

M.R. 3140

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

Order entered May 19, 2006.

(Deleted material is struck through and new material is underscored.)

Supreme Court Rule 905 is amended and made effective January 1, 2007, and Supreme Court Rule 908 is amended effective July 1, 2006, as follows.

**Amended Rule 905**

**Rule 905. Mediation**

(a) Each judicial circuit shall establish a program to provide mediation for cases involving the custody of a child or visitation issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in child custody and visitation cases shall address: (i) mandatory training for mediators; (ii) limitation of the mediation program to child custody and visitation issues; (iii) (unless otherwise provided for in this article) standards to determine which child custody and visitation issues should be referred to mediation and the time for referral, and (iv) excuse from referral to mediation ~~for good cause shown if the court determines an impediment to mediation exists. The fact that both parties agree that they do not want the matter to be referred to mediation does not constitute good cause shown.~~ The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody and visitation matters.

(b) Each judicial circuit shall establish a program to provide mediation for dissolution of marriage and paternity cases involving the custody of a child or visitation issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in dissolution of marriage and paternity cases shall address: (i) mandatory expertise requirements of a mediator; (ii) mandatory training for mediators; (iii) limitation of the mediation program to child custody and visitation issues; and (iv) referral of child custody and visitation issues to mediation, pursuant to Rule 923(a)(3), ~~unless the parties are excused for good cause shown the court determines an impediment to mediation exists. The fact that both parties agree that they do not want the matter to be referred to mediation does not constitute good cause shown.~~

The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody and visitation matters.

(c) In addition to meeting the requirements of Rule 905(a) and (b), local circuit rules may also impose other requirements as deemed necessary by the individual circuits.

Adopted February 10, 2006, ~~effective July 1, 2006~~ effective January 1, 2007;  
amended May 19, 2006, effective January 1, 2007.

Committee Comments  
Special Supreme Court Committee on Child Custody Issues  
(amended May 19, 2006)

The Committee believes mediation can be useful in nearly all contested custody proceedings. Mediation can resolve a significant portion of custody disputes and often has a positive impact even when custody issues are not resolved. The process of mediation focuses the parties' attention on the needs of the child and helps parties to be realistic in their expectations regarding custody.

Many counties and judicial circuits have had mandatory mediation programs in place in their domestic relations courts for years. Cook County and Du Page County have utilized mandatory mediation programs for more than a decade. To date, these mandatory mediation programs have been implemented by the judicial circuits under the auspices of Rule 99, Mediation Programs.

Rule 905 requires each judicial circuit to establish a mediation program for child custody proceedings. Local circuit court rules will address the specifics of the mediation programs. The Cook County model for mediation programs, which provides county-employed mediators at no cost to the parties, may not be financially or administratively feasible for every circuit. Alternatively, some circuits have required approved mediators to mediate a certain number of reduced fee or *pro bono* cases per year as identified by the court. The individual judicial circuits may implement rules which are particularly appropriate for them, including provisions specifying responsibility for mediation costs.

Paragraph (a) applies to cases involving custody or visitation issues, other than those arising in dissolution of marriage and paternity cases. It requires local circuit court rules to address mandatory training for mediators and limits the mediation program to issues involving child custody and visitation. Paragraph (a) also requires local circuit court rules to set standards to use in determining which child custody and visitation issues should be referred to mediation and also address when the referral will be made.

Paragraph (b) provides for mediation of disputed custody and visitation issues in dissolution of marriage and paternity cases, ~~absent good cause shown~~. The timing and manner of referral to mediation in dissolution of marriage and paternity cases is

provided for in Rule 923.

Parties may be excused from referral under both paragraphs (a) and (b) if the court determines an impediment to mediation exists. Such impediments may include family violence, mental or cognitive impairment, alcohol abuse or chemical dependency, or other circumstances which may render mediation inappropriate or would unreasonably interfere with the mediation process.

## **Amended Rule 908**

### **Rule 908. Judicial Training on Child Custody Issues**

(a) Meeting the challenge of deciding child custody cases fairly and expeditiously requires experience or training in a broad range of matters including, but not limited to: (1) child development, child psychology and family dynamics; (2) domestic violence issues; (3) alternative dispute resolution strategies; (4) child sexual abuse issues; (5) financial issues in custody matters; (6) addiction and treatment issues; (7) statutory time limitations; and (8) cultural and diversity issues.

(b) Judges should have experience or training in the matters described in paragraph (a) of this rule before hearing child custody cases. Before a judge is assigned to hear child custody cases, the Chief Judge of the judicial circuit should consider the judge's ~~background~~ judicial and legal experience, any prior training the judge has completed and any training that may be available to the judge before he or she will begin hearing child custody cases.

(c) Judges who, by specific assignment or otherwise, may be called upon to hear child custody cases ~~shall attend a seminar approved by~~ should participate in judicial education opportunities available on these topics, such as attending those sessions or portions of the Education Conference, presented bi-annually at the direction of the Supreme Court concerning matters, which address the topics described in paragraph (a) of this rule or related issues at least once every two years. Judges may meet this requirement by attending a seminar in person or by completing approved. Judges may also elect to participate in any other Judicial Conference Judicial Education Seminars addressing these topics, participate in other judicial education programs approved for the award of continuing judicial education credit by the Supreme Court, complete individual training through the Internet, computer training programs, video presentations, or other means relevant programs. The Chief Judges of the judicial circuits should make reasonable efforts to ensure that judges have the opportunity to attend ~~approved seminars to meet their responsibilities under programs approved for the award of continuing judicial education credit by the Supreme Court~~ approved seminars to meet their responsibilities under programs approved for the award of continuing judicial education credit by the Supreme Court which address the topics and issues described in paragraph (a) of this rule.

Adopted February 10, 2006, effective July 1, 2006; amended May 19, 2006, effective July 1, 2006.