

FAMILY LAW ACT (FLA)

PROVINCIAL COURT OF ALBERTA
RED DEER FAMILY & YOUTH COURT
TRIAL READINESS AND PRETRIAL CONFERENCE PROTOCOL
(Effective January 1, 2012)

The new Protocol differs from its predecessor in several ways, including the following:

- a. No matter covered by this Protocol shall be entered for trial before a Judicial Dispute Resolution session (JDR) has been held, unless the Court directs a JDR is not required.
- b. The process for selecting Trial dates shall commence immediately upon the completion of the JDR.
- c. Before applying for Trial dates a Trial Readiness Form (TRF) must be completed by each side (called either Party or a Litigant) in the Court action. The TRF requires each Party to provide various types of information, including the issues to be determined at trial, and each Party's witness list. While that list is subject to change, every effort must be made by each Party to submit it in as precise a form as possible to assist the Court in determining whether an adequate number of days have been reserved for Trial.
- d. A completed TRF must be submitted before Trial dates will be formally confirmed on the record in Court; and
- e. Pre-Trial Conference will now be required.
- f. The TRF will be available from the office of the Trial Coordinator (TC).

The specifics of the FLA Trial Readiness Protocol are as follows:

1. Applicability. The Protocol shall apply to Family Law Act (FLA) matters not involving simultaneous applications under the Child Youth and Family Enhancement Act (CYFEA). Trials scheduled for 1 day or more shall be case managed according to this Protocol, subject always to the discretion of the Court.
2. Protocol Overview. An application shall proceed according to the following stages:
 - a. Preliminary Stage. This stage comprises the early Court **dates** before an Interim Hearing or JDR.

- b. Interim Application Stage. If necessary the Court may set an interim hearing on any issue.
- c. Judicial Dispute Resolution (JDR) Stage. Before a matter is set down for Trial a JDR must be completed by the parties, unless a Judge says otherwise. At an appropriate Court date:
 - i. A JDR date must be obtained from the office of the Trial Coordinator (TC). If all parties are Self-Represented (SRL), the date may be obtained by the Clerk from within the Court Room.
 - ii. The matter is adjourned to the JDR date and to a docket day 1 week after the JDR date.
 - iii. The JDR must be confirmed 3 business days before the date set for the JDR. A JDR may only be cancelled or re-scheduled with the consent of all Parties, in writing.
 - iv. As soon as practical, but before the JDR date, each party (represented by counsel or not) must have read and signed a copy of the JDR Information Sheet.
 - v. On the next Court date, if the JDR has not resolved all issues in dispute, the matter shall proceed towards Trial. Parties must obtain a Trial Readiness Form (TRF) and SRLs must obtain the General Instructions for completing it. These documents are available at the Trial Coordinator's Office.
 - vi. The matter will then be set over at least 2 weeks for a date on which to request Trial Times (the Trial Times Request date).
- d. Requesting Trial Times Stage. Once the JDR has been held the next step is to request Trial Times at the Trial Times Request date. The procedure is as follows:
 - i. The purpose of the Trial Times Request date is to request a Pre-Trial Conference and Trial dates. These dates are collectively referred to as "Trial Times".
 - ii. Before requesting Trial Times at the Trial Times Request date, counsel for each party, and each SRL, **MUST** complete their respective portion of the Trial Readiness Form (TRF). The TRF requires a Party to provide various types of information, including the issues to be determined at trial and a Party's witness list. While that list is subject to change, every effort must be made to submit it in as precise a form as possible to assist the Court in determining whether an adequate number of days have been reserved for Trial.

- iii. If counsel or a SRL has not completed his or her portion of the TRF, the Presiding Judge on the Trial Times Request date shall provide whatever directions and impose whatever sanctions he or she determines to be appropriate.
 - iv. Before the matter is called in Court on the Trial Times Request date, all lawyers and SRL's shall attend at the TC's office and provide to the TC one copy of the TRF with the appropriate portion completed on behalf of each Party. The TC shall then provide the Parties the following Trial Times:
 - A. A Pre-Trial Conference (approximately 60 days before the start of Trial); and
 - B. Tentative Trial dates.
 - vi. When the matter is called in Court on the Trial Times Request date, counsel shall advise the presiding Judge of the status of the TRF and the request for Trial Times. Counsel may appear by agent. Any SRL who has participated in the completion of the TRF shall be present.
- e. Confirming Trial Times Stage. All counsel and all Parties shall attend Court on the Trial Times Confirmation date where one of the following may occur:
- i. The approved Trial Times and any additional Trial dates are read into the record as noted on the Pre-Selection Notice; and
 - ii. If a Party does not attend the Trial Times Confirmation date the presiding Judge shall be at liberty to confirm or cancel the Trial Times, or adjourn confirmation of the Trial Times in order to procure the attendance of that Party, or hear evidence and conclude the matter, and make any other order this Court has jurisdiction to make in the absence of that Party.
- f. General. As matters of general practice:
- i. Once Trial Times are confirmed, any application to withdraw as counsel of record shall be made to the Trial Judge;
 - ii. The Assistant (or Acting Assistant) Chief Judge may grant Directions where the Trial Judge is not available; and

- iii. If it becomes apparent for any reason that the Trial may not proceed as scheduled, or that further Trial dates or Directions are required, the matter shall be forthwith brought forward before the Trial Judge.
 - iv. Where counsel for a Party loses contact with that Party, or where a SRL believes any trial is unlikely to proceed, due to (1) any agreement or partial agreement between the Parties, or some of them which is likely to abbreviate Trial time or make a Trial unnecessary, (2) the apparent or deemed withdrawal of any Party from the dispute or (3) any other reason; that Counsel, or SRL shall bring the matter forward on notice to all other Parties, before the Trial Judge for advice and directions.
3. The Pre-Trial Conference (PTC). The following shall govern the PTC:
- a. The PTC shall be ordinarily held before the Trial Judge approximately 60 days before the first day of Trial.
 - b. Only the assigned Trial Judge may issue Directions which in any way would limit or expand the scope of evidence to be entered at Trial.
 - d. The assigned Trial Judge shall ordinarily be seized of the file upon reviewing the TRF. In extraordinary circumstances a different Judge may be required to conduct the PTC, in which case that Judge is neither seized nor disqualified from the conduct of the Trial.
 - e. Unless otherwise directed in advance by the PTC Judge, all parties and all counsel must attend the PTC.
4. Implementation Date. The implementation date for the Trial Readiness Protocol shall be January 1, 2012.
5. Documents and Trial Binders. Unless the Trial Judge directs otherwise, Counsel (or any SRL intending to apply to enter any documents into evidence without calling the makers of these documents as witnesses) shall:
- a. Provide the documents to all other Parties or their Counsel, (this includes all letters of support, professional or expert reports, Affidavits and the like) and forward these to all other Parties no less than 30 days before the first day of Trial;
 - b. Prepare and deliver a Trial Binder to all other Parties and to the Clerk's Office for the attention of the Trial Judge at least 7 business days before the first day of Trial.

- c. Any Party taking issue with any document(s) included in the Trial Binder of any other Party may seek Directions from the Trial Judge before the first day of Trial.
7. Agreed Statement of Facts. Counsel shall submit, at least 7 days before Trial, an Agreed Statement of Facts indicating, at a minimum:
 - a. The names, birthdates and ages of the child(ren);
 - b. The dates and nature of any previous Orders granted; and
 - c. Any other significant, relevant information, inclusion of which is likely to save on Trial time.