

Alaska Court System (ACS) Family Law Self-Help Center and Self-Representation Initiatives

[Family Law Self-Help Center](#): In 2001, the ACS created the statewide Family Law Self-Help Center to assist self-represented litigants in family law cases, including contested divorce, child custody between unmarried parents, dissolution, and related matters such as parenting plans, child support, paternity, division of marital property and debt, and resolution options. The FLSHC provides legal information about court procedure and forms, not legal advice, to self-represented individuals who either have existing cases or are considering filing cases in Alaska's courts.

The FLSHC exists because the Alaska Court System has seen increasing numbers of self-represented litigants in family law cases, which is true across the United States. For example, in 2014, 85% of cases involving child custody matters in dissolution and divorce with children, and custody between unmarried parents involved at least one self-represented parent.

To address the needs of the self-represented population, the FLSHC has undertaken many initiatives to assist self-represented individuals involved in child custody matters, including:

- [Telephone Helpline](#): The FLSHC provides legal information about court procedure and options for forms to self-represented litigants through its toll-free telephone helpline. The FLSHC's four facilitators provide coverage to answer the helpline from Monday – Thursday from 7:30 am to 6 pm and assist approximately 7,000 callers annually who have cases in all of Alaska's Superior Courts. Callers are located throughout the state, outside Alaska and outside the United States. The average call takes 15-20 minutes and the FLSHC facilitator educates the caller about the procedure to accomplish what the caller is seeking in their case, options for forms, helpful organizing tools, legal and non-legal referrals as appropriate. Facilitators distribute forms and information directly to callers by email, snail mail or fax. Frequently, callers call several times as they advance through their cases to understand the next stage, including hearing and trial preparation. The facilitators only assist customers by telephone and do not work with customers in-person.
- [FLSHC Self-Help Website](#): The FLSHC has a comprehensive self-help website designed for users that have no legal education and low literacy levels. It is written in plain language with a frequently-asked-questions (FAQ) format and includes the FLSHC forms and other required court forms.
- [Self-Help Forms](#): The FLSHC has created many fill-in-the-blank, check box forms designed for self-represented litigants for most situations that occur in divorce and child custody matters. The forms are written in plain language for a low literacy user. They address every step of the case from filing to post-judgment modifications and enforcement. The forms include complaints and

answers for divorce custody and paternity cases, a variety of motions, affidavits and proposed orders for different interim and post-judgment situations, parenting plans, findings of fact and conclusions of law, and decrees.

The website content and forms development benefits from the instant feedback loop that we have in working directly with self-represented litigants. The FLSHC facilitators learn through the helpline what the customers need and how they navigate the website and forms which in turn informs what information to include and how to present it on the website and forms.

- Other Self-Help Websites: The FLSHC also created and maintains other self-help websites:
 - the [Self-Help Appeals website](#) provides forms and information for appealing final decisions in all civil cases. This website includes information about filing an appeal, preparing a brief and excerpt of record, and presenting oral argument. Like the FLSHC website, it uses plain language, FAQs and includes forms designed for self-represented parties. The FLSHC facilitators refer family law customers who want information about appeals to this website.
 - the [Self-Help Probate: Estates](#) website provides forms and information for probating an estate. It includes information about the different processes to settle estates including informal probate, small estates, formal probate and the out-of-court processes of affidavit for collection and transfer on death deeds.
 - The [Guardianship & Conservatorship website](#) provides forms and information about deciding whether to file, the court process and the required reports once appointed. The FLSHC facilitators refer family law customers who want information about guardianships to this website.
- Self-Help Videos: The FLSHC has created a series of self-help videos, which are included on the FLSHC website. These videos are divided into three playlists: (1) [Divorce and Custody Cases in Alaska](#), (2) [Hearing and Trial Preparation](#) for Family Law Cases, and (3) [Domestic Violence Protective Orders](#).

The Divorce and Custody Cases series, which includes fifteen individual videos that average 5 minutes long, covers what to expect at different stages of the case including procedures that the litigants have to follow. The videos also include information about parenting plans, child support, dividing marital property, and options for resolving the case without a trial. These videos are available in English, Spanish and Tagalog.

