



Collaboration for Justice

Executive Summary

The Early Resolution Program: Observations and Assessment

A Report by Chicago Appleseed Fund for Justice
and Chicago Council of Lawyers

August 2019

Special thanks to our summer law student interns Amelia Piazza, Northwestern University Pritzker School of Law, and Melanie Yeames, University of Chicago Law School, for their substantial contributions in writing this report. We also thank Presiding Judge Grace Dickler and her staff for their support in making our observations and for including us in the task force which created the program.

Chicago Appleseed Project History with the Domestic Relations Division

For most of its history, the Cook County courts maintained an entirely separate child support court for unmarried parents—primarily mothers—to establish paternity and establish child support orders. This was challenged in the federal courts in 1993, in *LAF & Gomez v. Comerford*, which case was settled when the Cook County court brought the parentage courts into the civil division and courthouse.

In 2010, Domestic Relations Division Presiding Judge Grace Dickler asked Chicago Appleseed Fund for Justice to examine the Division, keeping the Constitutionality concerns raised in the *Gomez* case in mind. Chicago Appleseed submitted the report to Judge Dickler’s standing committee, convened to improve the function of the Division. The report, issued in 2013, recommended consolidating the Domestic Division into a single docket for all matters concerning paternity, child support, parental rights and divorce matters. The report further suggested exploration of early resolution and court-based legal services to improve outcomes for unrepresented litigants in the court.

When the Domestic Relations Division consolidated in 2017, the new structure included an expanded role for the administrative hearing officers who were formerly employed in the parentage court to work with cases under Title IV-D of the Social Security Act. Hearing officers—attorneys employed by the court and empowered to make findings of fact and draft final orders to be entered by the court—were no longer constrained by Title IV-D restrictions. Those hearing officers in Maywood and Markham immediately began working with courtrooms to resolve less contentious cases with fewer return dates.

In October 2018, the Domestic Relations Division launched the Early Resolution Program in the Daley Center, also employing administrative hearing officers to speed resolution of appropriate cases in the Division. The Early Resolution Program (ERP) was designed by Judge Dickler, her staff, and representatives from the Administrative Office of the Illinois Courts. Members of the Judge’s standing committee, including Chicago Appleseed, provided input to the design.

ERP is intended to reduce docket congestion and remove barriers to justice for litigants without representation in the Domestic Relations Division, which hears matters related to divorce, child support, and paternity determination among other issues. The goal of the program is to simplify the court process and shorten the amount of time from the date of filing to case disposition. This, in turn, should reduce the costs on unrepresented litigants associated with multiple court visits, hearings, and case processing steps. The ERP strives to meet this goal by allowing *pro se* litigants that meet certain criteria the opportunity to meet with hearing officers for case management prior to being seen before a judge.

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Over the months of July and August, law student interns with Chicago Appleseed observed the ERP process, interviewed litigants who went through the process, and looked at case statistics provided by the Presiding Judge's office. With oversight and assistance from staff attorneys at Chicago Appleseed and local family law practitioners, the students produced this preliminary report.

Each year, over 30,000 new cases are filed in the Cook County Domestic Relations courts, with many of the litigants self-represented. Family law cases can take anywhere from six months to two years or longer to resolve. The eight hearing officers at the Daley Center typically meet with litigants at the request of judges to assist with settling financial matters or specifying settlement details in a proposed judgment. The hearing officers hear cases, take testimony and evidence, and make recommended orders to the judge presiding over the case. Similar to judges, they sit impartially and follow the rules of evidence and rules of discovery. The key difference in the role of the hearing officer since the implementation of the ERP is that they are now the parties' first point of contact with the court (apart from filing). The ERP assigns hearing officers the roles of assessing a case in its early stages and, if appropriate, creating proposed judgments before it is heard in front of a judge.

The ERP appointment moves through several stages. First, the parties arrive at the court house and are screened for family violence and any need for court interpretation is noted. This "triage" process also involves an explanation of the ERP process and goals. Currently, cases are assessed and divided into three paths:

1. Ready for prove-up
2. Ready for meeting with the Hearing Officer to achieve prove-up readiness
3. Returned to the regularly assigned calendar for traditional adjudication

A fourth pathway, sending cases to a resolution assistance program staffed by attorneys available to give advice to the parties, is not yet implemented into the program, but was part of the original program design.

Chicago Appleseed staff observed the ERP pilot program in the Daley Center on Tuesdays and Thursdays in May and June of 2019. In those eight weeks, litigants from 92 cases appeared for their ERP appointment (this accounts for approximately half of the total number of cases "invited" to ERP for those weeks). Participants who prepared proposed judgments with a hearing officer had neutral to positive reviews of the process. Litigants seemed to understand that they made forward progress on their case, and they knew their immediate next steps (generally some kind of filing). Generally, cases which move through the ERP are experiencing reduced time in court, as well as speedier resolution to their cases, and the program is benefiting the Division.

Our report is based on a limited observation of the program still within its first year of operation. We believe it is already relieving congestion in court dockets and reducing resolution times for litigants without attorneys. Our report offers some suggestions for refining initial screening of

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cases into the ERP, as well as some potential changes to the triage process, with the goal of ensuring the most appropriate cases are tracked into the program. We offer some issues for further observation and development within the program, such as preserving due process in cases with incomplete service, creating a more robust screening for family violence, and broadening the impact of triage screenings across the Division.