LR 94.04 MARRIAGE DISSOLUTION ACTIONS

A. NON-CONTESTED DISSOLUTION HEARINGS.

(1) Hearing. Non-contested dissolution cases may be heard on a calendar set by the Superior Court Judge and Clerk. The days and times are set forth in LR 77. Non contested dissolution cases may also be presented to the Superior Court Judge in Chambers without the appearance of either party. For the Superior Court Judge to sign a non contested Decree of Dissolution, Legal Separation or other document, the parties must have executed all documents and have their signatures notarized, including any Joinder executed by the adverse party. The jurisdictional testimony and other testimony in support of the dissolution must be done in affidavit form and verified.

(2) Note for Non-contested Calendar. A notice of hearing on the non-contested calendar must be filed with the Clerk at least three court days before the date of hearing. The Clerk shall not place any case on the non-contested calendar unless the file shows one of the following:

(a) The opposing party has joined in the petition for dissolution of marriage and his or her signature is notarized on the joinder; or

(b) The opposing party has waived notice or has signed a consent to hearing on the date noted; or

(c) An order for default has been applied for or entered.

The Clerk shall not place any case on the non-contested calendar unless proof is filed that summons was served more than ninety (90) days before the date selected for hearing or that the case has been on file more than ninety (90) days and both parties have submitted to the jurisdiction of the court.

(3) Withdrawal of Consent. Before a decree is entered, a party may move to withdraw any consent or waiver previously given. Such motion must be supported by affidavit showing good cause and shall be noted for hearing on the show cause calendar.

(4) Order of Non-contested Calendar. The order of the non-contested calendar will be as follows:

(a) Matters where attorneys appear;

(b) Pro se matters.

(5) Entry of Decree. At the time of hearing of a non-contested dissolution case, the necessary documents to be signed must be presented to the court for signature. If signed they shall be filed with the Clerk forthwith. For good cause shown, the court may extend the time for presentation.

(6) Disposition of Issues in Decree. No decree of dissolution shall be entered unless the decree disposes of all issues over which the court has jurisdiction relating to disposition of property and liabilities of the parties and support or maintenance of either spouse. For good cause shown, the court may in its discretion enter a decree of dissolution stating that it retains jurisdiction to dispose of issues relating to parenting and child support.

B. CONTESTED DISSOLUTIONS.

(1) Pretrial Forms. In all final hearings or trials in domestic relations matters, each party shall provide to the judge or commissioner and serve on the opposing party a written statement as to the issues in controversy at least three days prior to trial. The written statement may be in any form chosen by the attorney to convey the following:

(a) A brief factual summary;

(b) Issues in dispute [whether property, debts or custody];

(c) Case law, if it will be argued, supporting your position;

(d) Proposed distribution of assets, debts and proposed parenting plan and child support amount, if in dispute;

(e) Areas of agreement.

If one of the parties is seeking maintenance or child support, both parties shall complete the financial declaration contained in Form A.

If the parties are in dispute as to the distribution of assets and debts, both parties shall complete Form LC 94.04 Exhibit B. The pretrial forms shall not be filed with the Clerk.

Unless explained otherwise by the parties, the values shown on the pretrial form for proposed distribution of assets shall be present cash value of any pension, retirement, profit sharing or other deferred benefit or financial security plan; the cash surrender value of all life insurance policies; the amounts of accounts receivable, inheritance due, and trust accounts;

the fair market value of all other property including collections, antiques; and in the case of automobiles, the average between wholesale and retail blue book values.

(2) Enforcement. If either party fails to comply with paragraph B(1) set forth above, the trial judge may order such party or his attorney to pay an appropriate attorney's fee to the opponent for any additional work or delay caused by the failure to comply. If either party fails to comply, the trial date may be stricken.

(3) Continuances. Stipulations or motions to continue a case already on the trial calendar must be in writing, supported by a declaration showing sufficient grounds for the requested continuance. The moving party shall present a written order for entry.

