

RULE 4
FAMILY LAW CASES

RULE 4.10 TIME STANDARDS FOR FAMILY LAW CASE DISPOSITION:

A. Contested Family Law Cases. – All contested family law cases shall be heard within six (6) months from appearance date or within six (6) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later. All parties and counsel must be ready for trial on the merits after ninety (90) days or on the date designated on the form attached to the petition and citation.

If no activity is reflected on the docket sheet, the case will be subject to a dismissal for want of prosecution.

If a case is complex and/or extraordinary requiring additional preparation, a motion can be filed in accordance with Rule 3.33.

B. District and County Courts at Law –

1. The controlling date is the Friday of the week a divorce is filed.
2. *Non-jury Cases:* The cases shall be automatically set for trial by the Webb County District Clerk, subject to the dates previously provided by each Court. The trial date shall be provided in writing to Respondent and attached to the citation.
3. *Jury Cases:* A written jury request and the fee must be filed and paid thirty (30) days before the trial date.
4. The parties may ask for a continuance in writing. at least ten (10) days before the non-jury trial date and thirty (30) days before the jury trial date. If the Court grants a continuance, the case will be automatically set for pre-trial seven days following the original scheduled hearing date the next available setting, subject to the Court's discretion. The Court will also set a trial date not to exceed thirty (30) days from the pre-trial hearing.
5. *Submission of the Judgments, Orders, Decrees, and Bureau of Vital Statistic Forms:*
 - (a) Petitioner's attorney shall prepare and submit the Bureau of Vital Statistics form and the divorce decree, unless Respondent's attorney agrees to prepare and submit the same.

(b) The support-receiving parties' attorney shall be responsible for filing the order of assignment of wages. This order shall conform to the decree of divorce and must be properly completed, particularly as it relates to the employer and the amount to be paid weekly, biweekly, and monthly. Further, no order assigning wages is complete unless accompanied by notice to the employer and request for issuance of the order withholding.

(c) Before the date of hearing, all cases must have on file the Bureau of Vital Statistics form, (except date of hearing which will be filled in on date of hearing) and the order of assignment of wages. (Leave blank spaces for monetary amounts). There will be no exceptions.

(d) Parties not complying are subject to sanctions.

(e) The case shall be set for entry of judgment two weeks following the date of hearing at 9:00 a.m. unless an appropriate Order is submitted beforehand.

RULE 4.11 ANCILLARY PROCEEDINGS, TEMPORARY ORDERS, AND EMERGENCY MATTERS:

The following shall be the standing order of the Webb County District and County Courts at Law.

WEBB COUNTY DISTRICT CLERK'S
FILE NO. _____
(LOCAL RULES AND GENERAL ORDERS)

WEBB COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES

THIS ORDER IS A MUTUAL ORDER AND APPLIES TO BOTH PARTIES AND THEIR AGENTS

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Webb County District Courts and Webb County Courts at Law that applies in every divorce suit and every suit affecting the parent-child relationship filed in Webb County. The District Courts and the County Courts at Law of Webb County have adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is **ORDERED:**

A. No Disruption of Children. Both parties are **ORDERED** to refrain from doing the following acts concerning any children who are subjects of this case:

1. Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.

2. Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.

3. Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.

4. Disturbing the peace of the children.

B. Conduct Of The Parties During The Case.

Both parties are **ORDERED** to refrain from doing the following acts:

1. Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner, to communicate with the other party, whether in person, by telephone, or in writing.

2. Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.

3. Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner, without a legitimate purpose of communication, or anonymously.

4. Opening or diverting mail addressed to the other party.

C. Preservation of Property and Use of Funds during Divorce Case.

If this is a divorce case, both parties to the marriage are **ORDERED** to refrain from doing the following acts:

1. Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.

2. Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.

3. Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.

4. Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.

5. Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.

6. Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.

7. Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.

8. Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.

9. Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.

10. Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.

11. Taking any action to terminate or limit credit or charge cards in the name of the other party.

12. Entering, operating, or exercising control over the motor vehicle in the possession of the other party.

13. Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.

14. Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.

D. Personal and Business Records in Divorce Cases.

If this is a divorce case, both parties to the marriage are **ORDERED** to refrain from doing the following acts:

1. Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.
2. Falsifying any writing or record relating to the property of either party.
3. "Records" include e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.

