

**Probate and Family Court
Standing Order 2 - 2021**

**Interdivisional Case Transfers and Interdivisional Case Assignments For Hearing Purposes Only
Effective November 1, 2021**

An interdivisional case transfer or interdivisional case assignment may be accomplished either under the assigned judge's own authority or through a request to the Administrative Office of the Probate and Family Court. This Standing Order serves to clarify when a judge may transfer the case under his/her own authority and when it is necessary to request an order for an interdivisional case transfer or interdivisional case assignment from the Administrative Office. No interdivisional case transfer or interdivisional case assignment shall occur before a case has been docketed in the initial division.

This Standing Order replaces all previous guidance with respect to interdivisional case transfers and interdivisional case assignments.¹

A. Definitions

1. An **interdivisional case transfer** involves moving a case from one division to another. When an interdivisional case transfer occurs, the case shall be entered on the docket of the receiving division and assigned to a judge as if it had been initially filed in the receiving division. The Registry in which the matter was initially filed (the initial division) shall deliver all related papers to the receiving division for docketing in the receiving division. An interdivisional case transfer may occur if venue is improper.
2. An **interdivisional case assignment** involves having a case being heard in a division other than the division in which the case was filed. An interdivisional case assignment may occur if:
 - (a) there is a hardship or inconvenience to at least one of the parties;
 - (b) there are multiple pending proceedings concerning the same, or closely related, issues in more than one division (these may include matters concerning the same estate, protected person, ward, trust, or relief sought);
 - (c) an employee of the division, or a relative of an employee of the division, where the case was filed is involved in the case;
 - (d) all judges in a division have recused themselves from a case;
 - (e) an emergency arises and there is not a judge available to hear the case; and
 - (f) a situation not listed above arises and the Administrative Office determines, on a case-by-case basis, that an interdivisional case assignment is necessary.

¹ Requests for interdepartmental assignment, which move responsibility from one Trial Court Department to another, are controlled by G. L. c. 211B, § 9 and Trial Court Rule XII, and are not addressed in this Standing Order.

3. **Deliver** means the Registry doing any of the following:
 - (a) scanning and emailing all related papers to the appropriate division/judge;
 - (b) hand delivering all related papers to the appropriate division/judge; and
 - (c) transmitting all related papers as required by any other means that results in the appropriate division/judge receiving all related papers.
4. **Initial Division** means the division in which a case is originally filed.
5. **Receiving Division** means the division to which a case is transferred or assigned.

B. Processing an interdivisional case transfer or interdivisional case assignment

1. Improper Venue:

An interdivisional case transfer, due to improper venue, may be sought by a motion for change of venue filed by a party or raised by the assigned judge *sua sponte*.

- The assigned judge in the initial division must enter an order as to whether venue is proper in the initial division.
- If it can be determined, the judge must also include in the above order which division has proper venue and should be the receiving division.
- If the judge determines that the initial division is not the proper venue and the judge has determined which division has proper venue, the judge shall then enter an order transferring the case to the division with proper venue. Each Registry shall receive notice of the order transferring the case. The case shall then be entered on the docket of the receiving division and assigned to a judge as if it had been initially filed in the receiving division. The Registry in the receiving division shall inform the Registry in the initial division of the docket number of the case in the receiving division. The Registry in the initial division shall deliver all related papers to the receiving division for docketing in the receiving division. No action is required by the Administrative Office.
- If the judge determines that venue is not proper in the initial division, but does not determine which division has proper venue, the judge shall send the order stating that, along with a letter requesting an interdivisional case transfer, to the Administrative Office so that an order for an interdivisional case transfer may issue. After the Chief Justice designates a receiving division, the case shall be entered on the docket of the receiving division and assigned to a judge as if it had been initially filed in the receiving division. The Registry in the initial division shall deliver all related papers to the receiving division for docketing in the receiving division.

2. Hardship or Inconvenience to a Party:

An interdivisional case assignment, due to hardship or inconvenience, may be sought by a motion for an interdivisional case assignment or a motion for change of venue for hardship or inconvenience. Any interdivisional case assignment is for hearing purposes only.