C. CHILD CUSTODY OR PARENTING PLAN PROCEEDINGS

(1) Parenting Plans.

(a) Proposed, Temporary and Permanent Parenting plans shall be in the form required by State law. Proposed temporary parenting plans need not have the dispute resolution and decision making sections completed.

D. DATING AND MAILING OF DECREES AND ORDERS.

(1) When any decree or order is filed in a dissolution matter, the attorney for the party presenting the order, or the party if the matter is presented pro se, shall immediately deliver or mail to the opposing party to the opposing party's last known address, or to opposing counsel, a true copy of the decree or order with the date of entry indicated on each copy. A declaration of mailing of such true copy shall be filed.

E. HEARINGS - SHOW CAUSE - PRELIMINARY AND TEMPORARY ORDERS.

(1) Hearings. See Local Rule 77.

(2) Hearing by Documentary Evidence. All show cause hearings pertaining to request for temporary support money and/or attorney's fees shall be heard and determined by documentary evidence only, unless the parties request that oral testimony be given and the court in its discretion agrees.

(3) Supporting Worksheet. A motion for order to show cause for temporary support shall be supported by a child support worksheet in the form prescribed by state law and may also include a financial declaration in the form designated in Exhibit A attached

to this rule. No order shall be signed setting a show cause hearing for temporary support unless the signed worksheet accompanies the motion.

(4) Information Considered Notwithstanding Non-appearance. An affidavit or child support worksheet filed by a non-appearing respondent shall be considered by the court at the time of hearing on show cause hearings and upon hearing default dissolutions.

F. DISPOSAL OF PROPOSED PARENTING PLAN.

The Clerk is authorized to remove from the file and dispose of all proposed parenting plans after the Permanent Parenting Plan has been entered and the time for appeal has elapsed.

In request to have law enforcement assist in procuring a child or individual that petitioner alleges is being held in violation of a court order, custody decree or other lawful proceeding shall be done by writ of habeas corpus.

G. APPOINTMENT OF OPTIONAL GUARDIAN AD LITEM.

(1) Optional Guardian Ad Litem. In any domestic relations matter the court may, upon its own motion, or motion of either party, appoint a guardian ad litem to represent the interests of any child, or children, of the parties. If any decree illegitimizes a child or may result in a child becoming illegitimate, the court may require that a guardian ad litem be appointed for the child.

(2) Appointment. The guardian ad litem shall be appointed from the court-approved registry for Title 26 RCW. Said person shall have such powers, as granted by the court, to ascertain what is in the best interests of the child or children, and to take whatever steps the court deems appropriate to effectuate a result consistent with the best interest of the child or children.

(3) Duties of Guardian Ad Litem. The court may direct the guardian ad litem to report to the court, either orally or in writing. The guardian ad litem has the right to attend and participate at trial or any other proceeding, and shall be given all other rights accorded a party, including notice. The guardian ad litem may be called as a witness at trial by either party, or the court.

H. MANDATORY INFORMATION PROGRAM FOR PARENTS

The Douglas County Superior Court finds that it is in the best interest of any child whose parents or custodians

are involved in specific court proceedings to provide such parents with an educational workshop concerning the impact family restructuring has on their child. The workshop offers parents tools to help ensure that their child's emotional needs will not be overlooked during the legal processes, to encourage parents to agree on child-related matters, and to aid in maximizing the use of court time.

(1) Types of Proceedings Required. Each person named as a party in the following types of proceedings filed after January 1, 1999 must comply with Local Rule 94.04H:

1. Dissolution of Marriage with child(ren) under 18 years old;

2. Legal Separation or Declaration of Invalidity with child(ren) under 18 years old.

3. Petition to establish custody or visitation including paternity, and/or

4. Post-judgment petition involving custody or visitation.

(2) Service on Parties. The Clerk of the court shall provide a copy of this rule (LR 94.04H) to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses, statement of costs, and an explanation of how to request a waiver or deferral of the program registration fee.

