

Massachusetts Juvenile Court

# **FAMILY TREATMENT COURT OPERATIONAL MANUAL**



*A supportive and therapeutic approach to recovery  
focused on reuniting families*



Massachusetts Juvenile Court  
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This operational manual articulates the core agreements made by a group including members of the Trial Court, Juvenile Court, Department of Children and Families (Legal and Clinical), the Committee for Public Counsel Services – Children and Family Law (Legal and Clinical), the Private Bar, and the Department of Public Health – Bureau of Substance Addiction Services and Bureau of Family Health and Nutrition. The Family Treatment Courts will engage in multi-layered, ongoing evaluation which will guide further refinement.

The PATHS Family Treatment Court project (Prevention and Treatment for the Health and Stability of Children and Families)<sup>1</sup> is a component of the *Pathways* initiative of the Administrative Office of the Juvenile Court. This project is informed by the Family Treatment Court Best Practice Standards issued by the Center for Children and Family Futures and the National Association of Drug Court Professionals<sup>2</sup>.

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<sup>2</sup> Center for Children and Family Futures and National Association of Drug Court Professionals. (2019). Family Treatment Court Best Practice Standards. Prepared for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Office of Justice Programs (OJP), U.S. Department of Justice (DOJ).

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## WELCOME TO THE FAMILY TREATMENT COURT

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The Family Treatment Court (FTC) is a unique voluntary Juvenile Court session to provide therapeutic support to families where parental substance misuse affects parenting. It is open to parents (over age 18) who have a Care and Protection (CP) case pending in the Juvenile Court.<sup>3</sup>

The goal of the Family Treatment Court is to provide access to structured, supportive treatment services and judicial oversight to allow a Participating Parent to achieve stable recovery from substance use disorder, reclaim a life of meaning and purpose, and to build a brighter future for themselves and their children. The Family Treatment Court assists children, parents and family members in accessing the services they need for the family to reunify. We use a Recovery Capital model which focuses attention not just on substance use disorder, but also on physical and mental health, housing and food security, community support and connection.

The Family Treatment Court is a collaborative effort of the court, substance use disorder and mental health treatment providers, the Department of Children and Families (DCF), the Committee for Public Counsel Services (CPCS), and health and community social services. The Family Treatment Court team works to provide early access to comprehensive care, including peer support, with the goal of helping families achieve and maintain reunification.

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<sup>3</sup> For the period the FTC is supported by grant # #15PJDP-21-GK-04497-DGCT awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Per 34 USC § 10612, any court that receives funds under this program may not permit participation by violent offenders. 34 USC § 10613 (a) defines a 'violent offender' as a person who is (1) charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct (A) the person carried, possessed or used a firearm or dangerous weapon; (B) there occurred the death of or serious bodily injury to any person; or (C) there occurred the use of force against the person or another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or (2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

## SJC STANDARDS ON SUBSTANCE USE DISORDERS AND MENTAL HEALTH CONDITIONS

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This initiative incorporates the principles of the Supreme Judicial Court (SJC) Standards on Substance Use Disorders and Mental Health Conditions<sup>4</sup> which delineate that Courts should be aware of and be guided by the following principles in responding to behavioral health needs:

1. Substance use disorders and mental health conditions are complex and chronic conditions that affect brain function and behavior.
2. Substance use disorders and mental health conditions often co-occur.
3. Substance use disorders and mental health conditions are treatable. No single treatment is appropriate for everyone. Medications are an important element of treatment for many individuals.
4. Trauma is highly prevalent among court-involved people, and the impact of trauma is a contributing factor to both substance use disorders and mental health conditions.
5. Intervention at the earliest point possible improves outcomes for people with substance use disorders and mental health conditions.
6. Recovery from substance use disorders and mental health conditions is a process unique to each individual. Multiple pathways are necessary to meet individual needs.
7. Recurrence of use and/or symptoms is common. Recurrence presents an opportunity to reset treatment and recovery planning and goals.
8. Stigma is a significant reason why individuals do not seek treatment and support. Court responses must prioritize eliminating stigma.
9. Inequities and disparities exist in both the legal and behavioral health systems. Race, gender, sexual orientation, cultural and language needs, as well as economic status may be barriers to accessing effective care. Judges should be aware of individual and structural biases and should make efforts to eliminate them.
10. Addressing equity issues requires an understanding of the root causes of outcome disparities within our society. All persons interacting with the court should be treated fairly, equitably, and impartially.

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<sup>4</sup> Supreme Judicial Court Standards on Substance Use Disorders and Mental Health Conditions. Mass.gov. <https://www.mass.gov/law-library/supreme-judicial-court-standards-on-substance-use-disorders-and-mental-health-conditions>

11. While courts and community partners have distinct roles, collaboration is vital in serving the court-involved population with substance use disorders and mental health conditions.

## **FTC OPERATIONAL TEAM**

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1. The FTC Operational Team is a group of local professionals who are responsible for overseeing operations of the FTC and engaging in comprehensive case management for the Participant.
2. The Operational Team includes the FTC Judge, FTC Coordinator, FTC Clinician, Probation Officer (PO)/APO, DCF SUD Specialist, Project NORTH Recovery Support Navigator, Treatment Provider, and Recovery Coach. The Team may also include other community partners.
3. Each member of the Team and Team Meeting Participants agree to maintain the confidentiality of the Team Meetings.
4. The FTC Operational Team for each Participant will meet immediately prior to the FTC Court Session. Attorneys for each party to the case will join the Operational Team for the Team Meeting. The Participating Parent does not attend the Team Meeting.
5. Others may provide input to the Team Meeting via the FTC Coordinator and/or FTC Clinician.

## **TEAM MEETINGS/STAFFINGS**

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Prior to each FTC court review, the Operational Team members attend a pre-court meeting in preparation for the hearing, sometimes referred to as a “Staffing”. During the meeting, the Operational Team discusses the Participant’s progress as well as the needs of the family. The team members report information critical to the Participant’s recovery and reunification of children; identify Participant behaviors that warrant a response; and recommend to the judge a coordinated response to Participant behavior. Counsel for the Participant and any social workers hired by CPCS counsel, DCF counsel and DCF social workers are encouraged to attend the team meeting and FTC court hearing. All other counsel in the CP may attend the team meeting, but not the parties. The Participant does not attend the meeting but is required to attend the FTC hearing.

## **FAMILY TREATMENT COURT HEARING<sup>5</sup>**

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The FTC hearing occurs on the same day, immediately after the team meeting. Court hearings take place approximately every other week. The Participant is required to attend the hearing. Other parties to the CP and counsel may attend the hearing. These hearings take place with other Participants in the courtroom. Prior to attending their first court session, each attendee will be required to sign a confidentiality form stating that they will not disclose the information presented in any court session.

The role of the judge in the FTC hearing is important to Participant success. Research has shown that Participants are more likely to comply with treatment and have better outcomes when judges communicate respect and support to them, as well as giving them opportunities to voice their perspectives. At the hearing the judge reviews the Participant's progress, encouraging the Participant to discuss their progress and any challenges they are facing. (See Therapeutic Responses.)

The judge issues orders following each FTC hearing.

### **PARENTING TIME REVIEWS**

In order to encourage participation in the FTC, the court will review parenting time and make recommendations to DCF when Participants move to a new phase. (See Phases below) This review will take place following the court session in which the Participant presents their personal statement. Counsel for all parties will have an opportunity to be heard on the issue of parenting time. The court's recommendations will be contained in the court order issued following the session.

## **RELEASES**

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No Participant will be asked by the FTC Coordinator or FTC Clinician to sign any release, consent, or authorization without the involvement and advice of counsel. Participants will initially receive the required authorization and consent forms from their attorney in the context of deciding whether to participate. Subsequent release forms, if needed, will be provided to counsel to secure informed consent from the Participant. All FTC authorizations, consents and releases shall be

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<sup>5</sup> For the purposes of this manual, FTC hearing and session will be used interchangeably.

signed as written, without amendment. A release, consent or authorization may be revoked by the Participant, directly or via counsel, at any time.

## **PARTICIPATION, ENGAGEMENT AND WITHDRAWAL**

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Participation in the FTC is voluntary and may only begin with the assent of all parties and will entitle the Participant to specific confidentiality protections outlined below. An absent parent (one who has not been served, not been adjudicated and/or not participating in the court case) will not preclude admission to FTC.

### **VOLUNTARY AND BY AGREEMENT OF THE PARTIES**

Participants enter the FTC through an assented-to Motion to Participate in Family Treatment Court, an Agreement of the Parties to Enter Family Treatment Court, and Stipulation as to Discovery and Admissibility of Family Treatment Court Records.

