

PROVINCIAL COURT OF ALBERTA
FAMILY & YOUTH COURT
CALGARY, ALBERTA

PRACTICE DIRECTIVE #4
BINDING JUDICIAL DISPUTE RESOLUTION (HEARINGS)

The following procedure has been established for requests for a Binding JDR (BJDR). A BJDR is a binding, non-appealable procedure for resolving specified issues. In a BJDR the Judge will first attempt to resolve the dispute by agreement. Failing that, or in the absence of agreement on some of the outstanding issues, the Judge may make an Order resolving the issue(s).

A. GENERAL PRINCIPLES

1. The following applications are suitable for a BJDR:
 - Most applications under the *Family Law Act*; and
 - Certain applications under the *Child Youth and Family Enhancement Act*¹.
2. It is a requirement that the parties to the BJDR sign an Agreement confirming their understanding of the nature of the process, its non-appealable nature, and the specific issues to be resolved.
3. A precedent Binding JDR Agreement (BJDR Agreement) is attached and may be modified as the circumstances require. In all cases, a fully executed copy of the BJDR Agreement must be presented to the Trial Coordinator before dates are provided or confirmed for a BJDR.
4. A BJDR seeking a Final Order on all issues in dispute shall be ordinarily set for one half day. More time may be allocated with leave of the BJDR Judge.
5. A BJDR on an interim application may ordinarily be set for one hour and fifteen minutes.
6. Any application originally set for a trial may be converted to a BJDR anytime up to 5 days before the commencement of trial, with the approval of the parties and the assigned Trial Judge. After that time, any application to convert a trial to a BJDR must have the approval of both the assigned Trial Judge and the ACJ.

¹ It is not anticipated that all applications under either the *Family Law Act* or the *Child Youth and Family Enhancement Act* would be appropriate for a BJDR. The BJDR Judge or the Trial Coordinator will advise parties if their application is not appropriate for a BJDR: i.e. A contested mobility application or the Director's application for a Permanent Guardianship Order are unlikely candidates for a BJDR.

7. The parties may only withdraw from the BJDR process with leave of the assigned Judge or the ACJ.
8. A Pre-BJDR Conference (PBC) will be ordinarily scheduled approximately 30 days before the BJDR. On that date, the parties may raise any BJDR issues before the BJDR Judge and shall present to the Judge any supporting documentation they believe will be of assistance to the Judge.
9. In all cases where a BJDR has been scheduled, a follow-up docket date will be set as soon as possible after the BJDR in order for the entry on the record of the resolution arrived at through the BJDR process or the Court Order granted by the BJDR Judge.

B. BOOKING A STANDARD BINDING JDR

The standard procedure for booking a BJDR is as follows:

1. The parties attend at the office of the Trial Coordinator with a fully executed copy of the BJDR Agreement.
2. The Trial Coordinator shall assign the following dates:
 - a. A confirming BJDR docket date;
 - b. A Pre-BJDR Conference (PBC) date;
 - c. A date for the BJDR; and
 - d. A follow-up date after the BJDR.
3. The file will then be delivered to and be reviewed by the BJDR Judge in Private Chambers, who shall approve or reject the BJDR process or the amount of time allocated. In particular, where more than a half day has been allocated, the BJDR Judge shall confirm that an extended amount of time is necessary by virtue of the number of issues to be resolved, the complexity of the situation, or any other relevant factor.
4. Following the BJDR Judge's review, the Trial Coordinator shall advise counsel and any Self-Represented Litigant (SRL) whether the assigned dates have been approved or not.
5. On the Confirming BJDR docket date, all counsel and their clients, and all SRLs, shall attend in court where all of the remaining assigned court dates (as listed in item 2 above) shall be read onto the record, as well as any special instructions provided by the BJDR Judge. The matter is then adjourned to the PBC date or as otherwise directed by the BJDR Judge.

C. BOOKING A SPECIAL BINDING JDR²

It may occasionally happen that the parties seek a Special BJDR within a short timeframe for an extraordinary reason. On these rare occasions, Counsel may request that a particular Judge conduct a Special BJDR and may schedule the BJDR and follow-up docket date with that Judge. Such requests must nevertheless be approved by the BJDR Judge and the ACJ.

On such occasions, the parties must submit to the ACJ a letter requesting a Special BJDR, accompanied by a copy of the executed Binding JDR Agreement explaining:

1. The details of the arrangements for the conduct of the BJDR; and
2. An explanation why the request was made on short notice and the reason the parties feel a Special BJDR to be appropriate.

Attachment: Binding Judicial Dispute Resolution (BJDR) Agreement

² Practice Directive #3 provides additional information about what should be included when requesting a Special JDR or BJDR.

