

PRACTICE DIRECTION

COURT OF KING'S BENCH OF MANITOBA

RE: PRE-TRIAGE EMERGENT MOTIONS FOR EXTREME FINANCIAL HARDSHIP OF A PARTY OR A CHILD OF A PARTY

Introduction and Background

The Family Case Flow Scheduling Model has been in effect in all judicial centres in Manitoba since February 1, 2019. It introduced a new and transformative model of scheduling and case flow management that provides meaningful judicial intervention and assistance to families in legal proceedings. In doing so, it has significantly reduced the number of adversarial hearings in family law matters. This has been a long time goal for parties involved in family proceedings, lawyers who practise in the area of family law, experts and interested observers.

I would like to acknowledge the Family Law Bar for their efforts over the past six years in implementing the Family Case Flow Scheduling Model.

There continues to be a high resolution rate of contested family proceedings at the appearance before the triage judge. In 2024, approximately 86% of all family cases that came before a triage judge in Winnipeg Centre were completely or partially resolved at one appearance. Only 17 family trials proceeded in Winnipeg Centre in 2024.

The statistics establish that where a party wishes to appear before a triage judge, they can do so, in almost all cases, within five weeks of satisfying the parties' prerequisites. Where that time frame exceeds five weeks, and there is exceptional delay invariably caused by a failure to complete prerequisites (as discussed later in this Practice Direction), the parties are encouraged to seek the assistance of an associate judge.

The triage conference provides the opportunity to resolve contentious matters in a timely manner. In some instances, all issues in a family dispute can be resolved. In others, a partial settlement of a family dispute can be achieved. Where all issues cannot be resolved at a triage conference, the setting of a trial date which is currently within 12 to 15 months of the First Case Conference provides the benefit to the parties of a predictable and final conclusion of a dispute in this Court.

It is imperative, to the extent possible, that parties be encouraged to participate in a triage conference as soon as possible. Where there is an emergent situation, parties are encouraged to seek an emergent hearing without delay.

As this Court has previously indicated, the Family Case Flow Scheduling Model remains a work in progress and is open to evolution, refinement and improvement.

Pilot Project

A Pilot Project is being undertaken as part of this Court's ongoing commitment to enhance access to justice in the area of family law.

King's Bench Rule 70.24(12) currently permits a judge to hear a motion or application prior to a triage conference in three emergent situations.

Rule 70.24(12) states:

A judge may hear a motion or application prior to the triage conference for a family proceeding if the motion or application relates to a situation involving one of the following:

- (a) an immediate or imminent risk of harm to a party or a child of a party;
- (b) the removal of a child from Manitoba;
- (c) the loss or destruction of property.

Following consultation with the Triage Implementation Committee and the Family Law Bar, it has been concluded that there shall be a fourth emergent situation where a judge may hear a pre-triage conference motion or application. This emergent situation is:

- (d) extreme financial hardship of a party or a child of a party.

This new emergent category will permit a party who is experiencing extreme financial hardship for themselves or their child to request a motion or an application for spousal/common-law partner support or child support.

This Pilot Project is being implemented immediately in all Court of King's Bench Centres when this Practice Direction comes into effect.

Extreme Financial Hardship

There is no list of standard factors that must exist to constitute "extreme financial hardship." Any list of factors cannot be exhaustive. A contextual analysis of the financial factors affecting a party must be conducted.

"Extreme financial hardship" includes factors that are "excessive, extreme, improper, unreasonable, or unjustified."

An emergent request based on extreme financial hardship is justified in situations where a party has abruptly, unilaterally and without reasonable explanation eliminated the other party's access to funds to support themselves or their child.

Factors for Consideration

In order to proceed with an emergent extreme financial hardship motion or application, the parties must have participated in a settlement meeting to try to resolve the issue of support, unless a settlement meeting cannot be held because one party refuses to participate or there are extenuating circumstances, that may include intimate partner violence.

In the case of extreme financial hardship of a child, a party must have applied to the Child Support Service of the Family Resolution Service prior to requesting an emergent hearing and obtained a decision.

Revised Request for Emergent Hearing Form 70BB

King's Bench Rule 70.24(13) states, "A party seeking a hearing on a motion or application referred to in subrule (12) must file a request for emergent hearing (Form 70BB)."