The Hearing and Trial Preparation series (thirty-five individual videos that average 3-5 minutes long) includes what to expect during a hearing and a trial. There is information about examples about making opening and closing statements, preparing and giving testimony, asking direct exam, cross-exam and re-direct questions, choosing and preparing witnesses, choosing, preparing and

introducing exhibits and basic information about the Rules of Evidence and making objections.

The FLSHC also created videos on the domestic violence protective order process, highlighting issues important to parents with children, available in English, Spanish and Yup'ik.

- Anchorage Classes: The FLSHC staff teach the information in the above video series at in-person classes in the Anchorage court because the Anchorage divorce and custody filings comprise approximately one-half of the state's domestic relations case load. All self-represented litigants are ordered to attend the Family Law Education Class that explains the procedure once the answer is filed, including required documents, required disclosures, motion practice and alternative dispute resolution options. The Hearing and Trial Preparation Class explains how to prepare to be in court, including hearings, informal and formal trials. Each class occurs twice monthly. In addition to teaching the class content, the classes provides the opportunity for the FLSHC to alert attendees about the existence of the FLSHC's helpline, website and forms.
- Early Resolution Program: The FLSHC manages the Early Resolution Program (ERP). Using a problem-solving early intervention approach, ERP cases are heard by a settlement judge and depending on the case's and parties' characteristics, parties work with free mediators, unbundled volunteer attorneys, FLSHC staff attorneys, or go directly to the judge. Parties are scheduled for ERP hearings 10-30 days from when the answer is filed.

Instead of treating all family law cases as if they were going to conclude with a contested trial, the program triages each newly filed case to determine the appropriate resolution approach with the goal that most could resolve by agreement given the necessary support. Program managers recognized that the adversarial nature of family law cases was not helpful to the parties or their children because it did not facilitate cooperation or co-parenting that would be helpful post-separation, especially to raise the children. In addition, program managers realized that families would benefit from having a court hearing as quickly as possible to avoid the stress and uncertainty that accompanies not knowing what the future holds, particularly regarding the legal status of their child custody situation.

We anticipated that early intervention in the case process and the help of legal professionals could encourage parties to settle their issues rather than go through a protracted court trial. The result would be faster resolutions in which the parties create their own solutions after benefitting from mediation, attorney counseling, or a settlement conference.

As such, FLSHC attorneys perform a two level triage process. First, they screen all newly filed divorce and custody cases involving two self-represented parties to

determine if there are characteristics that should exclude the case from ERP for one of the following reasons:

- domestic violence history that would trigger the domestic violence presumption under AS 25.24.150(g) which prohibits the parent with a history of domestic violence from having anything more than supervised visitation,
- a pending Child in Need of Aid case,
- serious untreated mental health allegations,
- serious untreated drug or alcohol addiction allegations,
- criminal case(s) involving the other party as a victim,
- one party is incarcerated making it difficult to participate in the ERP hearing, or
- a parent relocating to a different community when the parents want a different parenting plan.

Second, they determine which legal resource is most appropriate for a case: volunteer unbundled attorney, mediator and/or a settlement judge.

After a successful 2009 pilot with one judge's divorce and custody case, in December 2010 ERP expanded to consider all Anchorage judge's divorce and custody cases involving two self-represented parties for inclusion in the program. In 2012, ERP expanded to the Palmer and Juneau courts. In 2014, the Juneau program expanded to include consideration of all cases involving two self-represented litigants in the First Judicial District. Also in 2014, the Kenai court began ERP, including consideration of all cases filed on the Kenai Peninsula. To date, all of the ERP courts have heard over 1000 cases with an approximate resolution rate of 80%. Over 50% of the newly filed divorce and custody cases involving two self-represented litigants are included in ERP.

