TRANSMITTAL NO. 622

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Trial Court of the Commonwealth
District Court Department

SAMUEL E. ZOLL
Chief Justice

HOLYOKE BUILDING
HOLYOKE SQUARE
SALEM, MASSACHUSETTS 01970-3390

Telephone
508/745-9010
FAX
508/745-9019

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: November 6, 1996
SUBJECT: Out-of-State Domestic Violence Restraining Orders

The enclosed memorandum from Chief Justice John J. Irwin, Jr. sets forth the new statutory procedural requirements for filing out-of-state domestic violence protective orders. These statutory requirements implement the "full faith and credit" provisions of St. 1996, c. 298, "An Act Relative to the Crime of Stalking."

This new law, including the provisions for filing and enforcement of out-of-state orders, is effective on November 7, 1996. A copy of the new law is attached to Chief Justice Irwin's memorandum. See also my memorandum of October 4, 1996 (Transmittal No. 616).

Also attached to the enclosed memorandum are procedures issued by the Commissioner of Probation to all probation departments for recording out-of-state orders on the Massachusetts Registry of Civil Restraining Orders. Obviously, these procedures for entering out-of-state orders into the Registry are critical to the proper implementation of the law and must be followed carefully by probation personnel.

Proper implementation of this new law will also require the following step-by-step procedures by all *Clerk-Magistrates*:

1. The plaintiff must present the Clerk-Magistrate with a certified copy of the out-of-state order. G.L. c. 209A, s. 5A.

2. The plaintiff must file an affidavit sworn under oath that, to the best of his or her knowledge, "such order is presently in effect as written." G.L. c. 209A, s. 5A. *A form affidavit is enclosed with this memorandum.*

3. Upon receipt of the order and affidavit, *the Clerk-Magistrate must assign as a docket number the "FF" (full faith) number that will be used by probation.* The usual "RO" docket number for Massachusetts cases should *not* be assigned.

As indicated in the enclosed memo from the Commissioner of Probation, the "FF" number is determined as follows:

- The first two characters consist of the State Postal Code abbreviations for the state which originally issued the order. (See list of codes on the last page of Probation Commissioner's memo of October 30, 1996, attached hereto.)

- The second two characters (or three if appropriate) consist of the court number of the Massachusetts court where the out-of-state order is being filed.

- The next six characters consist of the date the certified order is filed with the Massachusetts clerk or register (YYMMDD).

  E.g.: An order from New Hampshire filed at the Clerk's Office at court 52 on December 1, 1996 would have the docket number NH52961201.

- In the unlikely event that a court receives two out-of-state orders from the same state on the same day, the clerk-magistrate should add a hyphen and the appropriate two-digit designation to distinguish them, e.g., "-01," "-02," etc.

4. The Clerk-Magistrate should promptly record the "FF" number on the order, prepare a file folder with that same number, place the affidavit in the folder and give the order to the Probation Department for entry into the Registry. The order should be given to probation as soon as possible, and *no later than the end of the same day it is received by the Clerk-Magistrate.*

5. Following probation entry into the Registry, the Clerk-Magistrate should be sure to get the order back from probation and place it in the file folder, with the affidavit.

6. These "FF" files should be maintained separately from other files. Note that if the person filing the order requests impoundment of his or her address, that address will have to be protected from public access. G.L. c. 209A, s. 8.

7. While no separate docket sheet is needed in each file (there will be no court action on the matter), a list of such cases should be maintained showing the file number and plaintiff's name.

* * *

Clerk-Magistrates and Chief Probation Officers should review these procedures

carefully with the personnel who will be assigned to perform them. It is particularly important that Clerk's office personnel and probation personnel communicate and coordinate their efforts to ensure that out-of-state orders are promptly and properly received, entered into the Registry and filed.

Please contact John Connors at this office regarding any questions you may have on the law or the required procedures.

Thank you.

SEZ:cd
Enclosure