Attached is Revised Form 70BB that includes the fourth category of emergent situations, extreme financial hardship of a party or a child of a party.

The Revised Request for Emergent Hearing Form 70BB, is a non-prescribed, court-approved form on the Manitoba Courts website under Court of King's Bench Forms.

Direction Regarding Emergent Hearing

If an emergent hearing is granted, the triage duty judge who will preside at the emergent hearing, will provide a prompt hearing date and a timeline for the filing of materials of the moving and the responding parties, unless the motion is to be heard on a without notice basis. The moving party must file the following documents:

- 1) Revised Request for Emergent Hearing Form 70BB;
- 2) Notice of Motion, returnable on date set for hearing and setting out emergent relief sought pursuant to King's Bench Rule 70.24(12) and this Practice Direction;
- 3) Affidavit of moving party in support of the motion;
- 4) Any other documents directed by the triage duty judge, including the decision of the Child Support Service where emergent child support is requested.

As is the practice, this filing timeline and emergent hearing take place within a matter of days. To be clear, if the responding material is not filed, the presiding triage duty judge may grant urgent interim relief.

The Emergent Motion Hearing

A support order granted at an emergent motion or application for extreme financial hardship of a party or a child of a party will provide for time-limited support that is reviewable at the triage conference.

The parties will be directed at the emergent hearing to file all their prerequisites by a fixed date and proceed to a triage conference.

Scheduling the Triage Conference

Members of the Family Bar have advised that there are occasions where one party attempts to delay the scheduling of a triage conference by failing:

- to produce their financial disclosure;
- to schedule a four-way meeting; or
- to file their Certificate of Prerequisite Completion form.

Counsel are reminded that in any of these circumstances, an order from the associate judge should be sought forthwith. The associate judge will grant the appropriate order and cost award if requested, to ensure that the moving party is able to proceed to triage on a timely basis. Production of the other party's financial documents is not required to proceed to a triage conference where an order for financial disclosure has been granted.

In almost all cases, dates are currently offered for a triage conference five weeks following the filing and approval by the Triage Coordinator of the triage conference documents. Additional dates are provided to accommodate counsel's commitments.

Prioritized Hearing

A prioritized hearing respecting the issue of financial need continues to be available to be scheduled by the triage conference judge within 30 days after the triage conference, pursuant to Rule 70.24(25).

Coming into effect

This Practice Direction comes into effect immediately.

ISSUED BY:

"Original signed by Associate Chief Justice Hatch"

**The Honourable Associate Chief Justice Gwen B. Hatch
Court of King's Bench of Manitoba**

DATE: September 24, 2025

THE KING'S BENCH (FAMILY DIVISION)

_____ **Centre**

BETWEEN:

(full name)

petitioner

– and –

(full name)

respondent

REVISED REQUEST FOR EMERGENT HEARING

I am the _____.
(petitioner/applicant/respondent or lawyer for the petitioner/applicant/respondent)

I am seeking an emergent hearing under King's Bench Rule 70.24(12) in respect of the following (check all that apply):

- ☐ an immediate or imminent risk of harm to a party or a child
- ☐ the removal of a child from Manitoba
- ☐ the loss or destruction of property
- ☐ **extreme financial hardship of a party or a child of a party**

[Provide a summary of the important facts of the case and why an emergent hearing is required (state concisely in numbered paragraphs).]

Have you served the other party with materials respecting the requested hearing?

- ☐ Yes
- ☐ No (explain why you are seeking to proceed without serving the other party)

Has a triage conference been set for this case?

- ☐ Yes
- ☐ No (specify the prerequisites that have not been completed to date)

Is there a protection order in place in this matter?

- ☐ Yes (provide details of the protection order)
- ☐ No

Is there a criminal court bail order or recognizance in place in this matter?

- ☐ Yes (provide details of the bail order or recognizance)
- ☐ No

Is there a family court order (from Manitoba or another jurisdiction) in place in this matter?

- ☐ Yes (provide details of the order)
- ☐ No

ACKNOWLEDGMENT

I am applying for this emergent hearing due to the nature of the situation. I understand that all prerequisites must be completed in order for the case to proceed to a final determination of all matters, which may include the emergent situation.

Date

Party's signature/signature of counsel
on behalf of party