### **CONCLUSION OF PARTICIPATION**

When an FTC case closes, the Court will issue a Closing Order stating the reason for closure (graduation, withdrawal, or removal).

### **GRADUATION**

The Participant engages in treatment and services, progressively completing each phase of the FTC. Upon FTC graduation, the FTC case will close. The Care and Protection case may close at the same time or resolve through litigation or agreement.

### **WITHDRAWAL BY CHILD, NON-PARTICIPATING PARENT OR DCF**

- Initial and continued participation in the FTC must be voluntary by all parties. Therefore, a child, non-Participating Parent or DCF may file a Notice of Intent to Withdraw at Next Scheduled Session.
- At the next FTC court session, the Participant must file a response to the Notice of Intent to Withdraw. This response must indicate the Participant's intention to remain engaged in the FTC on an individual basis for comprehensive case management without the discovery protections of FTC or manage their recovery independent of the FTC, at which point the FTC case will close.



- If they continue to receive individual FTC comprehensive case management services, the information related to those services engaged in after the withdrawal of other parties will be discoverable in the CP case, but only admissible to the extent it would be otherwise admissible pursuant to applicable rules of evidence and case law.
- Included in the Participant response to withdraw must be an acknowledgement by the Participating Parent that the protection from discovery provisions of the FTC will cease to apply as of the date of their response. FTC information from the period prior to the Participant response retains the original protection from discovery, and information regarding any services they are engaged in after that will be discoverable and admissible pursuant to case law and the rules of evidence.
- Where parties withdraw their consent to participate in the FTC, and the Participant elects to continue with individual FTC case management, the DCF staff and attorney, as well as attorneys for children and non-Participating Parents will not be allowed to attend Team Meetings or Court Sessions while the Participating Parent's case is being discussed, unless invited by the Participating Parent. Court orders following the session will only be sent to counsel for the Participating Parent.
- When the collective agreement to participate in FTC case ends, and the CP case requires litigation, the CP case will be reassigned to a judge other than the FTC judge. The CP will continue pursuant to time standards, and a trial may be scheduled. That trial shall be scheduled in accordance with Juvenile Court Standing Order 2-23, Section 6<sup>6</sup>.

#### **WITHDRAWAL BY A PARTICIPANT**

- If a Participant elects to withdraw from the FTC, they must file a Notice of Intent to Withdraw at Next Scheduled Session. This notice must include the same items as the response described above regarding the Participant's intention to continue with individual FTC case management services without the protection from discovery stipulation or manage their recovery independent of the FTC.
- The CP case will be reassigned to a different judge. The CP will continue pursuant to time standards, and a trial may be scheduled. That trial shall be scheduled in accordance with Juvenile Court Standing Order 2-23: Section 6.

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<sup>6</sup> See Standing Order section of Appendices.

## SUSPENSION OR REMOVAL OF A PARTICIPANT

- The FTC Operational Team recognizes that the recovery process is complicated. A Participant's overall engagement will be continually assessed. If a Participant stops participating in the FTC and related services, the FTC Coordinator and FTC Clinician will make a concerted effort to contact the Participant directly or indirectly.
- If the Participant is responsive and reengages, the FTC Team will reevaluate the treatment plan to better meet the Participant's needs.
- If the Participant articulates a decision to leave the FTC, or is not responsive to outreach, they may be suspended or removed from the FTC and the FTC case will be suspended or closed.

## INFORMATION COLLECTION

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1. **FTC Coordinator:** A HIPAA Authorization and 42 C.F.R. Part 2 Consent allow the identified provider to share information with the Coordinator and the FTC Team for the purpose of informing the FTC Team of the Participant's engagement and progress in treatment and to support the FTC Team as they work with the Participant to formulate and continually modify and update a plan for sustained recovery.
2. **FTC Clinician:** An agency HIPAA Authorization and 42 C.F.R. Part 2 Consent allow the identified provider to share information with the FTC Clinician and FTC Team for the purpose of informing the FTC Team of the Participant's engagement and progress in treatment and to support the FTC Team as they work with the Participant to formulate and continually modify and update a plan for sustained recovery and reunification.
3. The **FTC Coordinator** and **FTC Clinician** will seek information related to a Participant's engagement and progress in treatment and to support the FTC Team as they work with the Participant to formulate and update a plan for recovery and reunification.
4. **Juvenile Court Probation:** A probation release may be used by the Probation Officer to access or share non-HIPAA or non-C.F.R. Part 2 information, such as what they may need to monitor a conditional or third-party custody order.
5. **FTC Information:** includes statements and observations made during the FTC session or Team Meeting, as well as attendance records, other documents and information related to the Participant and held by the FTC Coordinator, FTC Clinician, or other FTC Team member.

## INFORMATION RETENTION - THE FTC RECORD AND CASE PROGRESS FILE

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1. **The FTC Record** is maintained by the Clerk's Office in both a paper file and Mass Courts. The paper file will be secured separately from the CP paper file and may be accessed through the Clerk's Office only by counsel participating in the FTC case. The Mass Courts electronic record will be in an FTC case type separate from but linked to the CP case. Court events will be scheduled and recorded. Filings and Court orders will be recorded and retained by the Clerk's Office. The For The Record (FTR) digital audio recording of the FTC session will be accessible only to those attorneys who would be allowed to attend the FTC session.
2. **The FTC Case Progress File** is a paper file maintained by the FTC Coordinator in a secure location, separate from the FTC Record, and accessible only by the FTC Coordinator. Here, progress notes, communications, substance use screening information, Team Meeting Worksheets, notes, emails, copies of Court Orders, Participant reflections and personal statements will be held.
3. **FTC Clinician Case Notes:** the FTC Clinician will retain information in cumulative case notes which will be held, securely in accordance with AGENCY record retention policies.
4. **Team Meeting Worksheets:** the FTC Coordinator will generate a Worksheet for each Participant that will summarize the information gathered since the last Team Meeting. The Worksheet will be shared with Team members prior to the Team Meeting and collected at the end of the Team Meeting.
5. **Orders Following Court Session:** the Court will issue an order following each Court Session which will summarize the Participant's engagement in treatment and substance use screens as well as recommendations for case plan modification, phase advancement, and changes in parenting time. All orders will be sent by email to the Participant and all counsel on the case.
6. **Substance Use Screens:** FTC Coordinator will monitor a Participant's compliance with the order to participate in substance use screens for the duration of their participation in the FTC. The FTC Coordinator will record the Participant's call-in record, attendance record, and record of substance use screen results. When a Participant's engagement with the FTC

ends, the Probation Department will continue to monitor compliance with the order to participate in substance use screens, if it continues in the CP case.

7. **REDCap:** The Trial Court, in conjunction with University of Massachusetts Chan Medical School, has created the Center of Excellence for Specialty Courts. REDCap is the database used to collect and securely store both identified and non-identified data regarding specialty court participation, progress, and results. This information will be used by UMass Chan Medical School to assist the Trial Court in evaluating and improving the effectiveness of the FTC.
8. **Records Retention:** After the FTC case closes, the record will be restricted on Mass Courts and the paper file sealed. The paper file may be accessed only for program evaluation and research purposes.

## INFORMATION SHARING

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1. A HIPAA Authorization and 42 C.F.R. Part 2 Consent allow the FTC Coordinator, FTC Clinician, and the providers to share information with each other for the purpose of informing the FTC Team of a Participant's engagement and progress in treatment and to support the FTC Team as they work with the Participant to formulate and update a plan for recovery and reunification.
2. The Worksheet given by the FTC Coordinator to Team Members may not be further duplicated, and its contents may not be divulged to any person not on the Team. Participants, other parents, and children may be informed about its content but shall not possess a copy. DCF shall not quote it in DCF narratives or the DCF record. The content may be used by the professional who received it to follow up on Participant needs and adjust services to better support recovery and reunification. The document will be collected at the end of each Team Meeting.
3. An attorney for a Participant may seek and secure an evaluation conducted by a retained expert. This evaluation may be shared in its entirety within the FTC case context, without waiving privilege, or a summary may be provided to the DCF social worker outside of the FTC protection.
4. The Judge and Coordinator may ask questions or share information in the Court Session that highlight the Participant's progress. The Judge may ask questions regarding progress,

challenges and barriers, and the Participant will have an opportunity to reflect and respond.

