

XIII. FAMILY DIVISION

[Chapter XIII , Rules 100 – 125, is effective January 1, 2009]

RULE 100. SCOPE OF THE FAMILY DIVISION RULES

The rules in this chapter shall govern procedure in the District Court and, where applicable, procedure on post-judgment motions in the Superior Court, in all actions for divorce, annulment, judicial separation, paternity or parentage, parental rights and responsibilities, child support, guardianship, adoption, name change, emancipation, visitation rights of grandparents, and any post-judgment motions arising from these actions. In addition, Rule 126 establishes the procedure to be used in child protection cases when there is a Probate Court case involving the same child or children that must be transferred to the District Court. The District Court shall have exclusive jurisdiction over such actions, except that (1) any issue on which there is a constitutional right to a trial by jury may be heard and decided by a jury in the Superior Court upon a proper and timely request for transfer in accordance with Rule 76, and (2) the Superior Court may continue to hear post-judgment motions in actions that were pending or concluded in the Superior Court on or before December 31, 2000 and have not been transferred to the District Court. Reference to the court within this chapter includes District Court Judges, Superior Court Justices, and Family Law Magistrates, unless otherwise specified.

The Maine Rules of Civil Procedure shall govern all matters not addressed in these Family Division Rules.

The rules in this chapter shall be construed to provide a system of justice that is responsive to the needs of families and the support of their children.

Advisory Note - July 2016

The language added reflects the expanded jurisdiction granted to the District Courts pursuant to Public Law 2015, chapter 460, “An Act To Ensure a Continuing Home Court for Cases Involving Children,” enacted by the 127th Maine Legislature, which became effective on July 29, 2016. Pursuant to that legislative act, the District Court now has jurisdiction over

adoption, guardianship, and name change petitions involving minor children when there is a pending proceeding involving the child in the District Court (such as a divorce, child protection, or paternity matter). In those circumstances, the District Court becomes the child's "home court" and has exclusive jurisdiction over all of the pending matters involving the child. See 4 M.R.S. § 152(5-A).

Advisory Notes June 2008

Rule 100 governs the scope of Chapter XIII for cases now within the exclusive jurisdiction of the District Court. The rule is derived from Rule 80(a) and FAM DIV I.A. The listing of covered subjects is based on the current Family Division Rules. Although child protection, protection from abuse, and juvenile actions also involve families, such actions have specialized and unique procedures. Those procedures are significantly different from actions that have historically been referred to as family matters. As a result, it was determined that at this time, it would be more appropriate to exclude those actions from the general Family Division Rules.

The first paragraph recognizes that the District Court has exclusive jurisdiction over such matters, but also recognizes the possibility that there may be a state constitutional right to a jury trial on certain limited issues within these cases.

The rule uses the term "parentage actions" to recognize de facto parents. *See, e.g., Young v. Young*, 2004 ME 44, 845 A.2d 1144; *C.E.W. v. D.E.W.*, 2004 ME 43, 845 A.2d 1146; *Stitham v. Henderson*, 2001 ME 52, 768 A.2d 598; *Merchant v. Bussell*, 139 Me. 118, 27 A.2d 816 (1942). Parties raising de facto parentage issues must conform to the provisions of this chapter.

Although not restated here, this chapter promotes the goals of the Family Division provided in FAM DIV II.B.¹ Rule 100 outlines the mission

¹ The goals of the Family Division as stated in Fam. Div. II.B. have been:

1. To promote a timely resolution of family cases.
2. To address promptly the establishment or modification of child support and to promptly enforce compliance with support orders and all other orders in family cases.
3. To provide effective case management for family cases involving children.
4. To facilitate parenting arrangements in the best interest of children at an early stage in the proceedings.

of the Family Division which is that the rules shall be construed to provide a system of justice that is responsive to the needs of families and the support of their children as stated in 4 M.R.S. § 183. *See also*, FAM DIV II.A.

Matters not addressed in the Family Division Rules are governed by the other provisions of the Maine Rules of Civil Procedure.

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5. To promote education for the parties about parenting issues and to inform litigants about community services available to help them address family problems.
 6. To provide court users with a better understanding of court processes.
 7. To identify domestic relations cases in which there is domestic abuse or a power imbalance in order to protect children and adults and to ensure a fair resolution of the case.
 8. To promote civility in divorce and other family law proceedings.
 9. To minimize the harm to children caused by family law cases.
 10. To make appropriate referrals to alternative dispute resolution services.