

### **INFORMATION TRIAGE MODEL PILOT PROJECT FOR FAMILY LAW**

This pilot project is based on a distributed model including a NEUTRAL LAWYER plus COUNSELLOR plus MEDIATOR.

The model could be set up as an Entry Point to the court house, either located in the court house or in a nearby suitable building.

#### **Step 1 – Intake (NEUTRAL LAWYER)**

Neutral Lawyer provides single session Early Neutral Consultation (ENC), Early Neutral Evaluation (ENE).  
pre-filing; pre-negotiation. 1.5 hours

Disclosure - Parties to complete Standard Intake Summary Form. Parties to bring drafted F13.1 Standard Form Financial Statements (downloadable from AG site). Role of assistant to help families draft financial statements (unsworn) with supporting documents attached and to ensure financial disclosure is in place prior to the intake session with Neutral Lawyer.

Neutral lawyer discuss disclosure and standard form financial statements.

Neutral lawyer discuss funding guidelines for Step 2(a) and Step 2(b), (below) as appropriate. Funding from sources such as LAO for ILA (for out of court negotiations) and also for 6 or 10 hours of mediation funding under the recent pilot project (seek by-in from LAO; and seek by-in from lawyers who accept LAO certificates and the cooperative Barrie Bar).

Administrative Assistant to answer telephone, make appointments, and assist couples to prepare their separate F13.1 financial statements in preparation for the intake meeting.

Administrative Assistant will also confirm with couples at the time of the telephone booking if the parties will attend together in person, or will attend together on Skype.

Clients to be advised there will be no decision making at intake; INFORMATION FIRST. Early screening to be mandatory. The neutral informational intake environment is a safe environment for consensual couples (neutral lawyer always present in the room) and there is also the option for all couples to choose to be in separate rooms and attend the ENC/ENE via electronic technology (such as Skype). Mandatory screening will be conducted prior to the parties moving forward with counselling or mediation.

#### **INFORMATIONAL INTAKE PROCESS**

Neutral Lawyer assesses parties for reasonableness of engagement in information intake process and possible consensual communication processes (counselling, parenting coaching – followed by collaborative law, cooperative law, lawyer-assisted settlement negotiations, self-assisted settlement negotiations) and consensual dispute resolution processes (mediation – followed by collaborative law, cooperative law, lawyer-assisted settlement negotiations, self-assisted settlement negotiations).

If couple can settle all matters on consent then

referral to lawyer(s) as appropriate (e.g., collaborative law, cooperative law, lawyer-assisted settlement negotiations, self-assisted settlement negotiations, duty counsel, legal aid, etc) (with the objective of reducing any agreement to writing as a separation agreement with the assistance of lawyer(s))

*MATTER ENDS HERE OUT OF COURT (Total Elapsed Time Cost 1.5 hours)*

If couple cannot settle all matters on consent then

If couple has difficulties in communication, refer to Step 2(a) – Referral to Screening and Family Coaching (Counsellor)

If couple has no difficulties in communication, refer to Step 2(b) – Referral to Screening and Mediation (Mediator)

### **Step 2(a) – Referral to Screening and Family Coaching (Counsellor)**

If, as a result of ENC/ENE process, there are unreasonable communication processes from either party, mandatory referral to counsellor for family coaching.

If either party rejects the referral or unreasonable efforts to communicate then mandatory referral to screening for mediation. (see Step 2(b) – Referral to Screening and Mediation (Mediator) below)

If either the parties are screened out of mediation or either party an unreasonable communicator during the screening process then referral to judge for court process (triage would be assisted here by several different levels of case management). Step 3.

If both parties consent to the referral to family coaching and reasonable efforts to communicate then screening for family coaching proceeds first (screening conducted by counsellor, mediator, or neutral lawyer, as available). 30 mins each separately

#### ***For Children Matters Only***

If both parties screened into family coaching then family coaching proceeds.

If family coaching is successful then parties referred to ILA or self-representation (with the objective of reducing any agreement to writing as a separation agreement with the assistance of lawyer(s) or a parenting plan with the assistance of family coach, respectively)

*MATTER ENDS HERE OUT OF COURT (Total Elapsed Time Cost depends on Sessions)*

#### ***For Children Plus Property Matters (or Property Matters Only)***

If both parties screened into family coaching AND children PLUS property matters (or property matters only) then mediation proceeds.

If mediation is successful then parties referred to ILA or self-representation (with the objective of reducing any agreement to writing as a separation

agreement with the assistance of lawyer(s) or a parenting plan with the assistance of mediator, respectively)

*MATTER ENDS HERE OUT OF COURT (Total Elapsed Time Cost depends on Sessions)*

***Ongoing screening***

*If either party is screened out of family coaching or either party becomes an unreasonable communicator during the screening process then referral to judge for court process (triage would also be assisted here by several different levels of case management).*

**Step 2(b) – Referral Screening and Mediation (Mediator expert in both financial and parenting issues)**

If there are reasonable communication processes from both parties, mandatory referral to mediation screening.