5. The Participant will be periodically asked to write reflections on their recovery process. These will be reviewed by the Judge and held by the Coordinator. They may be discussed in the Team Meeting and/or Court Session. With the Participant's express permission, their identifying information may be removed, and the reflection used in promotional materials for the FTC.
6. The Participant will be asked to write a personal statement as they approach advancement from phase to phase in the FTC. These statements will be reviewed by the Judge and held by the Coordinator. The Participant will be invited to read this statement in the Court Session when the Judge, in consultation with the Team, has decided they are ready to advance to the next phase of the FTC.
7. The Court Order issued after each Court Session may include specific information about a Participant's engagement in treatment and screens as well as recommendations for case plan modification, phase transitions, and changes in parenting time.

## **PROHIBITIONS**

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1. DCF Social Workers (SW) are prohibited from recording information gained directly from the FTC process in their dictation. However, DCF SWs may document conversations they have with a Participating Parent, only when those conversations take place outside an FTC session. The SW will remind the Participating Parent when meeting with the parent outside of the FTC that the conversation is not part of the FTC and that the SW will document the conversation as part of the DCF record.
2. Juvenile Court Probation Officers are prohibited from recording information gained from the FTC process in their case notes. However, they must document information gathered outside of the FTC session in the context of meeting Probation Level 1 Supervision Standards where a child is placed in the conditional custody of a parent or third party. The PO will remind the Participating Parent when meeting with the parent outside of the FTC that the conversation and their observations are not part of the FTC and that the PO will document the conversation and their observations as part of the Probation record.

3. DCF Foster Care Reviewers shall not inquire about the protected content of FTC team meetings and Court Sessions, however the information gained via paragraph 1 may be discussed.
4. Court Investigators, Court Appointed Special Advocates (CASA), and Guardians ad litem (GALs) will not have access to FTC information including reports, worksheets, or sessions. A Participant may share that they are engaged in the FTC.
5. No information released to the FTC shall be admissible unless the Participating Parent expressly permits its admission. Statements made by the Participating Parent or collaterals during FTC sessions, intake, or meetings shall not be admissible.
6. Information gathered in the FTC by Probation will be inadmissible in any court proceeding outside of Family Treatment Court, absent the Participating Parent's waiver.
7. No information shared during the Team Meeting will be admissible outside of Family Treatment Court. Statements contained in any parent's written submission as part of Family Treatment Court are inadmissible outside of Family Treatment Court, absent the parent's waiver.
8. No witness may testify about observations made of a Participant during the FTC hearing or FTC team meetings.

## **DISCOVERABILITY OF FTC RECORDS IN CARE AND PROTECTION OR OTHER CASES**

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1. A Participant's substance use screen records, including call in, attendance and result history is discoverable in a CP case. Such records are admissible only to the extent allowable by the rules of evidence and applicable caselaw.
2. A Participant, with advice of counsel, may decide to introduce elements of their FTC record in a CP. Doing so will waive the prohibition against discoverability of their FTC information in the CP case. Notice of such intention must be made in writing and include an acknowledgement of the waiver of the prohibition against discovery.
3. If a Participant takes no affirmative action, the only discoverable element from their FTC engagement is the Juvenile Court Probation Department record of their substance use screens, which includes call in, attendance and result history.

4. If any person or entity seeks discovery of FTC records in a court case outside of the juvenile court, the standards articulated in Care and Protection of M.C., 479 Mass. 246 (2018) shall be applied by the judge assigned to the case at the time the motion for access is filed.

## **ADMISSIBILITY IN CARE AND PROTECTION CASE**

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1. The admissibility of any item discovered pursuant to a Participant's waiver of the FTC prohibition against discovery is subject to the rules of evidence and relevant caselaw.
2. The admissibility of substance use screening records is subject to the rules of evidence and relevant case law.
3. Neither the FTC Coordinator nor FTC Clinician will be subject to subpoena and required to testify.
4. A Participant subject to direct or cross examination in a CP case may be asked about topics related to FTC, but not cross-examined or impeached using specific information obtainable directly from the FTC, unless they have specifically waived the protection from discoverability.
5. A Participant subject to direct or cross examination in a CP case may be required to testify regarding FTC-related information that is independently discoverable and/or admissible.

## **51A FILING AND 51B INVESTIGATIONS IN FTC CONTEXT**

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1. There may be occasions when a mandated reporter must file a 51A regarding allegations of abuse and/or neglect in a family that is involved in the FTC. Nothing about the confidentiality of FTC or the FTC prohibitions against discovery limits the obligations of mandated reporters. However, mandated reporters from the FTC should be mindful of disclosing that information which is necessary to convey the allegation of abuse or neglect sufficiently for DCF to properly screen the report and investigate if they determine an investigation is required.
2. Any FTC information protected from discoverability that is inadvertently included in a DCF record (assessment, action plan or 51B) that originates from FTC statements, disclosures, observations, or recommendations is not admissible in the CP litigation. DCF shall redact such information where possible and any party may seek to strike any such information from exhibits or testimony.

## **NON-IDENTIFYING INFORMATION**

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The Juvenile Court will collect non-identifying information regarding Participants and their case progression. This will be used to report on grant compliance, quality assessment and assurance, program development, and to secure further funding.

## **CARE AND PROTECTION TIME STANDARDS**

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1. The Care and Protection Case Benchmarks (Standing Order 2-18) still apply, with two modifications:
  - a. The Temporary Custody Hearing (TCH) will be held within 72 hours of the ex parte transfer of custody except by agreement of the parties for good cause shown
  - b. A Court Investigator's report will be filed within 60 days of the investigator's appointment
  - c. A Status Hearing will be held within 90 days after the filing, and will focus on trial readiness: birth certificates filed, children ID'd, all named parents served and paternity established
  - d. Motion Hearings may be heard at any time upon proper notice to all counsel
  - e. A Permanency Hearing (for children in the custody of DCF) or Other Hearing (for children in the custody of a parent or third party) will be held approximately 11 months after the filing of the petition. At this hearing, the Court will:
    - i. Approve or disapprove the DCF plan for each child,
    - ii. Determine if DCF has made reasonable efforts to achieve the plan.

## **THERAPEUTIC RESPONSES**

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Therapeutic responses are used as a key engagement strategy to support behavior change, thereby helping Participants achieve sustainable recovery and healthy families. Prior to any response, the Team will evaluate if this is a clinical issue that requires reevaluation to determine additional needs, appropriate level of care, and supports.

FTC responses to positive progress and success may include:

- Encouragement from the Judge;
- Recognition of an accomplishment during the court session;



- Applause from the other Recovering Parents and Drug Court team members;
- Advancement from one phase to the next;
- Adjustment to order;
- A small gift or a gift certificate;
- Graduation, with a diploma certificate, and graduate coin

FTC responses to clinical needs may include:

- Increased individual counseling;
- Additional recovery support meetings;
- Medication evaluation;
- An intensive outpatient program (IOP);
- A partial hospitalization program;
- Residential treatment program;
- Other counseling groups or programs.

## APPENDICES

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### FAMILY TREATMENT COURT PHASES<sup>7</sup>

The Family Treatment Court (FTC) follows a five-phase system that is designed to provide a structured and supportive approach to help you in recovery and to help you complete your DCF case plan. The phase system breaks down the recovery process into manageable steps. The time frames show the approximate amount of time it takes to complete each phase. Because everyone's journey is unique, it may take you less time or more time to complete each phase.

At the beginning of each phase, you will receive a handout specifically tailored to that phase. It is designed to provide you with a clear understanding of the objectives, activities, and expectations for that particular phase. You are encouraged to review each handout with your Recovery Coach.

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### EXPECTATIONS FOR ALL PHASES

**COURT SESSIONS:** You need to come to all of your scheduled Family Treatment Court sessions.

**COURT ORDERS:** The Court will issue an Order after each session that summarizes your progress and tells you what you need to do. You must follow these Orders to move to the next Phase. If you need help understanding any Orders you can contact the FTC Coordinator, your Recovery Coach, the Probation Office, or your lawyer.

**SOBRIETY AND HONESTY:** You must always strive to maintain sobriety and be honest about any struggles you are having so the team can support you.

**DRUG AND ALCOHOL TESTING:** There will be random tests during your participation with the FTC. If you have any questions about testing, you can contact the Probation Office or the FTC Coordinator.

**MOVING PHASES:** Each phase has a goal with tasks. As you make progress on the tasks the team will make a recommendation to the Judge about moving to the next phase. This will not include returning to an earlier phase. You will have the opportunity in the court session to talk with the Judge about your progress and about moving to the next phase.

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<sup>7</sup> Family Treatment Court phases are written to the participants.

