

**PROPOSED PROBATE AND FAMILY COURT STANDING ORDER [Xa]-16
FAMILY CENTERED CASE RESOLUTION and CASE MANAGEMENT
IN THE PROBATE AND FAMILY COURT DEPARTMENT**

PREAMBLE

For all cases involving children, we are committed to providing a child-focused process. Many of our cases involve conflict between parents and care givers about children. A consistent research finding is that children are harmed when they are exposed to conflict between their parents. These procedures are designed to reduce conflict in the resolution of disputes between parents and other caregivers about children.

This Standing Order applies to all initial and modification actions for divorce, c.208, all paternity actions under c.209C, and all Guardianship of Minor actions under c.190B.

Accordingly:

GENERAL PROVISIONS

This Standing Order applies to all divorce, paternity, modification, and guardianship of minor actions filed in the Probate and Family Court.

This Standing Order applies to all Divisions of the Probate and Family Court.

The importance of resolution without trial is reaffirmed. The majority of cases not resolved directly by the parties and/or their attorneys may or will likely be resolved by alternative dispute resolution processes; including but not limited to mediation, conciliation, dispute intervention, and settlement conferences.

Nothing in this Standing Order alters the requirements of all divorcing parents to attend an approved Parent Education program as required by Probate and Family Court Standing Order 4-08.

Cases that are not likely to be resolved by alternatives to trial shall be identified at an early stage and shall be managed by the Court throughout the course of the proceedings.

To facilitate the process of case resolution without trial the Court shall institute the following procedures:

1. EARLY CASE SETTLEMENT PROCESS

By agreement, parties may request their case be heard under the early case settlement process. By choosing this process the parties agree to the following:

- Limited Discovery (See Probate and Family Court Standing Order [Xb]-16)
- Limited motions prior to Settlement Conference. Each party may file no more than two motions prior to the Settlement Conference.
- Participation in a Settlement Conference is required (See Standing Order [Xc]-16) before pre-trial and trial date will be scheduled.

To elect the Early Case Settlement Process, the parties will complete the “*Request for Early Case Settlement*” form. This form acknowledges the following:

- The parties agree to use the Early Case Settlement process;
- The parties agree to complete all discovery as required by Rule 410 and the Limited Discovery Standing Order by a date certain.
- Upon receipt of the completed form the court will schedule a settlement conference to be held no later than 60 days after the completion of discovery.
- Five days prior to the settlement conference the parties will each submit a completed Settlement Conference form to the Court and to the other party or their attorney.

At any point in the Early Case Settlement process either party may opt out by filing a notice with the Court including a brief summary of the case status and the next scheduled event.

2. ALTERNATIVE DISPUTE RESOLUTION

All contested custody disputes in divorce cases filed in the Hampden, Norfolk, Plymouth, and Worcester divisions will be referred by the Court for screening to an approved provider of court connected dispute resolution services as defined in S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution. The referral will be made prior to the scheduling of a settlement or pre-trial conference.

For the purposes of this requirement, contested custody in divorce shall be defined as:

- Parties are not in agreement as to all terms of a parenting plan including legal custody, residential and parenting schedule.

Procedure for making referral

Using the list of approved providers for their Division, the ADR Coordinator or designee shall refer the parties to the on- site program or next provider on the list. The referral shall be made using the “*Uniform Referral Form*”. The referral may be made by the Judge in the courtroom, a Judicial Case Manager or Assistant Judicial Case Manager when screening cases, or a Probation Officer of the Probate and Family Court.

When appropriate any other disputed matters may be referred:

- a. To Probation Officers for dispute intervention services in contested matters at any court event; or
- b. For screening to other approved providers of court connected dispute resolution services as defined in S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution.

3. SETTLEMENT CONFERENCES

Requirement in contested divorce and divorce modification matters. Unless otherwise ordered by the Court, or when an order prohibiting contact between the parties is in place, all complaints for divorce and divorce modification in which the parties are not in agreement as to any of the following shall, prior to being assigned a trial date, be set for a settlement conference;

- the terms of any parenting plan, or
- order for placement of or parenting schedule with a child, or
- the determination of child support as part of a parenting plan, or
- order for placement of or parenting schedule with a child, or
- the division of property, or
- division of debts and liabilities, or
- a claim by any party for post decree maintenance or spousal support.

Prior to scheduling the case for a settlement conference, all interested parties shall have filed answers or responses and all discovery shall be complete. Parties shall also have completed the parent education course, if required. Upon filing a notice for a settlement conference, the Court shall assign the soonest available date, but no later than 60 days from the filing of the notice for a settlement conference.

Requirement in Early Case Settlement Process. All cases in which the parties have agreed to the Early Case Settlement Process shall participate in a settlement conference in compliance with Probate and Family Court Standing Order [Xc]-16.

Other Settlement Conferences. In any action in which discovery is complete, at the request of both parties, the court shall, except for good cause shown, direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to participate either in person or, with leave of Court, by telephone, in a conference or conferences before trial for the purpose of facilitating settlement. If one party requests, the court may schedule a settlement conference. The Court may also schedule a settlement conference upon its own motion. Parties requesting a settlement conference shall file the “*Request for Settlement Conference*” form provided by the Court.