

Commonwealth of Massachusetts

The Trial Court Juvenile Court Department

STANDING ORDER 1-04 TIME STANDARDS

The Juvenile Court Department has jurisdiction in three major case types including delinquency/youthful offender proceedings, child in need of services proceedings (CHINS) 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 three case types. The Juvenile Court has jurisdiction, by statute, of matters ancillary to these three case types including guardianship petitions, paternity complaints, equity 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. In some instances, the Juvenile Court has become the first arbiter of issues more properly addressed by other institutions.

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 October 1, 2004. 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

- 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).

These time standards do not apply to juvenile jury trials heard in the district courts.

Benchmarks:

1. Arraignment (within fifteen (15) days from the issuance of the complaint)
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.); necessity for extended pretrial hearings such as Bishop/Fuller or similar proceedings but not including motions to dismiss or motions to suppress statements, evidence, search warrants, or identifications.

II. CHILD IN NEED OF SERVICES PROCEEDINGS (CHINS, G.L. c. 119 §§39E-H)

A. Filing of application to preliminary hearing: ninety (90) days.

At preliminary hearing:

- a. Petition to issue, or
- b. Petition not to issue and referral for informal assistance for period not to exceed six (6) months*, or
- c. Application dismissed

*Twelve (12) months where parents and child have agreed in writing to extension of informal assistance for period not to exceed six (6) months.

B. Issuance of petition to adjudication/disposition: six (6) months.

Though CHINS cases may be filed as stubborn, runaways, truants or habitual school offenders, in the case of runaways, the CHINS case starts with an application for a warrant for a runaway which may not be served for many months, thus departing from the time standards. Numerous other reasons may delay the final disposition of cases, such as 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.

III. CARE AND PROTECTION/TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

Care and Protection/Termination of Parental Rights cases are governed by statute, G.L. c. 119, §§24, 26/c. 210, §3, which incorporated the mandates of the Federal Adoption and Safe Families Act into the General Laws in April 1999, as well as by Juvenile Court Rules.

A. Filing of petition to final order of adjudication and permanent disposition: Fifteen (15) months/eighteen (18) months.

Benchmarks:

- 1. Emergency custody hearing (G.L. c. 119, §24: within seventy-two (72) hours of *ex parte* transfer of custody except by agreement of parties for good cause shown)

2. Appointment of Court Investigator (G.L. c. 119, §24: after issuance of precept and notice to parents)
3. Filing of court investigator report (Juv. Ct. R.5: within sixty (60) days after commencement of case or within forty-five (45) days after the appointment, whichever is later, unless the court otherwise orders)
4. Uncontested Trial (Juv. Ct. R.11: Anytime after sixty (60) days and notice to all parties, but no later than fifteen (15) months from date of filing)
5. Motion/Status (Juv. Ct. R.6: within ninety (90) days after filing)
6. Pre-trial Conference (Juv. Ct. R.7: within one hundred and twenty (120) days after filing)

All parties shall meet prior to the pretrial conference date and file a pretrial conference report. The report shall include, but not be limited to, the following: list of names of prospective witnesses; list of proposed exhibits; whether any of the parties or witnesses require an interpreter; and the estimated length of trial.

7. Permanency hearings for children in Department of Social Services' custody (G.L. c. 119/29B: Twelve (12) months from the transfer of custody and annually thereafter

- B. Trial: Twelve (12) to fifteen (15) months after filing.

The court's finding that certain circumstances exist which, by statute (G.L. c. 119, §29C), relieve the Department of Social Services of the requirement to make reasonable efforts to prevent removal or to reunify does not necessarily result in an uncontested trial.

- C. Decision and Findings: Within ninety (90) days from the close of evidence.

Martha P. Grace
Chief Justice

Dated: August 13, 2004