

# Family Law Section

*Family Law Section of the Washington State Bar Association*



July 22, 2021

Clerk of the Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929,

[supreme@courts.wa.gov](mailto:supreme@courts.wa.gov).

GR 40 – Informal Domestic Relations Trial (IDRT)

Dear Supreme Court Justices:

The Family Law Executive Committee (FLEC) has unanimously endorsed the following comments and concerns regarding GR 40 and requested that I forward these comments and concerns on behalf of FLEC to you via email. A related supplemental memorandum will be mailed through the US Postal Service.

## **Comments And Concerns Regarding Proposed GR 40 Informal Domestic Relations Trials (IDRT)**

1. Incorporate comments submitted by Superior Court Judges Association, including
  - a. Retitling IDRT to IFLT (Informal Family Law Trial).
  - b. Incorporating “plain language” in rules and pleadings.
2. Incorporate appropriate provisions from existing informal trial procedures in King County [LFLR 23] and Thurston County [LSPR 94.03F].
3. The existence or limitation of appellate options should be expressly identified in materials for attorneys and prospective participants, including any explicit waiver of evidence rules and evidence-based appeals.
4. Include provision that judges can, at any stage of proceeding, expand – but not further limit – the role of attorneys.
5. If the case includes the determination of a parenting plan or residential schedule, the judge shall review and consider the JIS (criminal history) of both parents and other adults in each parent’s household in the determination of whether an informal trial is appropriate or should occur and, if so, the judge shall take into consideration the relevance

of such history during the proceeding and in the determination of a parenting plan or residential schedule.

6. Enhance the orientation and education for judges, for attorneys and the public (who may be represented clients or pro se).
  - a. This could include a short video, in multiple languages.
  - b. NW Justice's Washington Law Help website is a good example with the following language options: American Sign Language / Amharic አማርኛ / Arabic العربية / Cambodian / Khmer / Chinese (Traditional) 中文 / Farsi (فارسی) / Hindi / हिन्दी / Korean 한국어 / Laotian ພາສາລາວ / Mandarin Chinese 官話 / Marshallese / Kajin Maje] / Oromo ኦሮሞኛ / Punjabi ਪੰਜਾਬੀ / Russian Русский / Samoan Gagana Samoa / Somali Soomaali / Spanish Español / Tagalog Pilipino / Tigrinya Ge'ez / Ukrainian Українська ) / Vietnamese Tiếng Việt.
  - c. It is particularly important that the judge presiding over an informal trial should have as much possible knowledge and experience in family law issues, including domestic violence (as defined by [RCW 26.50.010](#) – as amended in 2021 - See [1320-S2.SL](#)) and its impact upon participants in family law proceedings.
7. Uniformity across the state to provide consistency and avoid conflicts or confusion.
  - a. Allowing some flexibility for counties, e.g., time to opt in.
8. Budget/allocate funds to
  - a. survey judges, attorneys and parties who have participated in informal trials.
    - i. Particular emphasis and focus should be on types of cases, e.g., domestic violence, advantage/disadvantage in case where one party is pro se and the other is represented by counsel, complex issues, multiple experts, etc.
  - b. Obtain statistics from county court clerks.
    - i. regarding number and ratio of informal trials vs. regular trials.
    - ii. judicial efficiency (reduction of caseloads and back logs).
9. Any informal trial process should be for a limited time period such as two years and then not resumed until and unless there is a meaningful review of the results.
  - a. Such review should include judicial officers, lawyers, and clients as well as other named stakeholders.

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- b. The review should monitor results state-wide, including stakeholder survey(s) and monitor national trends re informal trials; additional state adoptions; and modifications, enhancement or curtailment of existing informal trial programs.
- c. A report should be submitted not later than two years to the Supreme Court, including successes, failures, suggestions for improvements, recommendation for continuing program or elimination.

Sincerely,

/s/

Christopher J. Fox, WSBA 7345  
Washington Family Law Executive Committee

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
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Please find WSBA Family Law Executive Committee (FLEC) comment attached.

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