

COMMONWEALTH OF MASSACHUSETTS JUVENILE COURT DEPARTMENT RULES AND STANDING ORDERS

Massachusetts Juvenile Court Rules for the Care and Protection of Children

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Print sources for rules:

Annotated Laws of Massachusetts: Court Rules, LexisNexis, annual.

Massachusetts General Laws Annotated, v.43A-43C, West Group, updated annually with pocket parts.

Massachusetts Rules of Court, West Group, annual.

The Rules, Lawyers Weekly Publications.

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Rule 1. Scope of Rules

These rules apply to all actions in the Juvenile Court Department for the care and protection of children, including actions for guardianship of minors, child support, paternity, name change and actions seeking to dispense with parental consent to adoption, custody, guardianship or any other disposition of the child pursuant to G.L. c. 119 and c. 210.

Reporter's Notes

The 2007 amendments to Rule 1 make the Massachusetts Rules of Civil Procedure applicable to proceedings in the Juvenile Court where equitable relief is sought. For example, a civil action brought in the Juvenile Court seeking specific performance of a post-adoption contract (G. L. c. 210, § 6D) will be governed by the Massachusetts Rules of Civil Procedure.

Rule 2. Appointment of Counsel

Counsel shall be appointed in accordance with the provisions of s. 29 of c. 119 and c. 211D of the General Laws, and Rule 3:10 of the Rules of the Supreme Judicial Court in care and protection proceedings pursuant to s. 24 of c.119 or s. 3 of c. 210.

Rule 3. Process

A. Summons to Parent/Guardian; Service of Process by Publication.

1. Care and Protection Cases, G.L. c. 119, s. 24 et. seq.

Following the commencement of the case, the petitioner shall cause a summons or order of notice and a copy of the petition to be served by a court officer, constable, deputy sheriff, sheriff, police officer, or other person approved by the court on each of the parents of the subject child. The summons or order of notice shall be on a form issued or approved by the court and shall be served on each of the parents of the subject child in the following manner:

- (a) If the place of residence or whereabouts of a parent is known, service shall be accomplished on that parent by delivery in hand to the parent.
- (b) Personal service may be accomplished the first time the matter comes before the judge or at the temporary custody hearing if the parent if any, is present.
- (c) If the Department of Social Services is not the petitioner, the petitioner shall provide notice to the department of the filing of the petition by first class mail, postage prepaid.
- (d) If the place of residence or whereabouts of a parent cannot be found after diligent efforts, on a written motion of the petitioner setting forth the diligent efforts made to ascertain said place of residence or whereabouts, the court may order that service shall be accomplished on that parent, either within or without the Commonwealth, by:
 - (i) certified or registered mail, return receipt requested, to the last known place of residence of the parent, the mailing to be at least twenty-one days before the date of the pretrial conference, unless the court otherwise orders, and
 - (ii) publication in accordance with subsection (g), below.
- (e) If the identity of a parent is not known, service shall be accomplished on that parent by publication in accordance with subsection (g), below.
- (f) If the place of residence or whereabouts of a parent is known but the petitioner has been unable to accomplish service by delivery despite diligent efforts to do so, on a written motion of the petitioner, setting forth the diligent efforts made, the court may order service in accordance with subsection (d)(i) and (ii), above.
- (g) Whenever service by publication is required in a care and protection case:
 - (i) The court shall, upon motion of the petitioner, other party, or *sua sponte*, issue an Order for Service by Publication, and the petitioner shall cause notice to be published in accordance with the order in the newspaper or newspapers designated by the court once in each of three successive weeks, the final publication to appear no later than the pretrial conference date unless otherwise directed by the court. Whenever the court orders Service by Publication the court shall also require the petitioner to file a Military Affidavit as to the parent to be served by Publication.
 - (ii) If, after the petitioner has perfected service of process by publication in accordance with this rule, no parent has appeared or can be found, a summons shall be issued to the child's legal guardian, if any, known to reside within the Commonwealth, and, if none, to the person with whom such child last resided, if known.

2. Guardianship of a Minor Cases, G.L. c. 201, s. 2 et seq.

Except as provided for in subsection (i), following the filing of a guardianship petition, the petitioner shall cause a summons or order of notice and a copy of the petition to be served by a court officer, constable, deputy sheriff, sheriff, police officer, or other person approved by the court on each of the parents of the subject child, and upon the Department of Social Services if it is the child's legal custodian. The summons or order of notice shall be on a form issued or approved by the court and shall be served with a copy of the petition in the following manner:

(a) If the place of residence or whereabouts of a parent is known, service shall be accomplished on that parent by delivery in hand to the parent. If the minor is above the age of fourteen years and has not nominated the guardian proposed in the petition in conformance with the requirements of G.L. c. 201, s. 2, then service shall be made in the same manner on the minor.