DOCKET NO.: _____

CFC: _____

**IN THE PROVINCIAL COURT OF ALBERTA
CALGARY FAMILY COURTS**

IN THE MATTER OF

BETWEEN:

and

BINDING JUDICIAL DISPUTE RESOLUTION (BJDR) AGREEMENT

The parties agree to the following terms for a BJDR process:

1. The issues listed in Paragraph 4 below shall be resolved in a BJDR, conducted by (check one):

_____ any Judge of the Provincial Court; or

_____ (by prior arrangement) by the Honourable Judge

_____ (“the Judge”).

2. The BJDR:

_____ relates to an interim issue and is estimated to require one quarter day

_____ relates to one or more final issues and is estimated to require one half-day; or

_____ is estimated to require _____ half-days for the following reasons:

3. If the parties do not reach an agreement on any Issue(s) listed below, the Judge will make a decision on those issues, which shall be final and binding upon all parties.

4. The issue(s) to be resolved in the BJDR is/are:
 - a. _____

 - b. _____

 - c. _____

 - d. Whether to award Costs to any party, including Costs of the BJDR.
5. Formal rules of evidence will not be applied in the BJDR and, in particular, the Judge may consider hearsay evidence in rendering any Order. If either party chooses to rely upon expert evidence, the expert will attend at the BJDR in person and answer questions relating to that expert's evidence.
6. There will be no record maintained of the discussions and submissions at the BJDR, unless the Judge directs otherwise.
7. The BJDR is confidential except that the Judge may make any Child Protection referral the Judge feels is appropriate. Otherwise, all settlement discussions in the process are privileged (commonly referred to as "without prejudice") and cannot be used for any purpose except as expressly waived by both parties in writing.
8. In the course of the BJDR, the parties may meet privately with or without the Judge. If the Judge meets privately with a party, anything said by that party will be confidential and will not be disclosed to the other party unless the confidentiality of the communication has been waived by the party making the disclosure.
9. At the end of the BJDR, any settlement reached by the parties and any issues decided upon by the Judge will be incorporated in a binding Court Order, to be prepared as directed by the Judge. The Court Order will be entered into the Court record, shall be filed and enforceable, and shall have the same status as any Order of the Court. Any further documents required as a result of the Final Order shall be prepared and filed by the parties or as directed by the Judge.
10. There is no appeal from any agreement reached or from the binding determination made by a Judge of any issue listed in paragraph 4 above.
11. The Judge is non-compellable as a witness in any proceedings and is immune from legal actions.

- 12. Once this BJDR Agreement is signed by both parties and presented to the Court, no party may withdraw from the Binding JDR process before its conclusion without leave of the Court. If a party withdraws from the process, the BJDR Judge shall be entitled to render a decision on any issue set out in paragraph 4 and award Costs for the shortened BDR process and any step leading up to it.
- 13. The parties acknowledge that all Claims, Statements and Certificates have been filed, and that they are aware that the Court may award Costs against any unsuccessful party.
- 14. The parties acknowledge that before signing this Agreement, any Self-Represented Party should obtain legal advice regarding the outstanding issues and the Binding JDR process.

DATED at Calgary, Alberta this _____ day of _____, _____

Applicant(s)

Respondent(s)

If represented by a lawyer:

If represented by a lawyer:

(Lawyer's Signature)

(Lawyer's Signature)

(Lawyer's Printed Name)

(Lawyer's Printed Name)

[Attach Affidavit of Execution for any Self-Represented Party]

BINDING JUDICIAL DISPUTE RESOLUTION (JDR) AGREEMENT

DOCKET NO. _____

CFC: _____

FOR OFFICE USE:

TRIAL CO-ORDINATOR confirmed and tentatively booked for the dates of:

AGREEMENTS SUBMITTED: Applicant(s): _____ Respondent(s): _____

AGREEMENTS NOT SUBMITTED: Applicant(s): _____ Respondent(s): _____

PRE BJDR DATE: _____ TIME: _____

COURTROOM: _____

BJDR DATE: _____ TIME: _____

COURTROOM: _____ LENGTH: _____

RETURN BJDR FOLLOW-UP DATE: _____ TIME: _____

COURTROOM: _____ LENGTH: _____

DATED THIS _____ DAY OF _____ , _____

SIGNATURE: _____

Non-Presiding Justice of the Peace

Other Dates Offered by the Trial Coordinator:

1. _____ 2. _____

2. _____ 4. _____

JUDICIARY:

Approved Rejected Holding Pending Special Instructions

DATED THIS _____ DAY OF _____ , _____

By the Honourable Judge: _____

Signature of Judge: _____

Special Instructions:

Reasons for Rejection:

