

4. District Court Transmittal No. 724, December 16, 1999, “Highlights of new District Court Rules for Probation Violation Proceedings”(Rules not attached)



**Trial Court of the Commonwealth  
District Court Department**

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Chief Justice

TRANSMITTAL NO. 723

Last Transmittal No. to:

Presiding Justices	<u>722</u>
Other Judges	<u>722</u>
Clerk-Magistrates	<u>718</u>
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PRESIDING JUSTICES: *Please distribute copies (enclosed) of this memorandum to the Clerk-Magistrate and Chief Probation Officer of the court. Other Judges will receive their copies directly from this office.*

**MEMORANDUM**

TO: All District Court Judges, Clerk-Magistrates and Chief Probation Officers  
FROM: Chief Justice Zoll  
DATE: December 16, 1999  
SUBJECT: New District Court Rules for Probation Violation Proceedings

I enclose a copy of the new District Court Rules for Probation Violation Proceedings, which were approved by the Supreme Judicial Court on December 2, 1999. The rules have an effective date of Monday, January 3, 2000. I construe this to mean that the rules apply to all probation violations that are formally alleged on or after that effective date. See Rule 2, first sentence. (Thus, it is the date of service of the notice of violation, not the date of the alleged violation, that controls.)

The Supreme Judicial Court's approval of these rules marks the culmination of a four-year process of research, development, drafting, public comment and revision. As you know, preliminary drafts of the rules were a focus of discussion at the annual Williamstown judicial conferences in 1996 and 1997. And the proposed draft was the subject of a series of three regional judicial seminars in the spring of 1998. Much was learned through this process of comment and debate, which involved the entire District Court judiciary. The final draft was prepared and sent to the Supreme Judicial Court last year, and was subsequently published for comment by the Court. The comments received were the basis for final revisions.

This lengthy, careful and deliberate process has been warranted by the importance of the topic, namely, the adjudication and disposition of alleged violations of probation. Given the critical importance of these procedures, I consider the promulgation of these rules to be among the most important events in recent years in the District Court.

I am grateful to all of the Judges whose active participation in the Williamstown discussions and regional conferences served to strengthen the consensus that I believe the rules represent. I am particularly grateful to the Judicial-Probation Task Force on Probation

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Violation Proceedings, whose hard work in preparing the original draft and revisiting the rules throughout the period of development has resulted in a product of which we can all be proud.

The Task Force members are: Co-Chairs: Hon. William W. Teahan, Jr. (Springfield District Court) and Ronald P. Corbett, Jr., Deputy Commissioner, Office of the Commissioner of Probation; Members: Sheila A. Dintaman, Probation Officer (Greenfield District Court); Joseph C. DiVito, Assistant Chief Probation Officer (Lynn District Court); Dolores R. Gormley, Probation Officer (Salem District Court); Hon. Timothy S. Hillman (Superior Court, formerly Worcester District Court); Hon. Joan E. Lynch (Barnstable District Court); Hon. James M. Quinn (New Bedford District Court); Stephen P. Santora, Assistant Chief Probation Officer (Westborough District Court); Hon. Sarah B. Singer (Circuit Judge); Michael A. Walsh, Chief Probation Officer (Quincy District Court); and Hon. Milton L. Wright (Roxbury District Court). John M. Connors, Deputy Court Administrator, Administrative Office of the District Court, as always, served ably as staff for the Task Force.

The Task Force will remain in operation to consider additional issues of District Court probation practice and procedure on an ongoing basis.

We will not be able to conduct a formal education seminar on the rules prior to their effective date. **However, such a program for judges is being planned and will be presented at an all-day conference on February 11, 2000 at the Sheraton Four Points Hotel in Leominster.** More information about this seminar and training materials will be forthcoming. Other educational meetings will involve probation personnel, and judges and probation personnel together. Until then, and in preparation for the rules' effective date, it is essential that every Judge and Chief Probation Officer study the rules carefully. In addition, each Presiding Justice should meet with the Chief Probation Officer and Clerk-Magistrate of the court and review the administrative duties that the rules impose, particularly regarding the coordination necessary in order to serve the Notice of Probation Violation and Hearing at arraignment when a probationer is charged with a new crime in the same court where he or she is on probation (Rule 3 (b)), and the procedures necessary when a defendant who is before the court on a new criminal charge is on probation in a different court (Rule 3 (c)). These procedures will be discussed at the February 11 conference and in materials to be distributed prior to the conference.

I also plan to distribute a set of preliminary forms prior to January 3, 2000. These forms will be finalized following some initial experience with the rules.

It is important to note that much of what the rules require has already been adopted in

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many courts by informal adherence to the draft rules and relevant case law, and that differences between the final draft and the rules as revised and approved are limited in number (see attached memorandum). As a result, I hope that compliance with the basic requirements of the rules will not present great difficulty.

However, the rules, while comprehensive, are not self-executing. They resolve several fundamental, long-standing procedural issues, but their full implementation will require careful coordination at the local level, especially regarding the duties of probation officers in preparing and presenting these cases. These issues will be discussed on February 11 and will be the subject of subsequent training.

These rules represent a challenge to the District Court in our continuing efforts to clarify and improve our procedures and to ensure the proper administration of justice. For District Court judges in particular, the rules will require a heightened sense of procedural timeliness and attention to detail. I am confident that, as with past efforts, we will meet this challenge.

**As I would like substantially all District Court Judges to be present at the February 11 conference, I ask Presiding Justices to please reschedule court business that is assigned that date.**

SEZ:cd  
Enclosure