuance of the final dissolution decree, shall attend either the four hour “Transparenting” program administered by Family Focus, Inc., or, alternatively, the four hour “Divorcing Parents Workshop” administered by the Madison Center or other program approved by the court. Each parent shall be responsible for the timely payments of their individual fees for the program unless, by reason of indigence, the agencies waive those fees.

B. The parties may contact Family Focus at 901 S. Woodland Avenue, Michigan City, Indiana 46360, telephone [219] 871-8104 or [800] 582-4198, or the Madison Center at 3714 Franklin Street, Michigan City, Indiana (46360), telephone [219] 879-8539 to learn of upcoming dates, times, and locations of programs or obtain a schedule of programs at the LaPorte Circuit Court in LaPorte or at Superior Court 1 or 2 in Michigan City.

C. A parent shall file a copy of the certificate of attendance with the court in which his or her dissolution action is pending within five (5) days after attending the program.

D. The failure to timely attend the “Transparenting” or “Divorcing Parents Workshop” program may result in an order that the parent appear and show cause why he/she should not be found in contempt of court and punished for such contempt. Evidence that a party has failed to timely attend the “Transparenting” program may be considered

in ruling on custody and parenting time matters. A parent who fails to attend the program prior to final hearing shall be ordered to attend the program post-dissolution.

E. Waiver of the obligation set forth herein may be had only by written motion or oral motion in court setting forth good cause for such waiver.

LR 46FL00 Rule 03: Cooperative Family Law Obligations

A. In any cause of action for dissolution of marriage [divorce] involving a minor child or children under the age of sixteen [16] years, both parents shall complete the worksheet at www.UpToParents.org, print and save a copy of their work, and provide a copy of their work to the other party within forty-five (45) days of the date the petition for dissolution of marriage is filed.

B. If a parent lacks personal computer access to the Internet, they may gain that access at any public library branch.

C. In the parties' settlement discussions, at the mandatory settlement conference, or any mediation conference that may be ordered by the court regarding custody, the parties, attorneys, and mediators should utilize the parties' respective worksheets and the commitments set forth therein as reference points for stipulations and as a foundation for an amicable and cooperative post-dissolution parenting relationship.

D. The failure to timely satisfy the obligation set forth in subparagraph 3(A) may result in an order that a parent appear and show cause why he/she should not be found in contempt of court. Evidence of a parent's failure to comply with the obligation defined in subparagraph 3(A) may be considered in ruling on custody and parenting time matters.

LR 46FL00 Rule 04: Mandatory Conferences

A. Prior to any contested provisional hearing, the parties and counsel must meet for a "Mandatory Preliminary Conference" to attempt to resolve, in whole or part, provisional issues. That certification may be filed of record in a form which substantially complies with "Appendix A" attached hereto.

B. At least twenty-one (21) days prior to a contested final hearing, the parties and counsel must meet in a "Mandatory Final Conference" for the purpose of resolving, in whole or part, all issues involving minor children and the marital assets and liabilities, as well as to resolve any evidentiary issues which may arise at final hearing. Certification that the "Mandatory Final Conference" was held must be filed of record prior to the contested final hearing in a form which substantially complies with "Appendix A" attached hereto.

C. The mandatory settlement conference may be waived upon written motion which establishes good cause for such waiver, including but not necessarily limited to:

1) without further factual representation in the motion, a representation that by reason of a party proceeding pro se, an attorney's professional ethical obligations might reasonably be compromised or questioned were a settlement conference held; or

2) supported by specific factual representations of counsel, facts establishing that opposing counsel has repetitively failed to return telephone calls or otherwise acted in an uncooperative fashion to schedule the mandatory conference and that delay in the scheduling of a final hearing works to the advantage of opposing counsel's client for a stated reason or conversely, to the prejudice of the moving party for stated reasons.

D. The mutual failure of the parties to participate in a “Mandatory Final Hearing” may constitute cause for the court, acting *sua sponte*, to continue the final hearing until after that conference is held.

LR 46FL Rule 05: Custody Evaluations, CASA/G.A.L. Intervention, Court-Ordered Counseling, and Mediation.

A. Custody Evaluations: The use of custody evaluations should be reserved for cases in which cooperative measures [such as mediation, counseling and parenting education classes] have been exhausted or shown to be without promise, dangerous, or otherwise inappropriate. No requirement or presumption exists that custody evaluations should occur in any given case involving a custody or parenting time dispute. If counsel or the parties agree that an evaluation shall occur, they should file that agreement, including a statement of the purpose of the evaluation, allocation of the costs of such evaluation, and the name of the evaluator selected by the parties and the stipulation that the custodial evaluation shall be admissible into evidence without need for authentication, foundation, without regard for hearsay information that may be contained therein. A hearing on the stipulation should be scheduled by the parties and the court, in its discretion, may accept, reject, or propose modifications to the stipulation and implement those modifications after providing notice and the opportunity to be heard by each party. A seventy-five (75) day time period shall be set for completion for the evaluation, absent good cause for a court order to the contrary.

