



Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Youth Services

EMERGENCY GUIDANCE RE: ATTORNEY ACCESS TO CLIENTS

This Guidance is issued to respond to emergent issues related to the COVID-19 pandemic that may impact attorney access to DYS state and provider operated programs. This Guidance is intended to be time limited and will be reviewed two weeks from the effective date. This Guidance comports with 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 that the public health or the health and safety of youth and staff are at risk, or to comply with state or federal guidance.

In Person Visits by Attorneys

Attorneys will continue to have in person access to clients in all DYS state or provider operated programs, consistent with the right to counsel as recognized in the Sixth Amendment to the United States Constitution and Article 12 of the Massachusetts Declaration of Rights and relevant caselaw.

Due to safety and security concerns attendant to the pandemic, attorneys are required to call the program to make specific arrangements to visit their clients. During this call, an attorney must be informed whether their client is subject to quarantine so that alternative arrangements can be discussed.

Additionally, due to safety and security concerns attendant to the pandemic and consistent with the Supreme Judicial Court's Order Regarding Access to State Courthouses and Court Facilities issued March 13, 2020:

- Attorneys will be asked a series of screening questions prior to admission.
- Attorneys who may have been diagnosed with COVID-19 or who have had contact with anyone who has been diagnosed with coronavirus; attorneys with apparent symptoms of coronavirus, such as fever, severe cough or shortness of breath; attorneys who have been asked to self-quarantine by any doctor, hospital, board of health, or other medical provider or health agency, or who reside with anyone who has been asked to self-quarantine, shall not be admitted entry into any DYS state or provider operated programs.
- Attorneys who have traveled to [COVID-19-affected geographic areas](https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html) (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html>) within the last 14 days shall not be admitted entry into any DYS state or provider operated program.
- Attorneys who reside or have close contact with someone who has traveled to the above-listed countries shall not be admitted entry into any DYS state or provider operated program.

Effective March 17, 2020

Verbal Communication with Attorneys

Attorneys are encouraged to remain in contact with their clients by telephone. To ensure that youth are able to engage in confidential conversations with their attorneys, programs shall identify a location for phone calls to take place where the youth remains in line of site of staff and can be supervised, without the staff overhearing the conversation. Consistent with existing telephone protocols, staff shall dial the attorney's number and confirm that the appropriate party has been reached before putting the youth on the telephone.

In order to accommodate the likely increased volume of calls at this time, programs shall provide multiple opportunities throughout the day and evening for attorney calls. Any decision to limit the number or duration of attorney calls for particular youth, or generally, must be discussed with the DYS General Counsel prior to implementation.

Revocation Proceedings

Attorneys representing youth in revocation proceedings shall be offered the option to participate in the hearing by telephone. Should an attorney choose to participate by phone, the youth shall be provided a confidential opportunity as described above to consult with their attorney prior to the hearing and afforded any breaks requested to consult confidentially with their attorney during the hearing.

If you have any questions or require additional information, please contact General Counsel Cecely Reardon (cecely.a.reardon@state.ma.us or 617-595-9569).