## PHASE 1 OVERVIEW

**PHASE 1:** Establishing a New Routine

**PHASE 1 LENGTH:** Approximately 6 weeks

**PHASE 1 GOAL:** Getting used to the Family Treatment Court routine.

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## PHASE 1 TASKS

**ASSESSMENTS AND ORIENTATION:** Meet with the Family Treatment Court Clinician and Coordinator to complete an intake and assessment. Answering their questions will help them understand what you need. They will also help you understand how the program works.

**CONSENT/RELEASE FORMS:** Sign releases that allow the team to communicate with your other treatment, healthcare, and service providers, so that everyone has up to date information about your care. Your attorney can help you with these releases if you have any questions.

**FAMILY TREATMENT COURT PLAN:** Meet with the Clinician to create a treatment plan that focuses on your needs and recovery goals. This plan may change as your needs change in recovery.

**RECOVERY COACH:** Get to know your Recovery Coach and schedule regular times to get together.

**FAMILY TREATMENT COURT MANUAL:** Review the Family Treatment Court Manual for Parents with your Recovery Coach.

**RECOVERY SUPPORT GROUP:** Work with your Recovery Coach to find a recovery support group that you like (AA, NA, Smart Recovery, etc.). These groups offer community, extra support, and connection for parents in recovery. Be ready to report to the Court which group you have chosen. The Court will require you to attend a certain number of meetings per week and may require you to share your thoughts about the meetings. These are called “reflections.”

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## PHASE 1 PERSONAL STATEMENT

As part of moving to the next Phase, you will present a personal statement in court. There are many ways this can be done. Your Recovery Coach will help you do this in a way that works for you.

The goal of the Phase 1 personal statement is to help you understand how your thinking about your life and your sobriety have changed since you’ve joined the Family Treatment Court and how this will affect how you parent. The Judge will give you the specific question when the team recommends that you are ready to move to the next phase.

## PHASE 2 OVERVIEW

**PHASE 2:** Wellness Through Treatment

**PHASE 2 LENGTH:** Approximately 12 weeks

**PHASE 2 GOALS:** Focus on taking care of your body and mind. Make healthy choices for you and your family.

Make therapy, peer support groups, and recovery support meetings a regular part of your life. Think about how they help you stay on track and get better.

Begin thinking about how a sober community can support your recovery.

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## PHASE 2 TASKS

**MAKE HEALTHCARE A PRIORITY:** It's important to take care of all aspects of your health. Find a doctor and a dentist if you don't have one yet. Make appointments for check-ups before Phase 3 ends.

**RECOVERY SUPPORT:** Your Recovery Coach continues to be an important part of your recovery in Phase 2. Stay in regular communication with them and attend all groups that they lead. Find a recovery support group sponsor or mentor you trust and connect with. They will play an important role in supporting your recovery now and in the future.

**SAFETY PLANNING:** Safety plans keep you and your loved ones safe in tough situations. A safety plan is a guide that helps you handle difficult moments or times when you might feel overwhelmed. It includes steps you can take to keep safe and cope with challenging situations. During this phase you will begin working on a safety plan for you and your family. Your therapist and Recovery Coach can help you.

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## PHASE 2 PERSONAL STATEMENT

As part of moving to the next Phase, you will present a personal statement in court. There are many ways this can be done. Your Recovery Coach will help you do this in a way that works for you.

The goal of the Phase 2 personal statement is to help you understand how taking care of your mind and body has helped your recovery and how it will affect how you parent. The Judge will give you the specific question when the team recommends that you are ready to move to the next phase.

## PHASE 3 OVERVIEW

**PHASE 3:** Creating a Recovery Community to Support You as a Parent

**PHASE 3 LENGTH:** Approximately 12 weeks

**PHASE 3 GOAL:** Parenting in recovery happens within a community. Making friends who are also in recovery is really important, especially other parents in recovery. In this Phase, you'll grow your group of people who help you stay on track. You will connect with community resources for more support. You're building a strong team to help you and your family lead a life in recovery.

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## PHASE 3 TASKS

**RECOVERY SUPPORT:** Continue to meet regularly with your Recovery Coach and begin meeting regularly with your Sponsor or Mentor. Play an active role in your recovery support group.

Talk to your Recovery Coach and Sponsor/Mentor about other community recovery resources.

**UPDATE TREATMENT PLAN/ASSESSMENTS:** Meet with the Family Treatment Court Clinician to update your treatment plan. You've grown and changed since you started, so the Clinician might do additional assessments to help support your progress in recovery.

**BE A MODEL FOR OTHER FAMILY TREATMENT COURT PARTICIPANTS:** Model honesty, participation, and engagement for new Participants.

**EXPAND YOUR UNDERSTANDING OF YOUR CHILDREN'S NEEDS AND YOUR ROLE IN MEETING THEM.** As much as possible, participate in meeting your children's current medical, dental, educational, developmental, mental health appointments and needs.

**FAMILY NEEDS:** Think about your family's needs for transportation, employment, housing, and income and how the FTC can support you in making referrals.

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## PHASE 3 PERSONAL STATEMENT

As part of moving to the next Phase, you will present a personal statement in court. There are many ways this can be done. Your Recovery Coach will help you do this in a way that works for you.

The goal of the Phase 3 personal statement is to help you think about what you have learned about yourself and your children and how this will affect you and your parenting. The Judge will give you the specific question when the team recommends that you are ready to move to the next phase.

## PHASE 4 OVERVIEW

**PHASE 4:** Building a Life in Recovery for You and Your Family

**PHASE 4 LENGTH:** Approximately 12 weeks

**PHASE 4 GOAL:** Show how much you're committed to staying sober and parenting in recovery. Being involved in your community, making good friendships, and creating a healthy and meaningful routine for yourself and your family gives you a sense of purpose.

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## PHASE 4 TASKS

**RECOVERY SUPPORT:** Continue to meet regularly with your Recovery Coach and begin meeting regularly with your Sponsor. Continue to play an active role in your self-help group. Become involved with community recovery resources.

Many self-help groups have step programs to help people in recovery. If the self-help group you've chosen has a step program, in this Phase you will focus on your step work with help from your Recovery Coach or Sponsor.

**MEANINGFUL DAILY ACTIVITIES:** Finding meaningful activities such as work, school, volunteering, or creative activities will help you build a healthy routine. Your Therapist, Recovery Coach, Sponsor/Mentor, and friends in recovery can help you find activities that you like and will feel good about incorporating into your life.

**CHILDREN'S NEEDS:** Share with the FTC where you are with meeting your children's medical, dental, educational, developmental, mental health appointments, and any other help you need before graduation.

**FAMILY NEEDS:** Share with the FTC where you are with meeting family needs for transportation, employment, housing, income, and any further help you need before graduation.

**BE A MODEL FOR OTHER FAMILY TREATMENT COURT PARTICIPANTS:** Model honesty, participation, and engagement for new Family Treatment Court Participants. New Participants look to you for leadership.

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## PHASE 4 PERSONAL STATEMENT

As part of moving to the next Phase, you will present a personal statement in court. There are many ways this can be done. Your Recovery Coach will help you do this in a way that works for you.

The goal of the Phase 4 personal statement is to help you think about your new recovery community, relationships and healthy living routines and how they support your parenting in recovery. The Judge will give you the specific question when the team recommends that you are ready to move to the next phase.

## PHASE 5 OVERVIEW

**PHASE 5:** Living into your Family's Future

**LENGTH:** Approximately 12 weeks

**PHASE 5 GOAL:** Move into a healthy life after graduation from Family Treatment Court with all that you've learned about yourself, your children, and your community. Get ready to maintain your recovery in your community AND take care of your health, your home, and your children.

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## PHASE 5 TASKS

**RECOVERY:** Successful transition out of the FTC means you will take your recovery and the lessons/skills you've learned and carry them with you into the larger community.

**MEET WITH THE FAMILY TREATMENT COURT CLINICIAN:** Finalize a plan with the FTC Clinician to address your family's ongoing needs. Given that substance use disorder is a chronic disease, discuss your safety plan with the Clinician including community supports you have in place. There will be final assessments to complete.

**FAMILY TREATMENT COURT ALUMNI GROUP:** Family Treatment Court Alumni Groups are for people who have graduated from the Family Treatment Court or are current members. These groups are helpful because everyone understands what it's like to go through the same changes and challenges. These groups are a place where you can share your successes, talk about tough times, and get advice from others who've been in your shoes. Being part of an alumni group gives you a chance to give back by helping others. It is a great way to stay connected, keep learning, and keep moving forward together.

