



Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Youth Services

EMERGENCY GUIDANCE RE: VIRTUAL COURT HEARINGS

This Guidance is issued to respond to the emergent issues related to the COVID-19 pandemic resulting in the closure of courts to the public and the need for telephonic or video hearings of emergency matters as defined by the Juvenile Court Standing Order 3-20 (“Standing Order”). This Guidance is intended to be time limited and will be reviewed two weeks from the effective date. This Guidance is issued based on the current best practices for containment of COVID-19 issued by the Massachusetts Department of Public Health and the Centers for Disease Control. DYS reserves the right to rescind or modify this Guidance at any time if it determines the health and safety of youth, staff or the public are at risk, or to comply with state and federal guidance.

Juvenile Court Standing Order 3-20 and Emergency Hearings

The Juvenile Court Standing Order mandates the only matters to be heard by the Juvenile Courts are those defined as “emergencies” in the Standing Order. These emergency matters may only be heard by videoconference or teleconference, at least until April 6, 2020. The only Delinquency and/or Youthful Offender matters defined as “emergencies” under the Standing Order are arraignments for youth held overnight (ONA youth), 58A Dangerousness hearings, and motions for reconsideration of bail for youth detained as the result of a bail revocation, pending delinquency and youthful offender matters, or pending probation violation hearings. According to the Standing Order, motions for reconsideration of bail are to be scheduled for hearing as soon as possible. Otherwise, all pending matters will be heard after May 4, 2020. This Standing Order is to remain in effect until superseded by a subsequent Standing Order.

Protocol for Arranging ONA Arraignments and 58A Hearings

Each morning, by 7:30 a.m., the ONA Programs will send the Overnight Arrest Placement Report for each youth received the prior night to Heidi Pihl-Buckley, DYS’ Director of Overnight Arrest Placements. All information about a youth dropped off from the referring police department, including but not limited to any police reports, should also be forwarded to Heidi Pihl-Buckley as soon as possible.

Once the Director of DYS’ Overnight Arrest Placements receives the information from the ONA Programs, she will forward these materials to Cecely Reardon, DYS General Counsel, who will make arrangements for the youth to be assigned counsel. General Counsel Reardon will forward the relevant paperwork for each youth to the Committee for Public Counsel Services Youth Advocacy Division (CPCS-YAD) Director for the relevant county as well as to the Private Counsel Juvenile Supervising Attorneys (JSAs) for the county. In this email to CPCS-YAD and the JSAs, General Counsel Reardon will provide the youth’s location and will identify and copy the Regional Point person responsible for coordinating the virtual hearing. The Regional Point person responsible for coordinating the hearing is the Regional Point Person identified **for the youth’s home region (see list on third page)**. The Regional Point Person will coordinate with Assigned Counsel and the relevant court, as well as

Effective March 30, 2020

communicate with the Regional Point Person where the youth is placed and/or where the Juvenile Court is located to ensure clarity and consistency of response.

Consistent with the Emergency Guidance issued on March 17, 2020, regarding Attorney Access to Clients, Assigned Counsel will contact the ONA Program where the youth is held to arrange to speak or meet with their client. If Assigned Counsel chooses to meet in person with their client, counsel will be permitted to bring their cell phone and laptop into the program to facilitate their representation.

Assigned Counsel will also communicate with the ADA assigned to juvenile matters to determine whether there will be a request for bail. Where there is no request for bail, the arraignment will be postponed, and the youth will be released, as long as there are no other holds on the youth. Youth who have warrants from multiple courts will need to have all warrants recalled prior to release. Should the youth be eligible for release, Assigned Counsel will inform DYS' Regional Point Person and work with the Regional Point Person and relevant Clerk to ensure that DYS receives appropriate documentation (i.e. docket sheet) to confirm release.

Should there be a request for bail and/or a 58A Dangerousness Hearing, the Regional Point Person will coordinate with the relevant Juvenile Court and parties to schedule a hearing. As described above, the coordinating Regional Point Person will communicate with the Regional Point Person for the region where the youth is placed and/or where the relevant Juvenile Court is located to make the appropriate arrangements.

Arraignments and 58A Hearings

Virtual hearings shall take place in an area of the ONA Program that affords the youth the greatest degree of confidentiality while still ensuring safety and security. Staff will not participate in the hearing unless explicitly asked for information by the Judge or Clerk conducting the proceeding. Staff should be prepared to accommodate pauses in the hearing to allow for youth to consult confidentially with their attorneys. Additionally, staff should anticipate that youth and attorneys will need to consult both before and after the hearing, so please be prepared to accommodate those confidential conversations.

While scheduling, the DYS Regional Point Person should ask the Court and Assigned Counsel whether arrangements have been made to include the youth's parent or legal guardian in the proceedings. The Courts have been very clear the conference call numbers provided for hearings are not to be shared. Assigned Counsel should take the lead with the Court on facilitating parent/legal guardian involvement. At the conclusion of the hearing, staff will make an entry in JJEMs that reflects a hearing was held; the time and date of the hearing; and whether the youth was released or held. For youth already committed to DYS, this information will be in a Case Management note. For youth who are not otherwise committed to DYS' custody, this information is to be noted in the text box on the Permanent Placement Log.

ONA staff will also communicate the outcome of the hearing to the Regional Point Person. The Regional Point Person will be responsible for uploading any documentation received from the Juvenile Court in JJEMs. No other information about the hearing is to be recorded or uploaded to JJEMs and any paper copies of police reports or other documents related to the proceeding must be shredded after the hearing has concluded.

Emergency Bail Hearings

As stated above, the Standing Order specifically allows attorneys to ask the Juvenile Courts, on a case by case basis, for a bail hearing for clients held on pending Delinquency and Youthful Offender matters, including probation violations. Additionally, youth always have the right to file a Bail Appeal in the Superior Court. CPCS-

YAD has been asked to notify DYS' General Counsel, should attorneys file such requests, in either the Juvenile Court or Superior Court; however, it is likely that DYS may also be contacted directly by the relevant Court. These hearings should be scheduled and conducted in the same manner as Arraignments and 58A Hearings.

If any attorney or court directly contacts the program where the youth is held for scheduling, that program should immediately direct the court to their Regional Point Person who will coordinate with the Regional Point Person for the youth's home region.

Release of Youth

Prior to releasing a youth, DYS must have some evidence the youth is eligible for release. Where an arraignment is postponed because there is no request for bail or no bail is set, the Regional Point Person must work with Assigned Counsel and the relevant Court to obtain documentation as soon as possible.

Where the youth's release is subject to release on a GPS, the Regional Point Person must coordinate with the youth's parent/guardian, the Clerk, Probation and DYS transportation to bring the youth to the location identified by the Court for the GPS to be attached and bail to be posted.

Where the youth may only be released to DCF, the Regional Point Person must coordinate with the relevant DCF Office. Although DCF Offices close at 5 p.m. the DCF hotline is available 24 hours per day. If the Regional Point Person is unable to reach anyone in the youth's assigned DCF Office during business hours or is unable to reach the Hotline, the Regional Point Person must notify the DYS General Counsel's Office.

Regional Point People

Central Region: Henry Ramos (girls); Lenny Beatty (boys); each backs up the other;

Metro Region: Lynne Allen (ONA); Steve Geter (detained youth);

Northeast Region: Nick Bound; John Bates (backup);

Southeast Region: Maria Rodriguez; Craig Curtin (backup);

Western Region: Andy Calvanese; Patrick Landers; Steve Goncalves (backup)