The parties shall have an affirmative duty to timely execute any requests for releases, waivers and access to otherwise confidential records as reasonably necessary to accomplish the purposes of the evaluation.

B. A motion for a custodial evaluation, appointment of a guardian-ad-litem or a Court-Appointed Special Advocate may be made by either party or the court on its own motion. If the motion for a custodial evaluation is made by the court, *sua sponte*, it shall notify the parties of that fact and provide the parties with the opportunity to be heard by regarding the need for such evaluation, the identify of the evaluator, and the allocation of costs for the evaluation.

C. A custodial evaluation which the parties have stipulated will be admissible may be sent by the evaluator to the court and placed in the record of the proceeding. Absent such stipulation, the court should not be sent a copy of the evaluation by the evaluator or any other person and it should not be made part of the court record. The order directing that the evaluation should occur, shall include a directive as to whom should receive copies of the completed evaluation.

D. A motion for court-ordered counseling, either joint or individually, may be made by the parties or the court *sua sponte*. The court may, without notice to the parties, enter an order for counseling or other therapeutic family intervention as part of any order following an evidentiary hearing.

E. The parties may engage in mediation without the benefit of a court order.

LR 46FL00 Rule 06: Mandatory Filings: Property

A. Not later than thirty (30) days prior to a contested final hearing date in which property issues are contested, each party shall complete, sign, and file a “Pretrial Statement of Facts and Issues” utilizing that form attached hereto as “Appendix B.”

B. If a party intends to seek a deviation from the statutory presumption that marital assets and liabilities are to be divided equally, a verified statement setting forth the specific factual and legal bases for the proposed deviation shall be filed at least thirty (30) days prior to a contested final hearing date.

LR 46FL00 Rule 07: Mandatory Filings: Custody/Parenting Time

A. In any Petition to Modify Child Custody, the party filing such petition shall set forth the specific legal bases for such modification [31-2-17-8] and a general statement of the factual bases underlying each particular legal basis regarding any alleged substantial changes in statutory factors which bear on the petition.

B. At least twenty-one (21) days prior to any hearing in which a party intends to seek restricted parenting time [less than Parenting Time Guidelines] or supervised parenting time, that party shall file, and contemporaneously service upon opposing counsel or, if subject parent, if that parent is not represented by counsel, a verified motion for restricted parenting time which sets forth the factual basis upon which the request is predicated.

The twenty-one (21) days advance notice may be waived by the court for good cause or where circumstances arising immediate to the hearing indicate that absent restrictions on parenting time, a minor child or children’s psychological and/or physical well being and/or development may be in significant peril.

C. At least twenty-one (21) days prior to any final hearing in which a party intends to seek an order for maintenance, that party shall file a verified motion setting forth that request for relief and the factual basis of bases upon which the request is predicated.

LR 46FL00 Rule 08: Child Support Worksheets

A. Contemporaneous with any stipulations regarding child support orders, a child support worksheet shall be completed, verified, signed by the parties, and filed with the stipulation. If the parties have agreed to a weekly support amount that varies from that amount due per the guidelines, the reasons for that deviation shall be set forth in the parties’ agreement.

B. In all contested hearings regarding child support, the parties shall on or before the hearing:

1. Complete, verify, sign, and file a Child Support Obligation Worksheet, including, when appropriate, a Parenting Time credit Worksheet and/or a Post-Secondary Education Worksheet; and

2. Supporting documentation to establish proof of current income and income earned during the prior tax year.

LR 46FL00 Rule 9: Termination of Representative Capacity

A. Upon entry of a final dispositional order or an order of modification of any custody, parenting time and/or child support order, the representative capacity of all attorneys appearing on behalf of any Party shall be deemed terminated upon:

- 1. An order of withdrawal granted by the presiding Court;**
- 2. The expiration of time within which an appeal of such Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure; or,**
- 3. The conclusion of any appeal of such Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.**

B. The service of any post dissolution pleadings upon any Party not represented by counsel pursuant to paragraph A above, shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.

C. Any copy served upon original counsel will be deemed to be a matter of professional courtesy only, without substantive legal effect.