If your Family Treatment Court has an alumni group, attend a meeting prior to graduation. If there is not an alumni group, talk to your Recovery Coach about being part of creating one.

**GIVE BACK TO THE COMMUNITY:** Think about all you have learned in the Family Treatment Court and how much you have to offer to other people and parents in recovery. You are now a leader!

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## GRADUATION PERSONAL STATEMENT

As part of graduation, you will present a personal statement in court. There are many ways this can be done. Your Recovery Coach will help you do this in a way that works for you.

The goal of the graduation personal statement is to consider your history, and think about the future for both you and your family. Think about what tools and understanding you have now that you wish you had earlier. How can you share what you've learned with others? The Judge will give you the specific question when the team recommends that you are ready to graduate.

## MEDICATION ASSISTED TREATMENT POLICY

### POLICY CONCERNING THE USE OF MEDICATIONS BY INDIVIDUALS PARTICIPATING IN MEDICATION-ASSISTED TREATMENT

*This Policy was originally promulgated on January 28, 2020. The Policy was amended on June 29, 2022 to include opioid treatment programs (“OTPs”) in the definition of the term “Prescriber” as used in the Policy, and to include reference to the Complaint and Investigation Procedures set forth in the Trial Court Policy Prohibiting Discrimination, Harassment, and Retaliation.*

#### I. PURPOSE

This policy governs the use of medications in Massachusetts Trial Courts by probationers, defendants subject to pretrial conditions of release, defendants on pretrial probation, defendants or probationers participating in a Massachusetts Specialty Court, and litigants in civil matters (hereinafter, “party” or “parties”).

#### II. DEFINITIONS

“Medication” as used in this policy shall mean legally prescribed: 1) medication-assisted treatments to aid in substance and alcohol use disorder recovery; 2) medication used to treat mental-health conditions; and 3) medical marijuana.

“Medication-assisted treatment” (“MAT”) as used in this policy shall refer to “the use of medication in combination with behavioral health services to provide an individualized approach to the treatment of substance use disorder, including opioid use disorder.” 42 C.F.R. § 8.2.

“Prescriber” as used in this policy shall refer to a licensed medical professional, including a physician’s assistant, nurse practitioner, or dentist, or an opioid treatment program (“OTP”) who or which is legally authorized by the jurisdiction in which the medical professional is licensed to practice to prescribe controlled substances.

“Prescription” as used in this policy shall refer to a prescriber’s written direction for the preparation and administration of a controlled substance, including dosage instructions.

“Specialty Court” as used in this policy shall refer to any Adult or Juvenile Drug Court, Mental Health Court, Veterans Treatment Court, Family Drug Court, Family Resolutions Specialty Court, Homeless Court, and any other similar specialized court session within the Massachusetts Trial Court.

#### III. SCOPE

This policy applies to all Massachusetts Trial Court departments.

#### IV. POLICY

##### A. General Provisions



Decisions regarding a party's medication type and dosage shall be made only by a licensed prescriber. In those instances in which a party is subject to the supervision of a court or the supervision of Probation, it shall be that party's responsibility to ensure that the court is aware of any and all medications that the party is taking prior to and during the party's term of probation or while on conditions of release or otherwise subject to supervision by the Court. Parties are likewise responsible for informing their prescriber(s) of their participation in a Specialty Court, any condition of probation, pretrial release, supervision, or other court order that requires them to be evaluated for treatment or to abide by a treatment plan or any court order regarding the use of medication during their term of probation, supervision, or participation in a Specialty Court.

#### B. Compliance with the Americans with Disabilities Act

This policy reflects and is designed to ensure compliance with the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-34. Pursuant to the ADA, qualified individuals with a disability may not, by virtue of their disability, be denied or excluded from the benefits of the Trial Court's services, programs, or activities, or otherwise discriminated against. 28 C.F.R. § 35.130.

A person is an "individual with a disability" under the ADA if the person: 1) has a physical or mental impairment that substantially limits one or more life activities; 2) has a record of such an impairment, or 3) is regarded as having such an impairment. 42 U.S.C. § 12102(1). A person with a substance or alcohol use disorder may qualify as an individual with a disability if they meet one of these three aforementioned criteria. 28 C.F.R. § 35.104.

The ADA's definition of an "individual with a disability" does not include an individual who is currently engaging in the "illegal use of drugs," which is defined as "the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act . . ."; it "does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law." 42 U.S.C. §§ 12210(a); 12210(d)(1).

A person is "qualified" under the ADA if he or she "meets the essential eligibility requirements for the receipt of services or the participation in [the relevant] programs or activities provided by [the] public entity," either "with or without reasonable modifications . . . , or the provision of auxiliary aids and services." 42 U.S.C. § 12131(2).

Consistent with the requirements set forth in the ADA, no court or judge of the Trial Court shall have a policy of requiring that an order, such as an order setting conditions of release or probation or participation in a Specialty Court, be contingent on abstinence from medication that has been prescribed by a prescriber. No court shall have a policy of conditioning admission to, participation in or successful completion of a Specialty Court or other court program, service or activity on abstinence from medication. No court shall have a policy requiring that a party be prescribed medication as a condition of an order of probation, supervision, release, child custody, parenting time, or other such order issued by a court, or as a condition for admission to or participation in a Specialty Court or other court program, service or activity. Whether a person

should be prescribed a regimen of medication is a decision to be made by a prescriber on an individualized basis. No court shall have a policy or practice of requiring that a party be prescribed any one form of medication over another.

### C. Judicial Discretion

Nothing in this policy shall be construed to limit a court's discretion to order that a party be evaluated for medical treatment or comply with a treatment plan as a condition of release, probation, supervision, or participation in a Specialty Court or other court or probation program. In making such an order, a judge should make an individualized determination, based on the information available, which may include a party's criminal, medical, and probation history.

Judges retain discretion to mitigate and reduce the risk of abuse, misuse, and diversion of medications. Judges have the authority to monitor medication compliance in the context of a term of probation, supervision, or condition of release and in furtherance of the court's public safety obligation. Compliance with the ADA does not require that a court allow a party to participate in, or benefit from, its services or programs if the person poses a "direct threat to the health or safety of others." 28 C.F.R. § 35.139. A determination that a party poses a direct threat should be grounded in current medical knowledge or the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. *Id.* A court may not conclude that a party who has been prescribed medication poses a "direct threat" based on generalizations or scientifically unsupported assumptions about medications or persons who are prescribed medication. When a judge or probation officer has a concern about a party's use or misuse of medication, the judge may take appropriate action to mitigate and reduce the risk of abuse, misuse, and diversion of medications. In many cases, appropriate action will include communication with the prescriber by a probation officer or other member of the Specialty Court team as directed by the judge.

### D. Complaint Resolution Procedure

Any party may make a complaint under this Policy, either orally or in writing, to the Trial Court Office of Workplace Rights & Compliance (OWRC). A complaint may be made by calling the OWRC Hotline at 617-878-0411, emailing [FairAndEquitableJusticeForAll@jud.state.ma.us](mailto:FairAndEquitableJusticeForAll@jud.state.ma.us), or using the OWRC Complaint Form available at [www.mass.gov/owrc](http://www.mass.gov/owrc). Complaints will be addressed pursuant to the Complaint and Investigation Procedures provided in the Trial Court Policy Prohibiting Discrimination, Harassment, and Retaliation (available at [www.mass.gov/info-details/trial-court-policy-prohibiting-discrimination-harassment-and-retaliation-complaint-resolution-procedures](http://www.mass.gov/info-details/trial-court-policy-prohibiting-discrimination-harassment-and-retaliation-complaint-resolution-procedures)).

January 2020, amended April 2022

## STANDING ORDERS

### TRIAL COURT STANDING ORDER 1-16: AUTHORITY OF THE JUDGE WITH RESPECT TO COMMUNICATION WITH SPECIALTY COURT TEAMS

**EFFECTIVE DATE:** 01/07/2016

#### **Standing order 1-16**

This Standing Order is promulgated by the Chief Justice of the Trial Court pursuant to [G. L. c. 211B, Section 9](#) and shall constitute authorization by law as referenced in [Rule 2.9 \(A\)\(2\) of the Code of Judicial Conduct](#) (effective January 1, 2016).

For purposes of this Order:

**Specialty Court** means a specifically designated court session that focuses on individuals with underlying medical, mental health, substance abuse, or other issues that contribute to the reasons such individuals are before the courts. Specialty court shall also mean Veterans Treatment Court and Homelessness Court. Specialty court sessions integrate treatment and services with judicial case oversight and intensive court supervision. Examples include drug courts, mental health courts, veterans' courts, and tenancy preservation programs.