If both parties consent to the referral to mediation and reasonable efforts to communicate then screening for mediation proceeds first (screening conducted by counsellor, mediator, or family consultant). 30 mins each separately

If both parties screened into mediation then mediation proceeds.

If mediation is successful then parties referred to ILA or self-representation (with the objective of reducing any agreement to writing as a separation agreement with the assistance of lawyer(s) or a parenting plan with the assistance of mediator, respectively)

*MATTER ENDS HERE OUT OF COURT (Total Elapsed Time Cost depends on Sessions)*

If either party is screened out of mediation or either party an unreasonable communicator during the screening process then referral to judge for court process (triage would be assisted here by several different levels of case management). Step 3.

**Step 3 – Referral to Judge for court process** (triage would be assisted here by several different levels of case management). Judicial first appearance and Judicial conferencing.

Contacts:

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## Considerations

- Step 1, 2(a), 2(b) and 3, in order, and in total, provide practical guidance for all cases that would appear for Informational Triage Model.
- This pilot project could be offered to all families pre-filing, and family can voluntary choose to access the pilot project. The court filing office clerk to explain and offer to all parties on consent. (seek by-in from judiciary, in particular forward-thinking Justices who have been an inspiration for the project; and Barrie court administration)
- This pilot project could be funded initially to include only a random selection of legal aid cases because a) it's a pilot project so we are not promising ability to reach every legal aid case and b) judging by the number of self-reps, many don't qualify for legal aid and we would hope we would want to reach those who are caught without lawyers and no opportunity of having one; and c) there are probably too many cases for three individuals to handle. (we would like to get numbers on how many of these cases there are in the system). Work with LAO to look into couples qualify for the recently announced Legal Aid extended funding for mediation (6 hour, 10 hour) or Legal Aid funding for lawyer for out of court negotiation.
- Alternatively, additional sources of funding from CBA, etc. not sure if CBA help would be forthcoming for other than "research" type processes . . . as opposed to funding of individuals/couples.
- The Informational Triage Model provides for significantly fewer family court cases; relieves pressure on judicial resources.
- The Informational Triage Model provides for four(4) data points to measure successful outcome (as measured by ending out of court).
- Data can be collected to show percentages of cases ending at the different Steps. For instance, cost advantages for cases ending at earlier Steps (cases ending at Step 1). If cases proceed to Step 2(a) and Step 2(b) could limit session numbers according to cost analysis (e.g., after Legal Aid funded sessions end, couples either privately fund, or referral to Step 3).
- Neutral lawyer would be a senior lawyer, such as a DRO trained lawyer; with specific training and experience in screening process; and Early Neutral Consultation and Early Neutral Evaluation.
- Counsellor professional would be an experienced counsellor and parenting coach; experienced preparing parenting plans; with specific training and experience in screening process.
- Mediator professional would be experienced lawyer-trained mediator; expert in both financial and parenting issues; and with specific training and experience in screening process.
- The initial pilot project would fund one (1) of each of the three (3) professionals (1 neutral lawyer, 1 Counsellor, and 1 Mediator).
- In this Informational Triage Model all parties are screened prior to any decision making process. Counsellor conducts decision making process for children only matters. Mediator conducts decision making process for children plus property matters (or property only matters).
- Screening process would be conducted by any of the professionals, on an availability and needs basis.
- This pilot project can dovetail to other court process (e.g., at the CC stage, a family already in the court system, may opt for consensual referral to ENC/ENE and Informational Triage Model). Flexible and multidisciplinary process which provides varied on ramp/off ramp options to the court process, enhancing access to justice by providing services better attuned to the legal, emotional and financial needs of separating families.

**SIGN OUR PETITION (and email it to [familyLawPathways@gmail.com](mailto:familyLawPathways@gmail.com) or contact [www.FamilyLawPathways.com](http://www.FamilyLawPathways.com)):**

*We the undersigned believe the Family Law System in Ontario needs to be reformed. We believe the reform should be focussed at the front end of the system to provide entry point centres for families to get focussed, personalised information to empower families to keep more family law disputes out of court. We believe personalised information can be provided using the processes of Early Neutral Consultation (ENC) and Early Neutral Evaluation (ENE). We believe the entry point centres should building on the concepts of Neutral Lawyer plus Counsellor plus Mediator. We hope by attaching our names to this petition the governments of Canada, provincial and federal, will implement the Informational Triage Model Pilot Project created by the Family Law Pathways Centre ([www.FamilyLawPathways.com](http://www.FamilyLawPathways.com)). Follow FamilyLawPathways in Twitter @LawPathways and retweet the connection to [www.FamilyLawPathways.com/blog/](http://www.FamilyLawPathways.com/blog/))*

**RE-SEND THIS PETITION TO ALL YOUR COLLEAGUES AND CONTACTS WHO WORK AS FAMILY DISPUTE RESOLUTION PROFESSIONALS, AND ALL YOUR FRIENDS/FAMILIES WHO HAVE BEEN AFFECTED, OR KNOW SOMEONE WHO HAS BEEN AFFECTED BY SEPARATION, DIVORCE, FAMILY JUSTICE SYSTEM AND FAMILY LAW INJUSTICE.**

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