

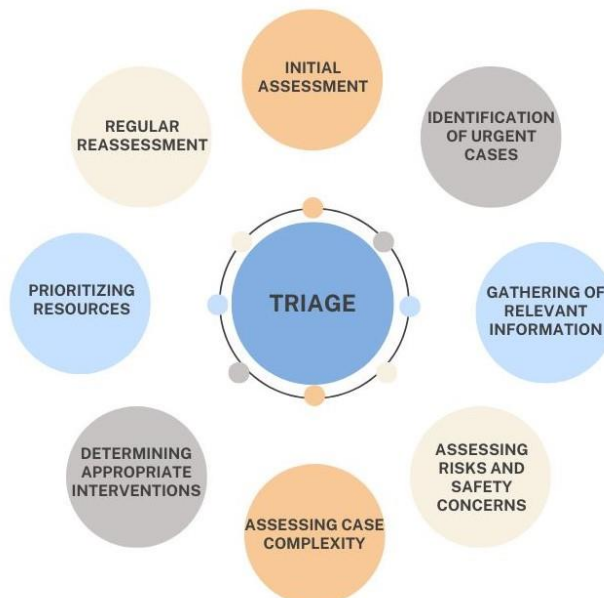
The Progression of Family Justice Pathways

Triage (also referred to as Pathways) has been effectively used in both civil and family cases. The Cady Family Justice Reform Initiative suggests that courts should "aggressively triage cases at the earliest opportunity." Doing so helps determine the most suitable "pathway", a strategy aimed at providing families with the necessary services and case management for swift and efficient resolution of their case. This approach has gained the endorsement of the highest authorities in state court leadership, namely the Conference of Chief Justices and the Conference of State Court Administrators.

Family Triage, a method of triaging in domestic relation cases, includes many innovative possibilities such as assistance to unrepresented families, risk identification, service delivery and automation-assisted decision-making. With the increasing momentum towards integrating triage methods into family court services, there is a growing and compelling case to consider nationwide adoption of triage common elements.

I. Common Elements of Family Triage

Family triage refers to the process of assessing the urgency and severity of a case in order to determine the appropriate course of action. It helps prioritize cases based on their immediate needs and ensures that resources are allocated efficiently. Below follow common elements applied in triaging family law cases:





1. **Initial assessment:** When a family law case is brought to the attention of the court or a legal aid organization, an initial assessment is conducted. This may involve gathering basic information about the case, such as the nature of the legal issue, any safety concerns, and the parties involved.
2. **Identification of urgent cases:** Triage aims to identify cases that require immediate attention due to their urgent nature. This includes situations involving domestic violence, child abuse, imminent danger, or emergency custody matters. These cases are typically given higher priority due to the potential risk to the individuals involved.
3. **Gathering relevant information:** Triage personnel or legal professionals will collect additional details about the case to better understand the situation. This may involve interviewing the parties involved, reviewing relevant documents or evidence, and conducting assessments to assess the severity and urgency of the matter.
4. **Assessing risks and safety concerns:** A critical aspect of triage in family law cases is evaluating the risks and safety concerns associated with the situation. This includes considering factors such as physical or emotional harm to individuals involved, the presence of domestic violence, substance abuse issues, or any threats to the well-being of children or vulnerable parties.
5. **Assessing case complexity:** Triage can also identify those cases requiring very few judicial resources. Simple family law cases, such as those involving no risk/safety concerns, assets, debts, children, or areas of disagreement, present opportunities to streamline court procedure and serve individuals who desire an efficient and quick turnaround. This kind of process simplification benefits the court user and the system as a whole.
6. **Determining appropriate interventions:** Based on the information gathered during the triage process, a decision is made regarding the appropriate intervention or action required in each case. This could involve various options, such as providing immediate safety measures, referring the case to specialized services or programs, recommending mediation or counseling, initiating legal proceedings, or how intensively a case is managed by the judge or court.
7. **Prioritizing resources:** Triage helps allocate limited resources, such as legal aid services, court time, judicial supervision, or social support programs to the cases that



require them the most. By prioritizing urgent cases, the goal is to ensure that those in immediate need receive timely assistance.

8. **Regular reassessment:** Triage is an ongoing process, and cases may be reassessed periodically to account for changes in circumstances or new information that may affect the urgency or priority of a case. This ensures that resources remain appropriately allocated as the situation evolves. It is not uncommon for a case to change “pathway” based on changed circumstances or new facts.

Specific triage processes and terminology vary depending on the jurisdiction, court system, or organization involved.

II. Family Triage – Early Implementers

There have been several early implementers of family triage that have paved the road for the next generation of court reforms, particularly in the context of civil justice reform.