(3) Mandatory. Each party who files an appearance in a proceeding of the types described above in Section (1) shall complete the program unless exempted by the court. No final order approving any residential or parenting plan shall be entered without proof of completion of such education program by the parents or legal guardians unless otherwise ordered by the court.

(4) Ninety (90) Day Deadline. Each party shall attend and complete an approved parenting workshop within ninety (90) days of filing a proceeding specified in Section (1) above.

(5) Exemption. The Court may exempt one or both parties from completion of the program if, after reviewing the requesting party's motion and supporting affidavit, the Court

determines that participation is unnecessary.

(6) Approved Program. The parent education program sponsored by the Washington State University (WSU) Extension Service is an approved program. Other programs may be approved by application to the Court.

(7) Proof of Completion. Upon completion of the program, the workshop provider shall issue a certificate of completion to each program participant. The certificate of completion shall be filed with the Clerk of the Court.

(8) Non-Complying Parties – Attorney's Fees Sanctions. A party who has completed the program shall have the right to request entry of an order from the court compelling the non-complying party's completion of the program. Should the non-complying party fail to complete the program in a timely manner without good reason, the court shall enter an award of reasonable attorney fees incurred for obtaining an order for compliance in favor of the complying party who uses this option to force the non-complying party into compliance or other sanctions as set forth below.

(9) Other Sanctions. If upon order of the court a non-complying party continues to refuse participation, the refusal may be considered by the Court in making its ruling on issues that are in dispute and/or may be grounds for contempt.

(10) Fees. Each party shall pay the fee charged by the approved provider. The Court shall reduce the fee to fifteen dollars ($15.00) whenever the filing fee has been waived. The court may waive the entire fee upon special application to the Court.

WRIT OF HABEAS CORPUS – POLICIES AND PROCEDURES

The following forms are adopted by this Local Rule of the Douglas County Superior Court:

Order to Issue Writ of Habeas Corpus and Warrant in Aid of Writ
Writ of Habeas Corpus
Warrant in Aid of Writ of Habeas Corpus

The text of the above forms may not be altered. Obsolete or altered forms will not be accepted by law enforcement.

A Habeas Corpus must be commenced by the filing of a signed and verified Petition. The Petition must set forth

the information required by RCW 7.36.030. A mandatory Petition form has not been adopted.

The Order to Issue Writ must be signed by a Judge/Court Commissioner and filed with the clerk of the Superior Court. Obtain a certified copy of the Order to Issue Writ at the time of filing, as the certified copy will be necessary for the Sheriff's office. Filing fees, writ fees and certified copy fees will be payable to the Clerk of the Court at that time.

On filing the Order to Issue Writ, the Clerk of the Douglas County Superior Court will issue the Writ of Habeas Corpus and the Warrant in Aid of Writ of Habeas Corpus. The originals will be given to the petitioner's attorney.

The following must be provided to the Sheriff's office:

A certified copy of the Order to Issue Writ
The original Writ of Habeas Corpus
The original Warrant in Aid of Writ of Habeas Corpus
Information Sheet, which contains information regarding the parties and child(ren)
A copy of the Petition for Writ of Habeas Corpus
A copy of the most recent Order or Decree which grants petitioner custody
A recent photograph of the child(ren), if available
A recent photograph of respondent, if available
Payment of the base fee for service of the Writ. Mileage and additional services fees will be subsequently billed.

A law enforcement interview of the petitioner or petitioner's attorney is strongly encouraged in order to obtain information helpful towards locating the child(ren) and assuring officer safety.

The petitioner, petitioner's attorney, family members and private investigators may not accompany law enforcement during attempts to execute the Writ.

When a child is recovered, both petitioner and respondent will be immediately notified by law enforcement. The child is then brought immediately before the Superior Court. A child will never be directed returned to the petitioner. If the Superior Court is not in session, then the child will be placed in temporary care through DSHS. Temporary care is avoided if at all possible and, unless specifically ordered by the Court, Writs are not served on weekends, holidays, or after Court hours.