STANDING ORDER 1-10

SPECIAL PROCEDURES FOR CASES INVOLVING CHILDREN

Preamble

The Hampshire Division of the Probate and Family Court is committed to a child-focused procedural model for all cases involving children and has developed a pilot project for this purpose.

This Standing Order applies to all cases involving children filed in the Hampshire Division and will be liberally construed and applied to establish, ensure and support child-focused parenting and care giving, professional conduct and court procedures by and for families served by this Court.

The purposes of the child-focused model are as follows:

- to provide early opportunities for parents and care givers to learn the effects of hostile litigation on children;
- to provide early opportunities for non-adversarial planning of all unresolved issues;
- to establish a problem-solving environment in which each parent, care giver and attorney is expected to be a problem solver; and
- to establish an atmosphere in which parents and care givers are encouraged to experiment responsibly with multiple child care models as they observe children's adjustment to parenting in two households.

A. Application of the Rule

This Standing Order applies:

1. to all cases involving children filed in the Hampshire Division, including Divorce, Separate Support, Paternity, Support/Custody/Visitation, Modification, Contempt, Guardianship and Termination of Parental Rights; and

2. to all attorneys, parents and care givers involved in each such case. A "care giver" is a party to a case who is either a guardian, potential guardian, grandparent seeking visitation, de facto parent or person seeking de facto parent status.

B. Domestic Violence and Application of the Rule

Parents, care givers and attorneys will not be expected to adhere to the requirements of Paragraph E of this Standing Order if there is an abuse prevention order in effect.

C. Introductory Letter

1. After the commencement of an action, the Court will send an Introductory Letter to each parent, care giver or to the attorney representing each parent or care giver.

2. The attorney, upon receipt of the Introductory Letter, shall provide the original letter to his or her client.

D. Duties of Attorneys, Parents, Care Givers and the Court

1. Problem solving

   Attorneys, parents and care givers shall make all efforts to solve problems before seeking the decision making intervention of the Court and shall seek that intervention only as needed.

2. Conduct

   Parents, care givers, attorneys and the Court shall consistently observe the following conduct:

   a. consistent, focused attention on each child's needs including maintaining an awareness that children suffer when their parents or care givers fight about them;

   b. consistent, focused attention on each parent or care giver's needs, including maintaining an awareness

      i. that children will be well served if each parent or care giver's ability to provide safe, healthy and responsible parenting time with the children is supported by each parent or care giver;

      ii. that children will be well served if there is reasonable financial security in each household; and

      iii. that children will be well served if parents or care givers are able to resolve conflicts in a constructive manner.

3. Resources

   a. Attorneys shall inform their clients about resources available for counseling, mediation, conciliation or other assistance to help parents, care givers and children improve their relationships and functioning, and to adjust to the realities of parenting or care giving in two households.

   b. The Court shall maintain and make available to the public information about the following court-related resources, which parents are encouraged (and may be ordered) to use:

i. Parenting websites

- www.uptoparents.org
- www.proudtoparent.org

ii. Mediation/Conciliation

- Hampshire Introductory Mediation Program
- Hampshire Conciliation Program

iii. Referrals to bar association lawyer referral services and the Massachusetts Justice Project.

4. Planning

Parents, care givers, attorneys and the Court shall engage in consistent and, if necessary, repeated attempts to improve the circumstances of the children by cooperative planning on each relevant issue at each stage of the court process.

5. Administrative Efficiency

The Court shall establish an administrative process to accept full written agreements for temporary orders without the necessity of a hearing.

E. Introductory Meeting

1. General Requirement

All parties and attorneys shall schedule and participate in an Introductory Meeting at a time and place to be agreed upon by the attendees which shall take place as set forth below and, except in an emergency, no less than two days prior to a motion hearing.

The Introductory Meeting shall take place no later than forty-five days after the filing of an Answer or other relevant responsive pleading.

2. Content and Process of the Introductory Meeting

Attendees at the Introductory Meeting shall:

a. explore whether the parents or care givers need assistance gaining access to resources that could help them resolve the open issues or improve relevant relationships or functioning, and adjust to the realities of parenting or care giving in two households;

b. confirm, if applicable, whether the parents or care givers have completed their website work, and if so, discuss the Agreed Commitments reached;

c. work on a parenting or care giving plan;

d. identify

i. issues that require immediate resolution;

ii. issues that require additional planning prior to resolution;

iii. tasks to be performed as to each issue;

iv. person(s) responsible for completing each task; and

v. the completion date for each task.

e. attempt to resolve all issues that require resolution by the parties;

f. confirm that each parent has complied with the parent education program required of them; and

g. write, for presentation in court, any agreements or partial agreements achieved by the parties in the Introductory Meeting.

3. Facilitation Services

The family service resources of the Probation Department of the Court are available to assist in (a) facilitating the Introductory Meeting or any follow-up meeting, (b) suggesting resources available to the parents and care givers, and (c) writing any agreements or partial agreements reached in any meeting. In order to make use of these resources, the parents or care givers or counsel shall, in sufficient time to be in compliance with the scheduling requirements of this Standing Order, make an appointment with the Probation Department for assistance on a day before the date on which a motion or Case Management Conference is scheduled to be heard.

4. Non-Compliance

If parents or care givers and/or attorneys representing each parent or care giver fail to comply with the requirements of the Introductory Meeting, they shall be prepared to report to the Court the reasons therefor. In the event of an unexcused non-compliance, the Court has the discretion to refuse to hear the motion, alter the Case Management Order and issue sanctions, including but not limited to attorney's fees.

5. Follow Up Meetings

A follow-up meeting shall be held upon the request of any attorney or self-represented parent or care giver at any time, and at least two days prior to any hearing on each subsequently filed motion. Such a follow-up meeting may be

held in person or by conference call, and shall, as applicable, address the same issues addressed in the Introductory Meeting.

6. Summary of Cooperative Efforts

Parents, care givers and attorneys, in compliance with the Pre-Trial Notice and Order, shall present at the Pre-Trial Conference a summary of the steps they have taken under this Standing Order toward the cooperative resolution of the unresolved issues.

F. Training

The Court, in collaboration with the Hampshire County Bar Association, shall offer training to attorneys on such topics as:

- representing children, parents and care givers in the context of this Standing Order;
- special skills needed to represent children, parents and care givers in the context of this Standing Order;
- processes developed in this Court and other Courts to carry out the purposes of the Standing Order; and
- ethical considerations in representing children, parents and care givers.

4/7/10
Date

Paula M. Carey, Chief Justice