Family triage was first identified as such by Peter Salem. He examined the emergence of variations of triage processes in family court service agencies as a response and contends that it is time to consider replacing the tiered service delivery model.¹

Salem, Kulak, and Deutsch emphasized the challenges faced by family court service agencies in managing a growing number of complex referrals with limited resources.² These challenges necessitated the development of triage services, such as the Family Civil Intake Screen in Connecticut, a research-based screening instrument designed to match the characteristics of families in dispute with the most appropriate service.

Marz discussed the creation of the Early Resolution Program (ERP) in the Alaska Court System, created the to address many issues with which courts across the country are grappling: how to manage divorce and custody cases involving self-represented litigants (SRLs) efficiently and effectively, and how to triage cases to the appropriate resolution approach.³ **This paper reports improved outcomes for ERP cases that settled than comparable cases that proceeded on the regular trial process track with respect to time**

¹ Salem, P. (2009). The emergence of triage in family court services: The beginning of the end for mandatory mediation? *Family Court Review*, 47(3), 371-388. <https://doi.org/10.1111/j.1744-1617.2009.01262.x>

² Salem, P., Kulak, D., & R.M. Deutsch. (2007). Triaging family court services: The Connecticut judicial branch's family civil intake screen. *Pace Law Review*, 27(4), 741-783. <https://doi.org/10.58948/2331-3528.1140>

³ Marz, S. (2019). Faster and as satisfying: An evaluation of Alaska's early resolution triage program. *Family Court Review*, 57(4), 478-490. <https://doi.org/10.1111/fcre.12441>



to disposition, cost per case, and number of motions to modify filed within two years of the disposition.

III. The Context of the Civil Justice Initiative

A precursor to family law triage and the Cady Family Justice Reform Initiative is the Civil Justice Initiative. The Conference of Chief Justices (CCJ) established the Civil Justice Improvements Committee in 2013 to develop recommendations to ensure the “just, speedy, and inexpensive resolution of civil cases.”⁴ As well summarized in *Reimagining Civil Case Management* (NCSC, 2022):

Effective case management now recognizes the importance of five core components that are necessary to achieve timely, cost effective, and procedurally fair justice: (1) triage to ensure that cases receive attention proportional to their needs; (2) process simplification to remove procedural barriers that unnecessarily complicate litigation; (3) stakeholder engagement to ensure clear communication about case management objectives at every stage of the litigation; (4) effective use of court staffing and technology resources; and (5) an ongoing commitment to data management and performance management.

IV. Civil Justice Implementation Studies

There are a number of examples of initiatives and pilot projects directed at improving civil justice available at <https://www.ncsc.org/cji/best-resources>. While the approaches in each court may vary, they are connected by a common application of Civil Justice concepts and contribute to the pooling of best practices regarding civil justice reform and triage.

The two reports below were selected for their more direct relevance to the practice of triage and case management:

[Civil Justice Initiative Pilot Project \(CJIPP\) Evaluation for 22nd Judicial Circuit Court of McHenry County, Illinois \(2019\)](#). This pilot project was designed to implement all 13 CJJ recommendations. The Court began its process by conducting a landscape assessment of

⁴ Hannaford-Agor, P. (2022). *Reimagining Civil Case Management*. National Center for State Courts. https://www.ncsc.org/_data/assets/pdf_file/0027/70668/NCSC-Reimagining-Civil-Case-Management.pdf



its civil caseload and identifying strengths and weaknesses in civil case processing. With support from a specially appointed civil case manager, the Court developed civil case pathways for each of the civil calendars. Court administration also developed technology tools to improve communication with lawyers and litigants, and enhanced case management reports to better inform judges about the status of the pending caseloads. **Initial analyses indicated increased attorney awareness of case movement and deadlines; increased judicial and court staff attention to administrative orders and case reports; increased dialogue and buy-in around active case management; and significantly reduced time to disposition for the pending caseload.**

[Civil Justice Initiative Pilot Project \(CJIPP\) Evaluation for Eleventh Judicial Circuit Court of Florida \(Miami-Dade\) \(2019\)](#). This report summarizes findings from an evaluation of the impact of the Civil Justice Initiative Pilot Project (CJIPP) in the Eleventh Judicial Circuit Court of Florida (Miami-Dade). Implementing Civil Case Management Teams (CCMTs) to support four judges in the Circuit Civil Division resulted in **significantly higher case closure rates and reductions in time-to-disposition compared to cases assigned to judges operating with preexisting case management practices. Most attorneys for CJIPP cases agreed that the program improved civil case management, and CJIPP judges reported that the program removed some of the administrative burden of case management, providing more time to gather information about cases, review case details before hearings or deciding motions or other case or legal-related tasks.**

V. Triage and the Cady Family Justice Reform Initiative

In reviewing the potential offered by Civil Triage, the CCJ/COSCA⁵ Committee on Courts, Children, and Families formed the Family Justice Initiative in 2018, renaming the initiative for founding Chief Justice Mark S. Cady in 2021. The State Justice Institute funded the effort to mirror the Civil Justice process, which included analyzing domestic relations caseloads, evaluating pilot projects and other research, gathering stakeholder input, and providing continuous implementation support.