Recognizing the success of ERP, program managers included motions to modify child custody and child support into the Juneau and Kenai programs from the outset. In late 2012, we added modifications into the Anchorage program. For the Anchorage modification program, we partnered with the Child Support Services Division which sends staff to the courtroom to provide information to parties about earnings reported to Department of Labor, child support arrears owed to the State of Alaska or the other parent, to assist with child support calculations and even to negotiate arrears forgiveness depending on the case circumstances. The goal is to provide accurate and current information about the child support to assist parties to resolve disputes expeditiously.

In addition, in 2015, court managers partnered with the Anchorage court custody investigators who are available at Anchorage ERP hearings to help parties with parenting plans. They provide information about age appropriate parenting schedules, answer questions and discuss options with the parties.

- Mediation: The statewide Court Custody Visitation and Mediation Program (CCVMP) is managed by the FLSHC Family Case Services Coordinator. Since 1997, income-eligible parents who meet the program requirements in divorce and

custody cases can work with a free, trained CCVMP mediator to resolve child custody disputes including parenting plans, decision-making as well as child support. Currently, parents who have a combined net income of \$100,000 or less can qualify for CCVMP; most parents have a combined income of less than \$60,000. CCVMP mediators are used in ERP cases and in judge-referred cases. For the last FFY, CCVMP closed 264 referrals. In 175 cases, both parties were self-represented (66%). In 38 cases attorneys represented both parties (14%) and in 50 cases, an attorney represented one party (19%). Attorney involvement in the mediations was the following: in 14 cases, one attorney participated in the mediations and in 11 cases, two attorneys participated in the mediations. Sixty-six percent reached final or interim agreements after mediating. The settlement rate for ERP cases using CCVMP mediators was 70% settled fully and 12% received interim orders. When attorneys represented either or both parties, the settlement rate was 52%.

- Training: The FLSHC is involved with training staff members of the Alaska Court System about effectively working with self-represented parties in family law cases and about the FLSHC services. This includes new judges, magistrate judges, law clerks, supervisors, judicial assistants, law library staff, customer service staff, and domestic violence clerks.

In addition, the FLSHC trains outside the court system about the FLSHC services and topics in the family law arena and working with self-represented litigants. This includes other government agencies, non-profits, and military departments.

Unbundled legal services: In approximately 2007, the FLSHC approached the Alaska Bar Association's Family Law section to request creation of a bar-maintained list of attorneys who provide unbundled legal services. Unbundled attorneys are a valuable resource among the spectrum of legal services that range from self-help to full representation. The FLSHC wanted to provide such a list to FLSHC callers who did not want to hire an attorney for their case but instead were interested in limited scope attorney assistance. The Family Law section thought it a good idea and created the Unbundled Legal Services Attorney List.

This list was so successful that ultimately the Board of Governors approved the establishment of the nation's first Unbundled Law Bar Section within the Alaska Bar Association. Section members are from a variety of practice areas and are included on a bar-maintained list. Members meet regularly and offer CLEs to enhance the unbundled practice.

The FLSHC facilitators refer callers to the unbundled list on a regular basis. The FLSHC recognizes that while the FLSHC helps to educate callers about the process, document preparation, hearing and trial preparation, and what type of information is relevant to provide in family law cases, an individual may benefit from an unbundled attorney's discrete assistance such as advising particular courses of action and providing a reality-check on positions. The FLSHC has an excellent cooperative

relationship with the unbundled family law attorneys, each referring self-represented litigants to the other for appropriate assistance.

Judicial Officer Training: The court system provides training for judicial officers at judicial and magistrate judge conferences by bringing in national trainers on topics such as working with self-represented litigants, informal domestic relations trials, research on child adjustment, age appropriate parenting plans including implications of domestic violence, and interviewing children.

Mediation Training: The court system has sponsored training for mediators, attorneys and ERP judicial officers on managing and mediating high conflict people.

Court custody summit: In February 2014, then Alaska Supreme Court Chief Justice Dana Fabe convened a child custody summit to discuss how to improve the outcomes in child custody matters. The custody summit would convene Superior Court judges and magistrate judges from around the state, FLSHC staff attorneys, relevant administrative office staff, private attorneys and Alaska Legal Services attorneys, court and private custody investigators, mental health professionals, CSSD representatives and mediators. The premise behind the summit was to discuss what a child custody dispute resolution system would look like if we were to create it from scratch.