- The assigned judge in the initial division shall hear the motion and consider whether the alleged hardship or inconvenience adequately supports the request for a change in the division that will hear the case. In addition to any other relevant circumstances, the judge should consider the extent to which hearing the matter virtually, consistent with Standing Order 1-2021 or any successor standing order or legal authority, would be appropriate, avoid delay, and would mitigate the alleged hardship or inconvenience, thereby allowing the case to stay in the division with proper venue.
- If the motion is denied, the case stays in the division in which it was filed and with the assigned judge.
- If the assigned judge is inclined to allow the motion because an interdivisional case assignment may be appropriate, the judge shall send a letter to the Administrative Office requesting an interdivisional case assignment. The letter must include the following: the docket number of the case; the current residence(s) of the parties; the nature of the issue(s) currently pending; whether the matter is contested or uncontested; the time frame for hearing the matter; and the reasons for allowance of the change in venue. The judge will also notify the parties that the matter will be referred to the Chief Justice for a decision regarding whether an interdivisional case assignment will occur, and, if so, where the matter will be heard.
- The Chief Justice will review the assigned judge's request. The Chief Justice will then prepare an order which either keeps the case in the initial division or assigns it to a different division for hearing purposes only (the receiving division). Unless the Chief Justice designates a specific judge in the receiving division to hear the matter, the First Justice in the receiving division shall do so.
- The case assigned to a different division for hearing purposes only will remain docketed with the initial division. The Registry in the initial division shall deliver copies of all related papers to the judge assigned for hearing in the receiving division. Because the case remains docketed in the initial division, all subsequent filings in the case must be made with the Registry in the initial division and docketed expeditiously. Any papers so filed shall be delivered by the Registry in the initial division to the judge assigned for hearing in the receiving division after having been docketed in the initial division.

3. Multiple Pending Proceedings:

A party may request that two related cases, pending before different divisions, be consolidated for hearing before a single judge in one of the divisions by filing a motion for consolidation. The motion may be filed in either division in which one of the related matters is pending.

- The assigned judge in the division in which the motion is filed shall hear the motion and consider whether consolidation of the matters is suitable, and if so, which division should hear the matters. In addition to any other relevant circumstances, the motion judge should consider the extent to which hearing the matters virtually, consistent with Standing Order 1-2021 or any successor standing order or legal authority, would be relevant and appropriate.

- The assigned motion judge shall also consult with the judge assigned to the related matter(s) in the other division in an effort to reach consensus as to the suitability of consolidation and, if so, which division should hear the matters. A brief summary of the substance of the conversation shall be put on the record, and, to the extent relevant, included in the ruling on the motion.
- If the motion is denied, the cases stay in the divisions in which they were filed and with the assigned judges.
- If the two judges reach an agreement that the matters should be consolidated for hearing, as well as which of them should hear the matters, the motion judge shall allow the motion for consolidation and the cases shall be assigned for hearing before the agreed-upon judge. Each Registry shall receive notice of the order allowing consolidation. The Registry maintaining the docket for the matter that is being reassigned shall deliver copies of all related papers to the judge assigned to hear the consolidated matters. Because the case remains docketed with the initial division, all subsequent filings must be made with the Registry in the initial division and docketed expeditiously. Any papers so filed shall be delivered by the Registry in the initial division to the judge assigned for hearing after having been docketed in the initial division. No action is required by the Administrative Office.
- If the assigned motion judge is inclined to allow the motion for consolidation, and both assigned judges cannot reach an agreement as to which of them should hear the matters, the assigned motion judge shall send a letter to the Administrative Office requesting a consolidation and, if allowed, a determination regarding which division will hear the case. The letter must include the following: the docket number and current status of each of the related proceedings; the current residence(s) of the parties; the nature of the issue(s) currently pending; whether the matter is contested or uncontested; the time frame for hearing the matter; and the reasons for allowance of the consolidation. The letter will indicate that there is no agreement between the two assigned judges as to where the matters should be assigned for hearing. The judge will also notify the parties that the matter will be referred to the Chief Justice for a decision regarding consolidation and where the cases will be heard.
- After review of the judge's letter and, in the Chief Justice's discretion, consultation with the assigned judges, the Chief Justice will prepare an order resolving whether the matters should be consolidated and, if so, which division will hear the consolidated matters. Unless the Chief Justice designates a specific judge in the receiving division to hear the matter, the First Justice in the receiving division shall do so.
- If the Chief Justice orders consolidation, the Registry maintaining the docket for the matter that is being reassigned shall deliver copies of all related papers to the judge assigned to hear the consolidated matters. Because the case remains docketed in the initial division, all subsequent filings in the case must be made with the Registry in the initial division and docketed expeditiously. Any papers so filed shall be delivered by the Registry in the initial division to the judge assigned for hearing after having been docketed in the initial division.