⁵ The Conference of Chief Justices and Conference of State Court Administrators, the highest authorities in state court leadership.



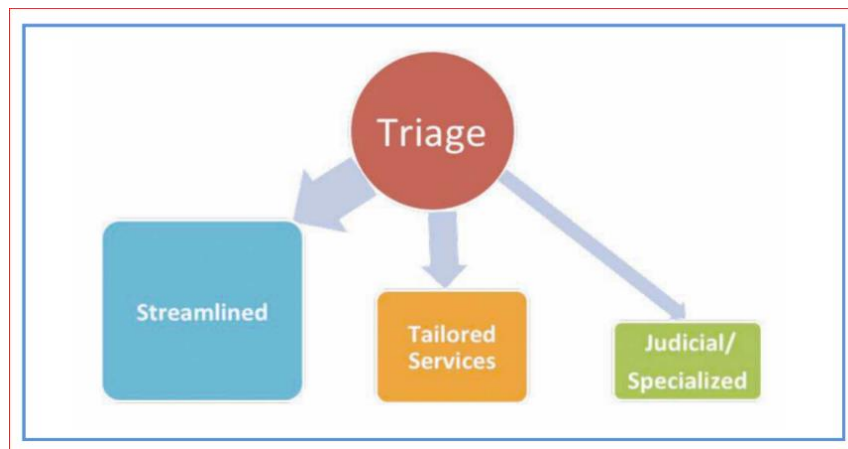
The first step in this process was "The Landscape of Domestic Relations Cases in State Courts." This initial work later led to the publication of the Principles and Model Pathways.

[The Landscape of Domestic Relations Cases in State Courts \(2018\)](#). This comprehensive report presents an in-depth study of family court cases litigation, encompassing case-level, court operations and procedures, and community characteristics. It notes that family cases, such as divorce, separation, and parental responsibility allocation, have unique aspects. Many of these issues are ongoing and evolving, requiring courts to review past incidents to guide future behaviors and relationships. Key findings included:

1. Today's families are less likely to include a married couple.
2. Most litigants don't hire an attorney.
3. Contested and uncontested cases in the study took about the same amount of time to resolve.
4. One in four family court cases reopen, and reopened cases are more likely to involve minor children.
5. Family court data is inadequate and makes it difficult to manage cases.

[Principles for Family Justice Reform \(2019\)](#). At the core of the 13 Principles for Family Justice Reform is a shift towards a domestic relations case processing approach that emphasizes problem solving and cooperation, particularly in cases involving children. These principles can be categorized into four key areas: problem-solving approach, triage of family case filings with mandatory pathway assignments, training and stakeholder partnerships, and data collection, evaluation, and technology innovation. By embracing these principles, the goal is to create a more effective and progressive family justice system that prioritizes resolution, collaboration, and the well-being of all parties involved.

[Model Process for FJI Pathways \(2019\)](#). Building upon the Family Justice Principles, the Model Pathways document provides a comprehensive framework for implementing the flexible triage approach in domestic relations cases. While the Family Justice Principles establish the foundational elements, the Model Pathways document offers specific guidelines for effectively matching parties and cases to appropriate resources and services. It acknowledges the importance of adapting these practices to the unique circumstances and local realities of each jurisdiction. By following the Model Pathways, courts and family justice systems can tailor triage processes to their specific needs while upholding the overarching principles of problem-solving, cooperation, and efficient case management.



[CCJ/COSCA Resolution 4 \(August 2020\), In Support of a Call to Action to Redesign Justice Processes for Families](#). Set forth by the Conference of Chief Justices and the Conference of State Court Administrators, Resolution 4 was directed to state courts across the country, signifying the unified commitment of the highest levels of judicial leadership. It emphasizes the critical need for proactive triage strategies, simplification of processes wherever possible, the essential role of self-help assistance, and the central objective of prioritizing the well-being of families.