D. Any withdrawal or appearance shall include the last known address of the Party.

E. All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days written notice of his intention to withdraw and has filed a copy of the notice with the court, except in the following cases:

- (1) when another attorney has already filed an appearance for the same party; or**
- (2) when the withdrawing attorney files a pleading indicating that he or she has been terminated from the case by the client; or**
- (3) when the appearance of an attorney is deemed withdrawn upon conclusion of an action or matter.**

The court will not grant a request to withdraw an appearance unless the same has been filed with the court at least (10) days prior to trial date or date of hearing, except for good cause. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of this requirement. All withdrawals of appearance shall comply fully with the provisions of Rules of Professional Conduct.

LR 46FL00 Rule 10

These rules supersede and supplant all other prior standing local rules of the courts of LaPorte County, regarding family law whether issued by individual courts or as joint orders. All such prior local rules or orders are vacated with the exception of the “Family Court” Program rules and caseload distribution rules regarding dissolution actions.

Appendix A

STATE OF INDIANA **IN LAPORTE** _____ **COURT** _____

IN RE THE MARRIAGE OF:

_____,
Petitioner,

and

Cause No.

_____,
Respondent.

CERTIFICATION RE MANDATORY SETTLEMENT CONFERENCE

The undersigned person hereby certifies that the parties and their attorneys met in person for a mandatory settlement conference on _____, 200__, and were unable to reach a complete settlement of their cause. I affirm under penalties of perjury that the foregoing representation is true.

Date: _____

Printed Name

Signature

Appendix B

STATE OF INDIANA) IN LAPORTE _____ COURT NO. ____
) SS:
 COUNTY OF LAPORTE)
 IN RE THE MARRIAGE OF:)
)
 PETITIONER,)
)
 and) CAUSE NO.
)
)
 RESPONDENT,)

PRE-TRIAL STATEMENT OF FACTS AND ISSUES

Comes now _____, Husband / Wife (circle one) in this case, and files the following pretrial statement under penalties of perjury:

A. **ISSUES:** The following matters are “Agreed”, “Contested”, “Partially Agreed”, or “Not Applicable” in this case (write in the appropriate status):

1. Custody: _____
2. Visitation: _____
3. Weekly Child Support: _____
4. Health Expenses of Minor child: _____
5. Educational Expenses: _____
6. Maintenance: _____
7. Real Property: _____
8. Vehicles: _____
9. Debts: _____
10. Pension or Retirement Plan: _____
11. Attorney Fees: _____
12. Other (Specify below):

13. Anticipated stipulations presently include: _____

B. **ISSUES RELATING TO CHILDREN:** Please state the result requested by your client:

- 1. Custody: _____
- 2. Visitation: _____
- 3. Child Support (attach a Child Support Obligation Worksheet)

Please note: All Child Support Obligation Worksheets and accompanying Parenting Time Credit Worksheet must be filled out completely and legibly. The form must be the most current version available on the Indiana Supreme Court website: www.in.gov/judiciary/forms/childsupport. It is the preference of the Court that the Worksheet be computer generated.

- 4. Health Expenses: _____
- 5. Educational Expenses: _____

C. **DECLARATION OF REAL PROPERTY:**

- 1. Parcel One: Common Address of Real Property:

Opinion of Fair Market Value: \$ _____

Amount of Indebtedness Thereon: \$ _____

Indebtedness Owed to: _____

My proposal for distribution of this property:

Award to Husband: _____

Award to Wife: _____

Sell and Divide Proceeds: _____

- 2. Parcel Two: Attach additional pages for additional parcels of real property.

In Re the Marriage of: _____ Cause No. _____

D. **VEHICLES:** All vehicles should be valued in accordance with Kelly Blue Book available at www.kbb.com. The private person value should be used to determine the fair market value of the vehicle.

1. Vehicle One: Year and Make: _____
 Fair Market Value: \$ _____ Amount of Debt: \$ _____
 Indebtedness Owed to: _____
 Proposal for Distribution—Award to Husband _____ Wife _____
2. Vehicle Two: Year and Make: _____
 Fair Market Value: \$ _____ Amount of Debt: \$ _____
 Indebtedness Owed to: _____
 Proposal for Distribution—Award to Husband _____ Wife _____

(Attach additional pages for additional vehicles, if applicable)

E. **BANK/CREDIT UNION ACCOUNTS:** (Report Balance as of Date Divorce was Filed)

1. Account One: Name of Institution: _____
 Account No. _____ Type of Account: _____
 Balance: \$ _____ Proposal: Award to Husband _____ Wife _____
2. Account Two: Name of Institution: _____
 Account No. _____ Type of Account: _____
 Balance: \$ _____ Proposal: Award to Husband _____ Wife _____

(Attach additional pages for additional vehicles, if applicable)

F. **HOUSEHOLD FURNISHINGS, PERSONALTY, AND MISCELLANY:**

In Re the Marriage of: _____ Cause No. _____

List all household furnishings, personalty and miscellany that are contested, and provide opinion of the value and proposed distribution of the item.