4. Other Situations Prompting a Request for Interdivisional Case Assignment:

- The initial division should send a written request for an interdivisional case assignment to the Administrative Office for situations listed above in Section A (2) (c) – (f).
- The request should include the following information: the docket number of the case; the current residence(s) of the parties; the nature of the issue(s) currently pending; whether the matter is contested or uncontested; the time frame for hearing the matter; and the reasons for the request for the interdivisional case assignment.
- Any order that the Chief Justice issues will designate the receiving division. Unless the Chief Justice designates a specific judge in the receiving division to hear the matter, the First Justice in the receiving division shall do so. The Registry in the initial division shall deliver copies of all related papers to the judge assigned for hearing in the receiving division. Because the case remains docketed in the initial division, all subsequent filings in the case must be made with the Registry in the initial division and docketed expeditiously. Any papers so filed shall be delivered by the Registry in the initial division to the judge assigned for hearing in the receiving division after having been docketed in the initial division.
- In the event of a possible emergency, the division where the matter is filed will determine whether an emergency does exist. If a determination is made that an emergency exists, the case may be heard in the division in which it was filed, and, if necessary, by a judge of another division or another department of the Trial Court. **Any request prompted by an emergency may be sent to the Administrative Office by telephone or by email to Danielle Rado at danielle.rado@jud.state.ma.us.**

C. Procedures for interdivisional case transfers and interdivisional case assignments

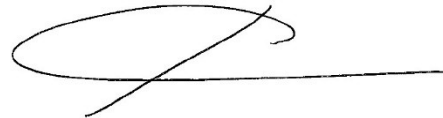
- Each division shall designate a person or persons to answer questions about interdivisional case transfers and assignments. The list of contact people for all divisions shall be posted on www.mass.gov.
- Whenever a matter has been referred to the Administrative Office, the Chief Justice's decision will be provided to the Registry and First Justice of each involved division, as well as any judge designated to hear the matter.
- When a case has been assigned for hearing purposes only, the judge who is designated to hear the matter will schedule it and then communicate this information to the Registry in the division where the matter is docketed, so that notice may be given to the parties and counsel.
- When a case has been assigned for hearing purposes only, whenever any filings pertaining to the current complaint or petition have been received by the division where the case is docketed, they shall be docketed expeditiously and thereafter delivered to the judge assigned for hearing, until the termination of the assignment.
- If a complaint for contempt is filed in an open case that has been reassigned for hearing purposes only, the division where the case is filed will issue a contempt summons, which will be returnable to the division where the matter will be heard.
- All orders and judgments entered by the judge assigned for hearing must be immediately delivered to the Registry where the case is docketed and, after docketing, provided to

parties and counsel by that Registry. However, nothing in this Standing Order prevents the Registry and First Justice in the initial division and the Registry and First Justice in the receiving division from agreeing to have the receiving division docket and provide notice of orders and judgments entered by the judge assigned for hearing.

- Any interdivisional case assignment made under Section A (2) (c) – (f) shall continue through the entry of final judgment, including the resolution of any related post-judgment motions seeking clarification of an order, a new trial, relief from judgment, or similar relief from action taken by the judge assigned for hearing purposes only. After docketing post-judgment motions, the Registry in the initial division shall send the motion and papers to the judge who entered the order or judgment at issue. Any related papers subsequently filed, as well as any action taken by the judge, should be entered on the docket, in the same manner as the original order or judgment at issue.
- All subsequent actions will be heard by a judge in the division in which the matter is docketed unless an interdivisional case assignment or case transfer is required for any of the reasons discussed above, in which case a request for an interdivisional case assignment or case transfer shall be processed in accordance with the procedures set forth in this Standing Order.
- If the judge who entered the order or judgment at issue is unavailable to hear the motion, it shall be heard by a judge in the division in which the action is docketed, unless an interdivisional case assignment or case transfer is required for any of the reasons discussed above, in which case a request for an interdivisional case assignment or case transfer shall be processed in accordance with the procedures set forth in this Standing Order.

September 20, 2021

Dated



John D. Casey
Chief Justice
Probate and Family Court