VI. Family Justice Demonstration Sites

To evaluate the validity and impact of the aforementioned suggestions, four courts of varying sizes and locations volunteered to implement the Principles and Pathways. This



was done to show their applicability in real-world settings and their influence on crucial results for domestic relations cases. Through collaboration with these pilot sites, the NCSC was able to document the strategies that these courts had already implemented that were in line with the Cady Initiative Principles, as well as to recommend practices that would improve upon case management and services for families.

[King County, Washington \(2020\)](#). With a population of 2.23 million, the King County Superior Court responds to approximately 9,000 Domestic Relations filings annually. The Superior Court follows several strategies aligning with the Family Justice Principles to support families throughout their cases. Notable strategies include problem-solving approaches like the Simple Dissolution program and various case management practices aimed at early resolution. The county has also invested effort in creating user-friendly forms and interfaces and offers quality judicial training through an experienced Family Court staff.

[Miami-Dade County, Florida \(2020\)](#). With a population of 2.76 million, Miami-Dade County in Florida assigns Domestic Relations cases to the Family Court Division of the 11th Judicial Circuit. The Court oversees a range of matters, including dissolution of marriage, paternity/parentage, and adoptions, handling 32,305 Domestic Relations petitions per year on average. The Family Division designed an innovative case management approach, drawing upon technological innovations such as courtMAP, an online management system that enables parties to self-schedule case events and send in documentation, provides automatic hearing notifications/reminders, and allows judges to create and send orders electronically. Miami-Dade also implemented the State of Florida Interactive Access (SOFIA) system in 2020 as a way to allow court users to complete court documents using easy to follow interviews containing plain language questions. Once court documents are completed through the system, they are sent to paralegals for review.

[Cuyahoga County, Ohio \(2020\)](#). In Cuyahoga County with a population of 1.24 million, the Court of Common Pleas, Domestic Relations Division hears cases on divorce, dissolution, custody, child support, and domestic violence. They average approximately 7,700 Domestic Relations filings per year. The court prioritizes fostering healthy ongoing relationships between parties, employing a range of dispute resolution processes within their family courts' Triage System. Judicial officers work in collaboration with lawyers to



assess each case and determine the process that could not only most effectively resolve the case but give parties the tools and understanding to create a foundation for a healthy, ongoing relationship and avoid the need to return to court.

[Pima County \(Tucson\), Arizona \(2020\)](#). The Superior Court of Pima County serves a population of 1.02 million. The Family Law Bench oversees 5,000-6,000 divorce and legal separation, parenting plans, paternity, child or spousal support, and protective orders cases annually. The court embarked on a series of comprehensive reforms in accordance with the Family Justice recommendations. These included revising informational packets and forms, implementing a streamlined pathways approach, conducting additional judicial training on triage and case management, and enhancing data collection and reporting methods. Notably, Pima County's innovation in this area resulted in the development of a case management dashboard, which has gained national recognition for its effectiveness in assisting family judges in preventing family law backlog and meeting state time standards for family law.

VII. Family Justice Triage/Pathways Studies

Within the last year, efforts have intensified to document the success of triage and pathways approaches. This section offers the most recent Family Justice Triage/Pathways studies, exploring their implications across different jurisdictions in the U.S. The focus ranges from handling domestic violence, improving case management efficiency, promoting equity, to developing innovative triage processes.

[Implications of Domestic Violence within a Pathways Approach in Connecticut \(NCSC 2023\)](#). This study evaluated the implications of domestic violence within a Triage Pathways Approach in Connecticut. **Though preliminary in nature, early indications suggest that the approach assists in identifying risk and violence earlier in the process, and when identified, the court is responding appropriately.**

The Connecticut Judicial Branch has been a forerunner in family court innovations, pioneering a triage process to match resources with family needs over a decade ago. Once Connecticut put in place a new triage tool and “Pathways” approach in 2021, they sought



out this study to consider how the new Pathways Triage and Resolution Plan Date (“RPD”) processes were responding to intimate partner violence.

Though data were limited, this study indicated that the RPD process assisted in bringing parties and issues to the attention of the courts sooner. Further, when intimate partner violence was identified as an issue, the court provided more intensive services to protect individuals at risk of violence. Through the Triage Pathways Approach, at-risk families were placed on a path that provides additional services and procedural safeguards for their well-being and security. For example, where there was a protective order in place, cases were more likely to be recommended for an issue focused evaluation (18.3%), the early intervention program (15.1%), comprehensive evaluation (14.7%), general case management (10.2%), or a family pre-trial (8.2%).