**A Staffing** shall refer to a regularly scheduled, informal conference not occurring in open court, the purpose of which is to permit the presiding judge and others, including counsel, to discuss a Participant's progress in the specialty court, treatment recommendations, or responses to Participant compliance issues.

#### **IT IS THEREFORE ORDERED:**

A judge presiding over a specialty court shall have the authority to initiate, permit or otherwise consider ex parte communications about defendants, juveniles or probationers with members of the specialty court team at a staffing or by written documents provided to all members of the specialty court team. The purpose of this authority is to allow judges in their role in presiding over specialty court sessions, and only in that capacity, to assume a more interactive role with parties, treatment providers, probation officers, social workers and others, than [Rule 2.9](#) of the Code of Judicial Conduct would otherwise permit.

## STANDING ORDER 2-18: TIME STANDARDS

The Juvenile Court Department has jurisdiction over a variety of criminal and civil case types including delinquency and youthful offender proceedings, child requiring assistance proceedings (CRA) and Care and Protection/termination of parental rights proceedings. The vast majority of cases addressed by the Juvenile Court fall within the parameters of these four case types. The Juvenile Court has jurisdiction, by statute, of matters ancillary to these four case types including guardianship petitions, parentage complaints, change of name petitions and adoption petitions.

The work of the Juvenile Court often reflects shifting community expectations and social science theory regarding children. Those shifts in expectations often unpredictably alter Juvenile Court caseloads.

The purpose of the time standards is to provide guidelines for application in the great majority of cases; it being understood that, as a matter of discretion in specific situations, a judge may extend time periods and vary requirements in the interest of justice. The time standards set forth below for the trial, settlement or other disposition of cases are applicable to cases filed in any division of the Juvenile Court Department on or after November 5, 2018. The benchmarks are not part of the time standards but are provided to offer guidance in achieving compliance with the standards.

### **I. DELINQUENCY AND YOUTHFUL OFFENDER PROCEEDINGS (G.L. c. 119, §§ 52-74, MA Rules of Criminal Procedure)**

A. Filing of complaint or indictment to adjudication/disposition (bench trial): Six months (180 days).

Indictment of a juvenile as a Youthful Offender proceeds only at the option of the District Attorney for whom there are no time requirements for the exercise of that option.

B. Filing of complaint or indictment to adjudication/disposition Jury trial): Eight months (240 days).

Benchmarks:

1. Arraignment: within fifteen (15) days from the issuance of the complaint, unless the juvenile has been referred to diversion.
2. Pre-trial Conference: within thirty (30) days from the arraignment.

The prosecuting attorney and defense counsel shall confer prior to the scheduled pretrial hearing in order to conference the case and to prepare a written pretrial

conference report. In addition to those matters set forth in the Rules of Criminal Procedure, counsel shall also discuss whether the case can be disposed of by means of a plea and, if so, shall propose a date for a change of plea within the conference report. Special circumstances should be identified, including but not limited to: unavailability of victim or essential witness; information relating to the victim's capacity to testify at trial within the time frame established by the standards; existence of multiple defendants; anticipated delays occasioned by necessary forensic or scientific testing (e.g. DNA testing, drug analysis, etc.); delays due to issues related to the juvenile's competency, or the necessity for extended pretrial hearings such as those relating to the pretrial inspection of third party records or similar proceedings but not including motions to dismiss or motions to suppress statements, evidence, search warrants, or identifications.

## **II. CIBLD REQUIRING ASSISTANCE PROCEEDINGS (G.L. c. 119, §§ 39E-I)**

A Filing of application to preliminary hearing: Fifteen (15) days.

B. Acceptance of application to determination/disposition: Six (6) months.

Numerous reasons may delay the final disposition of cases, such as an outstanding warrant, the unavailability or inappropriateness of a home to which the child can return, and frequently, serious mental health issues which defy easy and quick resolution. In addition, the preliminary hearing may result in a referral to informal assistance which is not to exceed ninety (90) days and which may, with the agreement in writing of the parents and child, last an additional ninety (90) days for a total of one hundred and eighty (180) days.

## **III. CARE AND PROTECTION/TERMINATION OF PARENTAL RIGHTS**

### **PROCEEDINGS (G.L. c. 119, §§ 24-29D, G.L. c. 210, § 3 and Juvenile Court Rules on Care and Protection Cases, Standing Order 1-10, Scheduling Care and Protection and Termination of Parental Rights Trials)**

A Filing of petition to final order of adjudication and permanent disposition: Fifteen (15) months, which may be extended once for a period not to exceed 3 months.

Benchmarks:

1. Temporary custody hearing: within seventy-two (72) hours of *ex parte* transfer of custody except by agreement of parties for good cause shown.
2. Filing of court investigator report: within sixty (60) days after the appointment of the investigator unless the court otherwise orders.
3. Status Hearing: within ninety (90) days after filing of the petition.
4. Pre-trial Conference: no later than thirty (30) days before trial.

## JUVENILE COURT STANDING ORDER 2-23: ACCESS TO RECORDS AND THE ROLE OF THE JUDGE IN FAMILY TREATMENT COURT

**ADOPTED DATE:** 11/17/2023

**EFFECTIVE DATE:** 12/08/2023

**UPDATES:** [Issued November 17, 2023, effective December 8, 2023](#)

**This Standing Order shall repeal and replace *Juvenile Court Standing Order 1-23: Access to Records and the Role of the Judge in Family Treatment Court* which took effect on March 20, 2023.**

### **1. Applicability**

This standing order applies to any Family Treatment Court (FTC) held within a division of the Juvenile Court Department including but not limited to FTCs established under the Juvenile Court's **PATHS** program.

### **2. Definitions**

"Family Treatment Court" is a type of specialty court that focuses on issues of parental abuse and neglect raised through the filing of a Care and Protection in the Juvenile Court by treating the parents' underlying substance use disorder through a collaborative approach that involves the Juvenile Court, the Massachusetts Probation Service, the Department of Children and Families (DCF), substance use treatment providers and the attorneys involved in the Care and Protection.

"FTC Case Progress File" is a paper file maintained by the FTC Coordinator, separate from the FTC Record, accessible only by the FTC Coordinator and sharable only with the FTC Clinician. The Case Progress File includes initial intake, staffing worksheets, Participant essays/reflections, reports, progress worksheets, attendance information, ongoing assessments, referral information, communications with providers and collaterals and copies of court orders.

"FTC Information" includes statements and observations made during the FTC session and the team meeting.

"FTC Records" refers to the case file for the FTC maintained by the Office of the Clerk-Magistrate in paper and electronic format. The case file may include but not be limited to motions to participate, agreement to participate, discovery stipulation, waivers, substances use screening order, and other judicial orders. This definition does not apply to any documents created by or any communications made by any employee of the Massachusetts Probation Service. Records and communications made by any employee of the Massachusetts Probation Service in the course of their work are governed by the Massachusetts Probation Service standards, applicable statutes, and court rules.

"**PATHS** (Prevention and Treatment for Health and Stability of Children and Families)" is a state-wide FTC developed by the Juvenile Court to assist families where an individual's substance use is the central factor in their involvement with the Juvenile Court. The goal is to ensure the safety, stability and timely permanency for children while promoting health and wellness for families. **PATHS** is guided by the Juvenile Court's *Pathways* model of differentiated case management and resources from the *Upstream* Child Welfare Resource Mapping initiative.

### 3. FTC Records

All Juvenile Court FTC records are confidential and protected by the provisions of G.L. c. 119, § 38, **Juvenile Court Standing Order 1-84: Juvenile Court Case Records and Reports**, and **Trial Court Rule VIII: Uniform Rules on Impoundment Procedure**.

The *Participation Order* and the *Order Following Participation in the Family Treatment Court* shall be admissible in the Care and Protection proceeding involving the family.

The FTC case progress file and FTC information are confidential and shall not be admissible in the Care and Protection proceeding involving the family or any other court proceeding.

FTC records are accessible only to the FTC team in the course of their work in the FTC.

### 4. Results of Substance Use Screens

Participants in the FTC undergo substance use screens as part of their agreement to participate in the FTC. The results of any substance use screens in the FTC shall be released to members of the FTC in accordance with applicable federal and state laws and the provisions of the FTC manual. The results may be used in the FTC for case planning purposes for the Participant. The results of any substance use screens conducted as part of the FTC, call in and attendance records related to the substance screens are discoverable and admissible in the Care and Protection proceeding involving the family.

