

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered February 27, 2023.

(Deleted material is struck through, and new material is underscored.)

Effective immediately, Illinois Supreme Court Rules 906 and 908 are amended, as follows.

Amended Rule 906

Rule 906. Attorney Qualifications and Education in Child Custody, Allocation of Parental Responsibilities, Visitation, and Parenting Time Matters

(a) **Statement of Purpose.** This rule is promulgated to insure that counsel who are appointed by the court to participate in child custody, allocation of parental responsibilities, visitation, and parenting time matters, as delineated in Rule 900(b)(2), possess the ability, knowledge, and experience to do so in a competent and professional manner. To this end, each circuit court of this state shall develop a set of qualifications and educational requirements for attorneys appointed by the court to represent children in child custody and allocation of parental responsibilities cases and guardianship cases when custody or visitation is an issue and shall further develop a plan for the procurement of qualified attorneys in accordance with the plan.

(b) **Submission of Qualifications and Plan.** The Chief Judge of a judicial circuit shall be responsible for the creation of the qualifications and Plan and for submitting them to the Conference of Chief Judges for approval. The Chief Judges of two or more contiguous judicial circuits may submit a Plan for the creation of a single set of qualifications and Plan encompassing those judicial circuits or encompassing contiguous counties within the circuits.

(c) **Qualifications and Plan.** The qualifications shall provide that the attorney is licensed and in good standing with the Illinois Supreme Court. Certification requirements may address minimum experience requirements for attorneys appointed by the court to represent minor children. In addition, the qualifications may include one or all of the following which are recommended: (1) Prior to appointment the attorney shall have 10 hours in the two years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development; roles of guardian *ad litem* and child representative; ethics in child custody and allocation of parental responsibilities cases; relevant substantive state, federal, and case law in custody, allocation of parental responsibilities, visitation, and parenting time matters; implicit bias; family dynamics, including substance abuse, domestic abuse, and mental health issues. (2) Periodic continuing education in approved child related courses shall be required to maintain qualification as an attorney eligible to be appointed by the court in child custody,

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allocation of parental responsibilities, visitation, and parenting time cases. (3) Requirements for initial pro bono representation. (4) Attorneys who work for governmental agencies may meet the requirements of this rule by attending appropriate in-house legal education classes.

(d) Conference of Chief Judges Review and Approval. The Conference of Chief Judges shall review and approve the Plan or may request that the Chief Judge modify the submitted list of qualifications and Plan. Upon approval, the Chief Judge of each circuit shall be responsible for administering the program and insuring compliance. An attorney approved to be appointed by the Court to participate in child custody, allocation of parental responsibilities, visitation, and parenting time matters under a Plan approved in one county or judicial circuit shall have reciprocity to participate in child custody, allocation of parental responsibilities, visitation, and parenting time matters in other counties and judicial circuits in Illinois.

Adopted February 10, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately; amended Feb. 27, 2023, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Paragraph (a) requires each judicial circuit to establish qualifications and educational requirements for attorneys who are appointed by a court to represent children in child custody and allocation of parental responsibilities proceedings. The circuits would also be required to establish a plan for procuring the services of qualified attorneys for child custody and allocation of parental responsibilities cases.

Paragraph (b) requires that attorney qualification and procurement plans be submitted to the Conference of Chief Circuit Judges for approval. It also provides that attorney qualification and procurement plans may be drafted to apply to contiguous circuits or to contiguous counties within two or more circuits.

Paragraph (c) specifies that attorneys appointed to represent children must be licensed and in good standing as attorneys. It also provides that the qualifications and standards must include a minimum experience requirement, and may include criteria concerning initial and continuing legal education requirements and requirements for initial *pro bono* representation. Attorneys approved under a circuit plan would be eligible for appointment in cases in other areas of the state on the basis of reciprocity.

In writing Rule 906, the Special Committee considered Rule 714, Capital Litigation Trial Bar, which imposes minimum requirements upon trial counsel in order to insure that counsel who participate in capital cases possess the ability, knowledge and experience to do so in a competent and professional manner. The Special Committee believes that cases involving child custody, allocation of parental responsibilities, visitation and parenting time issues demand the same high standards of advocacy as do capital cases.

The Special Committee is mindful that many judicial circuits will find it very difficult to find funds to pay for the plans under which counsel are appointed. Ideally, the State would provide sufficient funding to reimburse the private attorneys who are appointed by the court. In the absence of such funding, the individual judicial circuits will need to be innovative in meeting the financial requirements of the plans. In addition to requiring the parties to pay for the appointed lawyer's services, the local rules could provide for the targeting of court filing fees. Voluntary *pro bono* service is also strongly encouraged.

Amended Rule 908

Rule 908. Judicial Training on Child Custody and Allocation of Parental Responsibilities Issues

(a) Meeting the challenge of deciding child custody and allocation of parental responsibilities cases fairly and expeditiously requires experience or training in a broad range of matters including, but not limited to: (1) child development, child psychology and family dynamics; (2) domestic violence issues; (3) alternative dispute resolution strategies; (4) child sexual abuse issues; (5) financial issues in these matters; (6) addiction and treatment issues; (7) statutory time limitations; ~~and~~ (8) cultural and diversity issues; and (9) implicit bias.

(b) Judges should have experience or training in the matters described in paragraph (a) of this rule before hearing these cases. Before a judge is assigned to hear child custody cases or allocation of parental responsibilities cases, the Chief Judge of the judicial circuit should consider the judge's judicial and legal experience, any prior training the judge has completed and any training that may be available to the judge before he or she will begin hearing these cases.

(c) Judges who, by specific assignment or otherwise, may be called upon to hear child custody or allocation of parental responsibilities cases should participate in judicial education opportunities available on these topics, such as attending those sessions or portions of the Education Conference, presented bi-annually at the direction of the Supreme Court, which address the topics described in paragraph (a) of this rule. Judges may also elect to participate in any other Judicial Conference Judicial Education Seminars addressing these topics, participate in other judicial education programs approved for the award of continuing judicial education credit by the Supreme Court, complete individual training through the Internet, computer training programs, video presentations, or other relevant programs. The Chief Judges of the judicial circuits should make reasonable efforts to ensure that judges have the opportunity to attend programs approved for the award of continuing judicial education credit by the Supreme Court which address the topics and issues described in paragraph (a) of this rule.

Adopted February 10, 2006, effective July 1, 2006; amended May 19, 2006, effective July 1, 2006; amended Mar. 8, 2016, eff. immediately; amended Feb. 27, 2023, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

Proposed Rule 908 recognizes the complexity of child custody and allocation of parental responsibilities cases and the broad range of experience and training that would be helpful to judges hearing these cases.

Paragraph (b) requires that chief judges consider a judge's experience and training before the judge is assigned to hear such cases. This provision does not establish a mandatory prerequisite to such an assignment.

Paragraph (c) requires that trial judges who will hear child custody and allocation of parental responsibilities cases should participate in Judicial Education opportunities on these type of matters. The proposed rule encourages personal attendance at seminars, but emphasizes that other forms of training may be used.