At the summit, there were four discussion topics that included

- (1) a comprehensive triage model of programs and resolution approaches;
- (2) simplification of pleadings, procedures and vocabulary used in custody cases;
- (3) realignment of existing resources; and
- (4) rural needs.

After discussion at the custody summit, participants identified areas for future discussion and working group. Several areas required follow-up work and are now operating or planned initiatives. This includes:

- Informal Domestic Relations Trial Process: Creation of the informal domestic relations trial process, authorized by Civil Rule 16.2 and in effect as of April 15, 2015. An informal trial is a voluntary process wherein both parties agree that the Rules of Evidence are not in effect so all evidence will be admitted and the judge will determine what weight to give the evidence. The judge asks the parties questions and there will be no cross-examination or objections. Generally, there are no additional witnesses, although the parties may call expert witnesses and with the permission of the judge, lay witnesses. Attorneys have a limited role that includes identifying the issues in the case, responding when the judge asks if there are other issues about which the judge should inquire, questioning expert witnesses and making short arguments about the law at the case's conclusion. To facilitate understanding about informal trials, the court system created a plain language brochure, website FAQs, and forms the judge can issue notifying the parties of different trial process options and that a party can file to agree to the

informal trial process. Weekly reports show that many parties are choosing informal trials across Alaska.

- Neutral Language: Recognizing that terms traditionally used in Alaska custody cases are charged and can inflame emotions that do not facilitate cooperation, summit participants universally agreed that more neutral language would be beneficial. Court staff conducted research into more neutral language regarding parenting issues for use in forms, website information and orders. This includes replacing “legal custody” with “decision making” and “physical custody” with “parenting time” or “living schedule” and eliminating the use of “visitation” in most contexts for when a parent spends time with his/her child. This is a work in progress and more changes are expected as e-filing is implemented.
- Triage Screening Questions: FLSHC attorneys created a list of screening questions for different domestic relations case types to triage cases into the appropriate resolution approach. As e-filing evolves, the triage questions will hopefully be used to create a screening algorithm into a first level triage with a possible second level human-directed triage for high conflict cases.
- Expansion of the Early Resolution Program: ERP expanded to include additional courts. The Juneau ERP now considers all First Judicial District (southeast Alaska) divorce and custody cases and modifications involving two self-represented parties and **suitable cases participate by telephone or videoconference**. ERP was created in the Kenai ERP and include consideration of all Kenai Peninsula divorce and custody cases and modifications involving two self-represented parties. Similar to Juneau, remote parties participate by telephone or possibly videoconference. ERP is planned to expand into more rural courts as bandwidth limitations resolve and videoconferencing becomes available to work with volunteer attorneys and mediators remotely.
- Court-based Parenting Coordinator Program: The court is developing a court-based Parenting Coordinator (PC) program for high conflict parents in post-judgment child custody disputes. The Supreme Court created a Parenting Coordinator Working Group to develop guidelines, screening criteria, protocol for judicial referrals and appointment of PC, creation of PC forms and order and methodology for reporting to assigned judge. The court system sent several magistrate judges for training and is now partnering with the Bar Association’s Collaborative Law Section to bring a trainer to Alaska in December 2015 to train additional magistrate judges, including from rural courts.
- Parenting Plan Facilitation: The Anchorage Court Custody Investigator’s Office is starting a pilot parenting plan facilitation program to help parents in dissolution cases (uncontested divorces) to develop appropriate parenting plans. FLSHC staff are assisting with the development of the pilot program, including creating the forms, data collection tools, and training. This part of an effort for the court

custody investigator's (CCIs) office to have more of a family resource center focus as opposed to primarily an investigative role.

- Post-judgment Status Conference: The FLSHC is planning a post-judgment status conference pilot program to facilitate compliance with any continuing ordered requirements and answer questions, hopefully avoiding post-judgment modification disputes.