E. Insurance in Divorce Case. If this is a divorce case, both parties to the marriage are **ORDERED** to refrain from doing the following acts:

1. Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.
2. Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
3. Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.

F. Specific Authorizations in Divorce Case. If this is a divorce case, both parties to the marriage are specifically authorized to do the following:

1. To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation.
2. To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
3. To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care.
4. To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

G. Earnings Information to Initial Hearing.

The parties are ORDERED to bring the following documents to the initial hearing conducted in a SAPCR and/or a Divorce Case:

1. Copies of the most recent pay stubs; and
2. Copies of the parties' W-2's for the two years preceding the filing of the litigation; and
3. Income tax returns, together with all schedules, for the two years preceding the filing of the litigation.

H. Service and Application of This Order.

1. The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the petition is filed, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented.

2. This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

I. Effect of Other Court Orders. If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

J. Parties Encouraged To Mediate. The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use alternative dispute resolution methods, such as mediation, to resolve the conflicts that may arise in this lawsuit.

K. ADDITIONAL RELIEF

Nothing in these rules shall preclude the filing of any other motion for additional specific and/or extraordinary relief

THIS WEBB COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE

PARTIES SHALL BECOME EFFECTIVE ON DECEMBER 2ND 2009.

RULE 4.12 DISPOSITION PROPOSALS:

In disputed property division cases, each attorney shall file a sworn inventory and appraisal as set out in rule 4.17 of these local rules and shall submit to the Court and opposing counsel not later than the commencement of trial a proposed property division including property claimed or recognized as separate property.

Except in emergency situations or by mutual agreement of the parties there shall be no hearings held during the time that the State Bar of Texas Advanced Family Law Conference is conducted except extraordinary.

RULE 4.13 UNCONTESTED MATTERS:

Uncontested matters shall be handled by an uncontested docket as directed by the Court. No scheduled setting will be required for such dockets. Parties desiring to appear at the uncontested docket shall provide notice to the court at least one day prior to the setting. Refer to Rule 3.14 of the Local Civil Rules.

RULE 4.14 FINANCIAL INFORMATION AND DISCLOSURE:

A. Temporary Orders. Unless otherwise agreed to by the parties, or for good cause and court approval, in any hearing for temporary orders in which child support or spousal support is an issue, the parties shall complete and exchange the following documents prior to the commencement of the hearing:

1. A sworn statement of the household usual and ordinary monthly income and expenses; and
2. Copies of that party's federal income tax returns for the two calendar years preceding the filing of the Original Petition or Suit Affecting Parent-Child Relationship; and
3. All payroll statements, pay stubs, W2 forms and 1099 forms, and all supporting schedules, and any other document evidencing any and all of that party's earning for the calendar year immediately prior to the filing of the Original Petition for Divorce or Suit Affecting Parent-Child Relationship for child support (SAPCR) and from January 1 of the current year through the date of the final hearing; and
4. Copies of any financial statements prepared for any financial institution for the years prior to the first hearing from January 1 of the current year through the date of the final hearing.

This rule providing for the exchange of information shall constitute a discovery request under the T.R.C.P., and failure to comply with this rule may be grounds for sanctions, as provided by Rule 215 of the T.R.C.P. Sanctions shall not issue if the judge determines after a show cause hearing that the failure to comply was not willful.

B. Final Financial Information.

1. This rule providing for the exchange of information shall constitute a discovery request under the T.R.C.P. and failure to comply with this rule may be grounds for sanctions, after a show cause hearing.
2. All financial information, if filed with the court, may have personal information, account numbers and other similar information redacted.

C. Inventory. Each inventory shall list each items of property and its value, and shall also list each liability, together with the amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability claimed to be separate property shall be so characterized. All beneficial interest in insurance and all benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested on non-vested) shall be identified. Each party shall incorporate as an exhibit to the inventory the last information furnished about to the employee's rights and monetary interest in the retirement and saving plans. Each party shall also furnish sufficient information so the court may render a qualified domestic relations order, if applicable. A summary attached to the inventory shall list and total, in columnar format, the property values and liabilities. Each inventory shall show the net worth of the community estate and the net worth of any claimed separate estate.