	<u>ITEM</u>	<u>VALUE</u>	<u>AWARD TO:</u>	
			<u>HUSBAND</u>	<u>WIFE</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____
11.	_____	_____	_____	_____
12.	_____	_____	_____	_____
13.	_____	_____	_____	_____
14.	_____	_____	_____	_____
15.	_____	_____	_____	_____

(Attach additional pages, if necessary, to identify all items for which ownership or valuation is contested.)

G. LIFE INSURANCE:

1. Policy one: Company: _____ Policy No. _____
 Face Value: \$ _____ Cash Surrender Value: \$ _____
 Owner: _____ Primary Beneficiary: _____
 Insured: _____ Outstanding Loans: _____

In Re the Marriage of: _____ Cause No. _____

Proposal: Award to Husband _____ Wife _____

2. Policy two: Company: _____ Policy No. _____

Face Value: \$ _____ Cash Surrender Value: \$ _____

Owner: _____ Primary Beneficiary: _____

Insured: _____ Outstanding Loans: _____

Proposal: Award to Husband _____ Wife _____

H. **DEBTS:** List all debts of the marriage, whether in individual or joint names:

<u>Creditor/Account No.</u>	<u>Monthly Payment</u>	<u>Balance</u>
1. _____	\$ _____	\$ _____
2. _____	\$ _____	\$ _____
3. _____	\$ _____	\$ _____
4. _____	\$ _____	\$ _____
5. _____	\$ _____	\$ _____
6. _____	\$ _____	\$ _____
7. _____	\$ _____	\$ _____
8. _____	\$ _____	\$ _____

Your Proposal: Award the following debts to:

Husband: _____

Wife: _____

I. **EMPLOYMENT PROGRAMS:** Retirement and Pensions Plans:

1. Name of Employer:

Name and Type of Plan:

In Re the Marriage of: _____ Cause No. _____

Address of Trustee:

Ownership (Husband or Wife?) _____ Vested? Yes _____ No _____

Present Value: _____ Earliest Retirement Date: _____

Monthly Benefit at Earliest Retirement Date: _____

Proposal: _____

2. Name of Employer:

Name and Type of Plan:

Address of Trustee:

Ownership (Husband or Wife?) _____ Vested? Yes _____ No _____

Present Value: _____ Earliest Retirement Date: _____

Monthly Benefit at Earliest Retirement Date: _____

Proposal: _____

(Attach documents from each plan verifying the above information.)

J. **BUSINESS OR PROFESSIONAL INTERESTS:** Indicate Name, Share, Type of Business, Value less indebtedness, and proposed distribution:

(Attach additional pages if necessary)

In Re the Marriage of: _____ Cause No. _____

K. **SECURITIES (STOCKS, BONDS, ETC.):** Indicate Company, Number of Shares, Value per share, ownership per title, and proposed distribution: _____

(Attach additional pages if necessary)

L. **OTHER ASSETS:** Specify any assets of unusual nature or value (that is, coin or stamp collection, art, artifacts, gun collection, boats, motorcycles, etc.). Name the items, list their value, and state your proposed distribution: _____

(Attach additional pages if necessary)

M. **INCOME:** (State all relevant details of your employment):

1. Employer: _____
2. Address: _____
3. Weekly gross income: \$_____ Weekly Net Income: \$_____
4. Income from other sources: Source: _____ Amount per month: \$_____
5. Entire Gross Income from Previous Calendar year \$_____ (Attach prior years federal tax return filed by you)

In Re the Marriage of: _____ Cause No. _____

N. **VERIFICATION:** I declare, under the penalty of perjury, that the foregoing, including any valuations and attachments, is true and correct, and that I have made a complete disclosure of all the assets of myself and this marriage. I acknowledge that this document shall remain part of the permanent record of this proceeding and that sanctions may be imposed against me, including reasonable attorney's fees and expenses incurred in the investigation, preparation, and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date: _____

(Party's Signature)

O. **ATTORNEY'S CERTIFICATION:** I have reviewed with my client the foregoing information, including any valuations and attachments, and sign this certificate consistent with my obligations under Trial Rule 11.

Date: _____

(Attorney's Signature)

Attorney's Name _____

Attorney Number _____

Address _____

Telephone No. _____

Fax No. _____

The Pre-Trial Statement of Facts & Issues must be signed by the attorney and the submitting party. Documentation to substantiate all information provided in the Pre-Trial Statement of Facts & Issues must be attached.

A proposed Child Support Obligation Worksheet should be provided to the Court, and must be signed by the attorney and the party.