### 5. Discoverability and Admissibility

**(a)** A Participant, with advice of counsel, may introduce all of the FTC record and other information related to the FTC into the Care and Protection. If a Participant does introduce information regarding the FTC, the Participant waives their privilege regarding the confidentiality of the FTC record and information. The waiver shall be in writing.

**(b)** If the Participant does not waive the privilege, the only portion of the FTC case that is discoverable and subject to admissibility in the Care and Protection are the results of the substance use screens.

**(c)** A DCF social worker may be a member of the FTC team. The social worker shall not use or include any information regarding the FTC in their notes, dictation and reports for the underlying Care and Protection, unless the information was provided to the social worker by the Participant in a conversation or other communication that occurred outside of the FTC session and with prior notice from the social worker to the Participant that if the Participant

provided information regarding the FTC it may be included in the social worker's notes, dictation and reports for the underlying Care and Protection. Information regarding the FTC shall not be shared with DCF Foster Care Reviewers.

**(d)** Statements made by Participants and collaterals during FTC sessions, intake or team meetings are not admissible in the Care and Protection or other court proceedings.

**(e)** The FTC Coordinator and FTC Clinician shall not be subpoenaed and shall not testify in the underlying Care and Protection involving the family.

## **6. Role of the Judge and Continuation of the Care and Protection**

The Juvenile Court judge assigned to the Care and Protection matter may also preside over the FTC. The Care and Protection will continue concurrently with the FTC and in accordance with the provisions of G.L. c. 119 related to Care and Protections, ***Juvenile Court Rules For the Care and Protection of Children, Trial Court Rule VI: Uniform Rules for Permanency Hearings and Juvenile Court Standing Order 2-18: Time Standards.***

The communications of the judge as a member of the FTC team are protected by ***Joint Standing Order 1-16: Authority of the Judge with Respect to Communication with Specialty Court Teams.***

If a Participant voluntarily withdraws or is discharged from the FTC or any other party to the Care and Protection withdraws from the FTC, the FTC will end, and the Care and Protection case will continue accordingly. If the same judge presided over the FTC and the Care and Protection, that judge shall not continue to preside over the Care and Protection. The Care and Protection shall be reassigned to another Juvenile Court judge.

A trial in the Care and Protection cannot be scheduled (1) any earlier than 6 months from the date of withdrawal/discharge if at the time of withdrawal/discharge the Care and Protection case is 9 months old or less, or (2) any earlier than 4 months from the date of withdrawal/discharge if at the time of withdrawal/discharge the Care and Protection is more than 10 months old. <sup>1</sup>

## **7. Court Investigator, Guardians Ad Litem and CASAs**

Any court investigator, guardian ad litem or CASA appointed in the Care and Protection case shall only receive information about whether the parties are participating in the FTC, and when the participation in the FTC ends, either by graduation, voluntary withdrawal or discharge. The court investigator, guardian ad litem and CASA shall not have access to the FTC Record, the FTC Case Progress File and FTC Information.



## FORMS

### Confidentiality Acknowledgment and Agreement

As a participant in or observer of the Family Treatment Court team meeting, also known as the Staffing, and Family Treatment Court session, I understand that I will hear information that is sensitive and confidential. While participants give permission for discussion of confidential information, they do not waive their right to confidentiality outside of the Family Treatment Court.

I understand that, outside of the Family Treatment Court and except as otherwise provided for by law, it is my obligation:

- not to reveal the identity of the participants;
- not to disclose the nature or content of the information or discussion; and
- not to disclose the statements or recommendations.

I further understand that if I use my observations or impression of the Family Treatment Court cases in any way outside of the Family Treatment Court, I will omit any information or references that may identify participants directly or indirectly.

I understand that if I fail to comply with these confidentiality requirements, I may be held liable for violating the right to privacy of Family Treatment Court participants as protected by federal confidentiality rules 42 C.F.R. Part 2.

By my signature below, I acknowledge that I have read terms as set forth above.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Affiliation: \_\_\_\_\_

<b>MOTION TO PARTICIPATE IN PATHS FAMILY TREATMENT COURT</b>	IN THE MATTER OF	<b>Massachusetts Trial Court Juvenile Court Department</b>	
	DOCKET NO. (To Be Completed by Court Only)	Division	

I am asking to be allowed to participate in the PATHS Family Treatment Court. In support of this request, I state the following:

☐ The Care and Protection was filed on: \_\_\_\_\_.  
(Date)

☐ I am 18 years old or older.

☐ It is my understanding that all parties agree to this motion.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY**

DATE SIGNED	PETITIONER'S SIGNATURE		
PETITIONER'S LAST NAME	FIRST NAME	MIDDLE INITIAL	
PETITIONER'S ADDRESS	CITY	STATE	ZIP CODE
PETITIONER'S ATTORNEY'S NAME (if applicable)	PETITIONER'S ATTORNEY'S ADDRESS (if applicable)		PETITIONER'S ATTORNEY'S PHONE (if applicable)

**DCF'S ATTORNEY(S) INFORMATION**

ATTORNEY'S NAME (if applicable)	ATTORNEY'S ADDRESS (if applicable)	ATTORNEY'S PHONE (if applicable)
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**OTHER'S ATTORNEY(S) INFORMATION**

ATTORNEY'S NAME (if applicable)	ATTORNEY'S ADDRESS (if applicable)	ATTORNEY'S PHONE (if applicable)
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Attorney for:

ATTORNEY'S NAME (if applicable)	ATTORNEY'S ADDRESS (if applicable)	ATTORNEY'S PHONE (if applicable)
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Attorney for:

<b>AGREEMENT OF THE PARTIES TO ENTER FAMILY TREATMENT COURT</b>	IN THE MATTER OF	<b>Massachusetts Trial Court Juvenile Court Department</b> 
	DOCKET NO. (To Be Completed by Court Only)	Division

The parties who have appeared in the above-captioned matter and agree to enter this case in the PATHS Family Treatment Court, further agree as follows:

1. The participating parent(s) is/are:\_\_\_\_\_.
2. Each party has reviewed and agrees to comply with the provisions of the PATHS Family Treatment Court Participant Handbook.
3. As a participant in PATHS Family Treatment Court, the participating parent(s):
  - a) Acknowledge that substance use is an issue and are willing to participate in treatment as recommended by the Family Treatment Court Clinician;
  - b) Will comply with the conditions of PATHS, including attending the Family Treatment Court sessions every other week;
  - c) Will comply with the random substance use screening;
  - d) Will attend and engage in community-based recovery groups.
4. Pending further hearing, temporary custody of the child(ren) will be with:\_\_\_\_\_.  
\_\_\_\_\_. (If custody is not with DCF, see attached order.)
5. The case will be heard in the PATHS Family Treatment Court session next on \_\_\_\_\_ at \_\_\_\_\_, in Courtroom \_\_\_\_\_.
6. The Care and Protection case will be heard next for \_\_\_\_\_ on \_\_\_\_\_.

DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE

<b>STIPULATION OF THE PARTIES AS TO DISCOVERY AND ADMISSIBILITY OF FAMILY TREATMENT COURT RECORDS</b>	IN THE MATTER OF	<b>Massachusetts Trial Court Juvenile Court Department</b> 
	DOCKET NO. (To Be Completed by Court Only)	Division

The parties to the above-captioned matter stipulate as to the following regarding discoverability of PATHS Family Treatment Court records in any related litigation, including the Care and Protection case. More specifically, the parties agree that:

1. A Participant's substance use screen records, including call in, attendance and result history are discoverable in a Care and Protection case. Such records are admissible only to the extent allowable by the rules of evidence and applicable caselaw.
2. A Participant, with advice of counsel, may decide to introduce elements of their Family Treatment Court record in a Care and Protection. Doing so will waive the prohibition against discoverability of their Family Treatment Court information in the Care and Protection case. Notice of such intention must be made in writing and include an acknowledgement of the waiver of the prohibition against discovery.
3. If a Participant takes no affirmative action, the only discoverable element from their Family Treatment Court engagement is the Juvenile Court Probation Department record of their substance use screens, which includes call in, attendance and result history.
4. If any person or entity seeks discovery of Family Treatment Court records in a court case outside of the Juvenile Court, the standards articulated in *Care and Protection of M.C.*, 479 Mass. 246 (2018), shall be applied by the judge assigned to the case at the time the motion for access is filed.
5. The admissibility of any item discovered pursuant to a Participant's waiver of the Family Treatment Court prohibition against discovery is subject to the rules of evidence and relevant caselaw.
6. The admissibility of substance use screening records is subject to the rules of evidence and relevant case law.
7. Neither the Family Treatment Court Coordinator nor Family Treatment Court Clinician will be subject to subpoena or be required to testify.
8. A Participant subject to direct or cross examination in a Care and Protection case may be asked about topics related to Family Treatment Court, but not cross-examined or impeached using specific information obtainable only from the Family Treatment Court, unless they have specifically waived the protection from discoverability, or the information is available from a source other than the Family Treatment Court.
9. A copy of this Stipulation shall be filed in the Family Treatment Court case.

DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE
DATE	ATTORNEY FOR:
	ATTORNEY'S SIGNATURE

<b>PARTICIPATION ORDER FOR FAMILY TREATMENT COURT</b>	IN THE MATTER OF	Massachusetts Trial Court Juvenile Court Department
	DOCKET NO. (To Be Completed by Court Only)	Division

HAVING ALLOWED the parties agreed upon Motion to Participate in the PATHS Family Treatment Court, it is hereby ORDERED that the Participating Parent shall, with the assistance and support of the Family Treatment Court Coordinator and Clinician:

- 1. Contact the Juvenile Court Probation Department to enroll in the random substance use screening program pursuant to the attached form;
- 2. Complete an initial intake with the Family Treatment Court Coordinator and sign all required Releases of Information and Consents;
- 3. Complete an initial evaluation with the Family Treatment Court Clinician and sign all required Release of Information and Consents;
- 4. Participate in on-going assessment and evaluation with the Family Treatment Court Coordinator and Clinician;
- 5. Participate in Family Treatment Court Sessions, starting: \_\_\_\_\_.  
(Date)

DATE	JUDGE'S SIGNATURE

<b>SUBSTANCE USE SCREENING PATHS FAMILY TREATMENT COURT</b>	IN THE MATTER OF	<b>Massachusetts Trial Court Juvenile Court Department</b>
	DOCKET NO. (To Be Completed by Court Only)	Division

**THE COURT**, with the agreement of the participant(s), orders \_\_\_\_\_  
to participate in drug and/or alcohol screens via the Juvenile Court Probation Department. NOTE: It is the parent's responsibility to enroll via Probation either in person or by calling Juvenile Court Probation.

- Frequency:**

Screens shall be supervised and random in accordance with best practices for substance use monitoring.
- Screening:**

Shall identify illegal substances as well as cannabis and alcohol.
- Call In and Attendance at Screening:**


The Juvenile Court Probation Department may share the record of the parent's call and attendance history upon request by counsel for the following: the Department of Children and Families, the subject child(ren), the identified parent and the child(ren)'s other parent at any time. This information shall be regularly reported to the Family Treatment Court (FTC) team by Probation and/or the FTC Coordinator.
- Results of Screens:**

The Juvenile Court Probation Department may share the record of the results of a parent's screening history upon request by counsel for the following: the Department of Children and Families, the subject child(ren), the identified parent and the child(ren)'s other parent at any time. The screen results will be regularly reported to the FTC team by Probation and/or the FTC Coordinator.
- Advancing Cases:**

The Juvenile Court Probation Department is expected to immediately notify the Department of Children and Families and advance a case if a parent with conditional custody tests positive for a substance prohibited by the conditional custody order, or if the non-custodial parent with visitation rights tests positive for a prohibited substance. Counsel for any party may file a motion to revoke or amend the conditional custody order at any time. The FTC Coordinator will follow up and may request an emergency team meeting.
- Discovery:**

A parent seeking their own records from Probation, or its vendors may use Probation's Confidentiality Release Form. When seeking records or testimony from Probation or its vendors, counsel for any party may file a motion pursuant to Trial Court Rule IX. Such motions must be served upon the Keeper of the Records for Probation, which is the MPS Legal Unit. The MPS Legal Unit will review and respond to motions and court orders promptly and in accordance with its standards.

<b>DATE</b>	<b>Judge's Signature:</b>

<b>NOTICE OF PARTICIPATING PARENT'S INTENT TO WITHDRAW FROM FAMILY TREATMENT COURT</b>	IN THE MATTER OF	Massachusetts Trial Court Juvenile Court Department		
	DOCKET NO. (To Be Completed by Court Only)	Division		

I \_\_\_\_\_ am providing notice of my intent to withdraw from the PATHS Family Treatment Court at the next scheduled session on \_\_\_\_\_. As the PATHS Family Treatment Court requires all parties agree to the on-going engagement in the session, the withdrawal of any party, when accepted by the Court, terminates the confidentiality protections afforded the parties during the PATHS Family Treatment Court case. Therefore I state the following:

(Name of Participating Parent) (Date)

☐ **I will continue to engage in the Family Treatment Court on an individual basis for comprehensive case management services, with full knowledge that:**

- The protection from discoverability afforded participants in the Family Treatment Court will cease as of the date this response is filed with the Court;
- The information related to services engaged in prior to the date this response is filed with the Court will retain the protection from discoverability afforded participating in the Family Treatment Court; and
- The information related to those services engaged in after the withdrawal of other parties will be discoverable in the Care and Protection case, but only admissible to the extent it would be otherwise admissible pursuant to applicable rules of evidence and case law **OR**

☐ **I will manage my recovery independent of the Family Treatment Court with full knowledge that:**

- The Family Treatment Court case will close;
- The information related to services engaged in prior to the date my withdrawal is accepted by the Court will retain the protection from discoverability afforded participating in the Family Treatment Court; and
- Any services engaged in after the Family Treatment Court case closes may be discoverable in the Care and Protection case to the extent allowed by law.


  

DATE SIGNED		PARTICIPATING PARENT'S SIGNATURE		
PARTICIPATING PARENT'S LAST NAME		FIRST NAME		
PARTICIPATING PARENT'S ADDRESS		CITY	STATE	ZIP CODE

DATE SIGNED		ATTORNEY'S SIGNATURE		
ATTORNEY'S NAME (if applicable)		ATTORNEY'S ADDRESS (if applicable)		ATTORNEY'S PHONE (if applicable)
BBO		ATTORNEY'S EMAIL		

<b>PARTICIPATING PARENT'S RESPONSE TO NOTICE OF INTENT TO WITHDRAW</b>	IN THE MATTER OF	Massachusetts Trial Court Juvenile Court Department	
	DOCKET NO. (To Be Completed by Court Only)	Division	



In response to \_\_\_\_\_'s notice of intent to withdraw from the PATHS Family Treatment  
(Name of Party Withdrawing)

Court at the next scheduled session on \_\_\_\_\_, I \_\_\_\_\_ state the following.  
(Date) (Name of Participating Parent)

☐ **I will continue to engage in the Family Treatment Court on an individual basis for comprehensive case management services, with full knowledge that:**

- The protection from discoverability afforded participants in the Family Treatment Court will cease as of the date this response is filed with the Court;
- The information related to services engaged in prior to the date this response is filed with the Court will retain the protection from discoverability afforded participating in the Family Treatment Court; and
- The information related to those services engaged in after the withdrawal of other parties will be discoverable in the Care and Protection case, but only admissible to the extent it would be otherwise admissible pursuant to applicable rules of evidence and case law **OR**

☐ **I will manage my recovery independent of the Family Treatment Court with full knowledge that:**

- The Family Treatment Court case will close;
- The information related to services engaged in prior to the date my withdrawal is accepted by the Court will retain the protection from discoverability afforded participating in the Family Treatment Court; and
- Any services engaged in after the Family Treatment Court case closes may be discoverable in the Care and Protection case to the extent allowed by law.

DATE SIGNED	PARTICIPATING PARENT'S SIGNATURE		
PARTICIPATING PARENT'S LAST NAME		FIRST NAME	
PARTICIPATING PARENT'S ADDRESS	CITY	STATE	ZIP CODE

DATE SIGNED	ATTORNEY'S SIGNATURE		
ATTORNEY'S NAME (if applicable)	ATTORNEY'S ADDRESS (if applicable)	ATTORNEY'S PHONE (if applicable)	
BBO	ATTORNEY'S EMAIL		



## ACKNOWLEDGEMENT OF RECEIPT OF MAT POLICY & GRIEVANCE PROCEDURES

I, \_\_\_\_\_, (Specialty Court Participant) hereby acknowledge that I have received a copy of the

- Trial Court's Policy Concerning the Use of Medications by Individuals Participating in Medication-Assisted Treatment
- Key Provisions of Trial Court Complaint & Investigations Procedures
- Frequently Asked Questions About the Medication Assisted Treatment (MAT) Policy

I have read or have had read to me these three documents.

\_\_\_\_\_  
Signature of Specialty Court Participant

\_\_\_\_\_  
Printed Name of Specialty Court Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Date