D. Duty of Disclosure. Without waiting for a discovery request, each party to a suit for divorce, annulment, or a suit in which child or spousal support is in issue or Suit Affecting Parent-Child Relationship, has a duty of disclosure of certain information to the other party. "Disclosure" includes providing for inspection and copying the information in the party's "possession, custody or control," as that phrase is defined in Rule 166b (2) (b) of the T.R.C.P. Different types of suits require disclosure of different information.

E. Duty of Supplement. After disclosure is made pursuant to this rule, each party shall be under a duty to reasonably supplement or to amend the information if the party obtains information on the basis of which he or she knows that the information disclosed was either incomplete or incorrect when made, or is no longer complete or true. Each party shall reasonably supplement or amend the information no later than thirty (30) days prior to final hearing.

F. Rule 11. The provisions of this rule may be modified by agreement pursuant to Rule 11 or T.R.C.P.

RULE 4.15 CHILD SUPPORT GUIDELINES:

In all suits involving child support, each party who is a parent shall furnish to the Court the information described for determination of child support set out in Section 154.063, Texas Family Code, as amended.

The Courts shall adopt the Child Support Guidelines as set forth in Chapter 154 of the Texas Family Code as presently promulgated and as it may, from time to time, be amended.

A. *Application for and Refusal of IV-D Child Support Services*

1. All final orders on which child support is initially ordered to be paid by a party shall be deemed to include an application to Title IV-D child support services provided by the Office of the Attorney General of Texas, Pursuant to Chapter 231 of the Texas Family Code. (This rule shall apply to all final orders initially ordering child support rendered by all Webb County Courts after the effective date of these rules.)

2. Unless required to accept Title IV-D child support services pursuant to other laws, a child support obligee entitled to receive services pursuant to this rule may decline services by filing a written Refusal of Child Support Services with the District Clerk. Refusal of Title IV-D child support services pursuant to this rule does not preclude a subsequent written application for services.

RULE 4.16 VISITATION AND ACCESS TO CHILDREN:

The Courts shall adopt the Guidelines for The Possession of a Child by a Parent Named as Possessory Conservator as set forth in Chapter 153, Subchapter E of the Texas Family Code as presently promulgated and as it may, from time to time, be amended.

The Courts shall adopt the Standard Possession Order as set forth in Chapter 153; Subchapter F of the Texas Family Code as presently promulgated and as it may, from time to time, be amended.

RULE 4.17 INVENTORY AND APPRAISEMENT:

In a case where the division of the marital estate is *in dispute*, and unless waived by the parties in writing, each party shall exchange a final sworn inventory and appraisal, no later than thirty (30) days before the trial date. The parties shall file with the court a certificate of compliance with this provision. A final sworn inventory and appraisal shall be supplemented on or before and no later than seven (7) days before trial. The inventory and appraisal shall be in a form substantially similar to Form 7-1 of the Texas Family Law Practice Manual published by the State Bar of Texas.

The parties may agree or request the Court for an earlier date to exchange inventories. If a party or the parties fail to prepare and/or file the inventory and appraisal as required, the Court may conduct a pre-trial hearing and make such orders with regard to the failure as are just, including but not limited to, sanctions, pursuant to Rule 215(2)(b) of the Texas Rules of Civil Procedure as presently promulgated and as it may, from time to time, be amended.

Any party may request that the Sworn Inventory and Appraisal be sealed.

RULE 4.18 AD LITEM APPOINTMENTS:

In cases where attorneys or guardians ad-litem are required by law and unless otherwise agreed by the parties or on the court's own motion, the request for appointment of same shall be made in writing to the Court Administrator who will supply the attorney's name next appearing on the court's rotating lists. Payment of ad-litem fees shall be shared equally by the parties, unless otherwise ordered by the court.

RULE 4.19 MEDIATION COUNSELING:

On written agreement of the parties or on the court's own motion, the court may at any time refer a suit to mediation. A mediated settlement agreement shall be binding on the parties if the agreement states that it is not subject to revocation, it is signed by each party, and by each party's attorney who is present at the time the agreement is signed. The court may appoint a mediator who has completed a minimum of 40 classroom hours of training or in its discretion another party pursuant to Texas Family Code §154.052.

RULE 4.20 REFERRAL TO MASTER:

The courts will follow the rules pursuant to the Texas Family Code.