

Commonwealth of Massachusetts Juvenile Court Department

PROCEDURES GOVERNING INTRA-DEPARTMENTAL TRANSFERS AND ASSIGNMENTS

These procedures govern the method for requesting intra-departmental transfers or judicial assignments.

Pursuant to G.L. c. 211B, §10 (ii), the Chief Justice of the Juvenile Court is authorized to assign or to transfer a judge appointed to any Juvenile Court Division to sit in any other Juvenile Court Division for such period or periods of time as will best promote the speedy dispatch of judicial business. Further, pursuant to c. 211B, §10 (iv), the Chief Justice is authorized to transfer cases and matters from a court to any other court within his department, to consolidate cases, and to make such periodic adjustments in the scheduling and locations of court sessions as are deemed necessary for the proper administration of justice.

For purposes of these procedures, the term "party" shall mean the attorney of record for a party, if represented by counsel, or, if a party is not represented by counsel, the party acting pro se.

1. Purpose. If two or more actions are pending in different divisions of the Juvenile Court, and if a judge or party determines that the separate actions are related actions involving substantially the same or similar issues and parties, the judge or party may request that the Chief Justice make an appropriate intra-departmental assignment or transfer so that one judge may hear all related matters; or, if a case is pending in a division of the Juvenile Court Department and if a judge or party determines that the matter should be transferred to another division of the Juvenile Court Department, the judge or party may request that the chief justice make an appropriate intra-departmental transfer so that the case may be heard in another division in the interests of justice.

Such assignments or transfers shall be made to accomplish one or more of the following purposes:

- to promote speedy disposition of cases, reduce duplication of hearings and promote judicial economy when each pending action will require a hearing or trial;
- to afford complete and permanent relief which might not be obtained unless the actions are consolidated for hearing and heard by one judge;
- to effectuate a proposed settlement of one case through the filing of a subsequent action in another juvenile court division; or
- where there is some other reason, consistent with the speedy and efficient dispatch of judicial business, why the cases should be assigned to and heard by a judge in another division.

2. Content and Timing of Request made by Parties: If a request for an intra-departmental judicial assignment or transfer is made by one or more parties, the request shall be made in a letter to the Chief Justice, with copies to the First Justice(s) of the Divisions in which the action(s) is/are pending and any specially assigned justice, and to the Clerk-Magistrates of each Division. A party making a request pursuant to these procedures shall at the same time send a copy of such request to all parties in the related cases.

Letters requesting intra-departmental judicial assignment: Should identify by title, name of court division, and docket number each of the related cases; list all parties and counsel of record, with addresses; describe the nature of the cases; and include a specific, individualized statement of reasons why the separate actions are deemed related and an intra-departmental assignment or transfer would be appropriate, with particular attention to the latter in situations in which at least one of the related cases will not require a hearing or trial.

Letters requesting a transfer of a case from one division to another division of the Juvenile Court Department: Should identify by title, name of court division, and docket number of the case and include a specific statement of the reasons why a transfer of the case would be appropriate. Every request must be accompanied by a copy of the current docket entries in the related case(s), with the most recent court activity listed thereon. Requests which are submitted without current docket sheets need not be considered.

Objections: Any party opposing the request will have seven days from receipt of the request to submit to the Chief Justice with copies to the First Justice(s) of the respective Division(s), any specially assigned justice, and the Clerk-Magistrate(s) of the respective Division(s), a letter in opposition with a statement of the reasons therefor.

Except for good cause shown and described in the request, a request for an intra-departmental judicial assignment or transfer will not be considered if made within 60 days prior to an established trial date. Cases shall not be removed from a trial list solely because a request for an intra-departmental judicial assignment or transfer is pending.

3. Applicable Considerations. Factors to be considered in determining whether actions are related include the following:

- whether the actions involve the same parties (including children) and the same attorneys;
- whether, in child welfare cases in which all parties are not identical, the person who is not a party to one of the cases sought to be consolidated is a parent, foster parent, guardian, relative or caretaker who seeks custody, visitation, or related orders regarding the child;
- whether the actions involve common, or substantially the same or similar, questions of law and fact;

- whether the witnesses and the evidence to be presented in the separate actions will be the same or similar; and
- whether the requested forms of relief are similar or related.

Factors to be considered in determining whether allowance of the request would tend to promote the speedy dispatch of court business and to reduce delay and duplication include the following:

- whether the actions are in similar stages of readiness;
- whether either action has an established trial date;
- whether the request was made to take advantage of an existing trial date in one case for use in the other case(s);
- whether allowance of the request might require that an established trial date for one of the cases be rescheduled to afford additional time for preparation or for trial of the other, unscheduled case(s); and
- whether, notwithstanding the provisions of these procedures, a party already has caused a case to be removed from a trial list by informing the court that a request for an intra-departmental judicial assignment or transfer was or will be made.

Additional factors to be considered may include the following:

- whether, if the request is allowed, there will be a continuing or long-term need for a judge of one court Division to exercise the powers normally vested within another court Division or whether the assignment or transfer only will be needed for one hearing;
- especially in cases involving child welfare, whether, due to special assignment to, or continuing familiarity with, one of the cases, it would be appropriate for the same judge to hear the related matter(s) to promote case continuity or permanency planning;
- whether the request should have been made earlier in order to reduce resulting delay; and
- any other special considerations that are not apparent from the docket entries or other portions of the written request.

4. Action by Chief Justice. The Chief Justice will review the request and consult with the First Justice(s) and any specially assigned Justice, and, if the interests of the Juvenile Court and of the parties would be served thereby, may make an appropriate order of assignment or transfer which would allow one judge to hear the related actions. When possible, the order of assignment or transfer or disallowance of the request shall be made by the Chief Justice within 45 days of receipt of a complete request. In cases with an established trial date, the decision on the request shall be made prior to the trial date. The Chief Justice will notify the First Justices,

any justice assigned to the case(s), the Clerk-Magistrates and all parties of his decision on each request. Notwithstanding the provisions of this paragraph, in no event shall the pendency of a request be the sole cause for a case to be removed from a trial list.

6. Presumption in Certain Cases. There shall be a presumption in favor of allowance of the request if the parties to all the actions sought to be heard together are identical, if each case will require a hearing or trial, and if the issues are substantially related. This presumption shall not apply with respect to the consolidation of hearings or reviews conducted pursuant to c. 119, § 29B with post-decree reviews of c. 210, § 3 matters.

7. Authority of Chief Justice in Absence of a Request. The Chief Justice may make such assignments or transfers in the absence of a request by a judge or party.

Adopted effective: April 1, 2004