[An Efficiency Analysis of Case Data from the Massachusetts Trial Court \(NCSC 2023\).](#)

The Efficiency Analysis focuses on the Cady Triage/Pathways model implemented in Massachusetts. The Pathways program aimed to streamline the handling of family and domestic relations cases that were previously been disposed of. In collaboration with the National Center of State Courts, court staff developed new processes to identify post-decree case needs earlier and manage cases according to Pathways. **Preliminary findings suggest that this approach contributes to increased efficiency as well as satisfaction among judges, staff, and parties involved. Notably, Pathways cases have a shorter median time to reach judgment (146 days) compared to Non-Pathways cases (162 days). Additionally, Pathways cases exhibit a shorter median time to the first event (67 days) compared to Non-Pathways cases (82 days). NCSC also found that despite having more events scheduled and held, Pathways cases tended to reach judgment quicker and were less likely to go to trial.** The triage process, intended to identify party needs early in the process is an effective vehicle for meeting those needs and resolving cases.

[Triage and Case Management Improvements: A Preliminary Look at Impacts in the Family Division of the Eleventh Judicial Circuit Court of Florida \(Miami-Dade\) \(NCSC 2023\).](#)

In 2021, the 11th Circuit Family Division in Miami, led by the Honorable Samantha Ruiz Cohen, re-initiated a triage/pathways approach in the Family Division. The 11th Circuit aimed to decrease judicial caseloads, enhance case preparation, and expedite resolution times, among other objectives. This involved implementing a Streamlined Track and



creating a [11th Judicial Circuit Family Division Case Management Manual](#) to optimize case processing. A critical aspect was the identification of cases suitable for the Super Streamlined process via a comprehensive analysis of various case types. To aid case management, the NCSC recommended tools like the "Super Streamlined Report," which identifies cases ready for expedited judicial review.

The new procedures were implemented in February 2023. Early feedback indicates enhanced efficiency and satisfaction. Positive trends include expedited processing of Uncontested (UCD) cases and improved case progression due to proactive scheduling. The changes promise to allow judges to focus more on specific case needs, improving overall efficiency. Future efforts will monitor the model's performance, expecting further improvements as the model matures.

Johnson County, Kansas. In Johnson County, a significant development has been the design of a set of triage questions that are now incorporated into the filing process. These questions serve to assess the specific needs and circumstances of the parties involved. The Court has approved a rule to ensure the confidentiality of the answers provided. This innovative triage process was implemented in April 2023 and has garnered positive feedback from judges, staff, and community service providers. Johnson County remains committed to evaluating the usability and efficiency of this process, aiming to further enhance its effectiveness in facilitating fair and timely resolution of cases.

Maricopa County (Phoenix), Arizona (publication Winter 2023). The objective of this endeavor was to establish clear and objective criteria that serve as the foundation for data-driven decision-making. The aim was to identify cases that would benefit from early intervention, such as non-adversarial dispute resolution processes and self-represented litigant services. Additionally, the criteria would help identify cases that are likely to require more extensive resources and time. The insights gained from this study are expected to be valuable in effectively distributing workloads among judicial officers, ensuring maximum benefit to litigants in Maricopa County, and potentially serving as a model for other family courts nationwide.



VIII. The Future of Family Court Case Management

A significant leap forward in Family Court Case Management was made with the initiation of the Automation of Family Triage phase in 2022. Pioneering this change, a detailed data analysis was carried out in Johnson County, Kansas. The goal? To pinpoint what essential triage information could be gleaned solely from a petition and response.

The momentum picked up with an official project launch at the eCourts conference in December 2022. There, the proposal was unveiled before a national court technology audience. This marked the beginning of dynamic partnerships with sites in Nevada, Miami-Dade, and Kansas, and led to a national agile lab, where partners collaborated to sculpt the requirements for a transformative national prototype.

Nevada was identified as the statewide flagship site, to utilize a triage approach to support Nevada's current efforts to assist the self-represented with guided interviews and e-filing in dissolution and protection order matters. This integrated approach would yield a dissolution petition (and response) complete with a preliminary Pathway determination, subject to judicial review.

Drawing from the demonstrated success of the triage model in multiple settings, the upcoming evolution of family triage, or "Triage 2.0," is set to focus on service delivery. Through the use of technology, inter-organizational collaboration, and effective judicial management, courts will be able to more effectively connect families with the resources they need for case resolution. The next phase will be dedicated to identifying the specific services needed by families, determining the availability of these services within the community, and exploring what steps are necessary to make them accessible. The nationwide expansion will involve convening national technical assistance providers and court experts who will play a crucial role in promoting the model, advising on family services, and assisting local courts in seamless integration.

The studies above illustrate the transformative potential of the family triage model. NCSC is eager to collaborate with interested courts to improve the efficiency of case management processes, reduce judicial workload, and better serve families in need.

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