(b) Personal service may be accomplished when the matter comes before the judge if the parent is present and upon a representative of the Department of Social Services if it is the child's legal custodian.

(c) If the Department of Social Services is not the legal custodian of the child, the petitioner shall provide notice to the department of the filing of the petition by the first class mail, postage prepaid

(d) If the place of residence or whereabouts of a parent cannot be found after diligent efforts, on a written motion of the petitioner setting forth the diligent efforts made to ascertain the place of residence or whereabouts, the court may order that service shall be accomplished on that parent, either within or without the Commonwealth, by:

(i) certified or registered mail, return receipt requested, to the last known place of residence of the parent, the mailing to be at least seven days before the petition for guardianship is heard, unless the court otherwise orders, and

(ii) publication in accordance with subsection (g), below.

(e) If the identity of a parent is not known, service shall be accomplished on that parent by publication in accordance with subsection (g), below.

(f) If the place of residence or whereabouts of a parent is known but the petitioner has been unable to accomplish service by delivery despite diligent efforts to do so, on a written motion of the petitioner, setting forth the diligent efforts made, the court may order service in accordance with subsection (d)(i) and (ii), above.

(g) Whenever service by publication is required in a guardianship case:

(i) The court shall, upon motion of the petitioner, other party, or *sua sponte*, issue an Order for Service by Publication, and the petitioner shall cause notice to be published at least one time in the newspaper or newspapers designated by the court, the publication to appear at least seven days before the petition for guardianship is heard, unless otherwise directed by the court. Whenever the court orders Service by Publication the court shall also require the petitioner to file a Military Affidavit as to the parent to be served by Publication.

(h) If the minor is entitled to any benefit, estate, or income paid or payable through the United States Veterans Administration or its successor, service shall be made on the Veterans Administration or its successor in accordance with subsection (d)(i) of this rule.

(i) No notice need be given in the following circumstances: (1) to a person entitled to notice under this rule who has assented in writing to the allowance of the petition if the assent is filed in court; (2) to a parent who executes an adoption surrender in conformance with G.L. c. 210, s. 2, or (3) if the court has terminated parental rights pursuant to G.L. c. 210, s. 3.

(j) The officer or other person making service in accordance with this rule shall make a return of service on a copy of the summons or order of notice which the petitioner shall promptly file with the court.

(k) A motion for temporary guardianship may not be filed unless a permanent guardianship petition has been filed. A motion for the appointment of a temporary

guardian shall be made in writing and shall be accompanied by an affidavit that sets forth the nature of the emergency requiring appointment of a temporary guardian and the particular harm sought to be avoided. If service of the summons or order of notice has not been made in accordance with Rule 3, a copy of a motion for temporary guardianship and written notice of its hearing shall be served with the summons or order of notice unless the court orders otherwise.

3. Paternity and Child Support Cases, G.L. c. 209C, s. 3(c); c. 119, s. 28; c. 201, s. 40

Following the filing of a complaint for paternity and/or for an order of child support, the plaintiff shall cause a summons or order of notice and a copy of the complaint to be served by a court officer, constable, deputy sheriff, sheriff, police officer, or other person approved by the court on each of the parents of the subject child unless a parent has assented to the filing of the complaint, and upon the Department of Social Services if it is the child's legal custodian. The summons or order of notice shall be on a form issued or approved by the court and shall be served with a copy of the complaint in the following manner:

- (a) If the place of residence or whereabouts of a parent is known, service shall be accomplished on that parent by delivery in hand to the parent. If the minor is above the age of fourteen years, service shall be made in the same manner on the minor.
- (b) Personal service may be accomplished when the matter comes before the judge if the parent is present and upon a representative of the Department of Social Services if it is the child's legal custodian.
- (c) If the Department of Social Services is not the legal custodian of the child, the plaintiff shall provide notice to the department of the filing of the complaint by first class mail, postage prepaid.
- (d) If the place of residence or whereabouts of a parent cannot be found after diligent efforts, on a written motion of the plaintiff setting forth the diligent efforts made to ascertain the place of residence or whereabouts, the court may order that service shall be accomplished on that parent, either within or without the Commonwealth, by:
 - (i) certified or registered mail, return receipt requested, to the last known place of residence of the parent, the mailing to be at least seven days before the complaint is heard, unless the court otherwise orders, and
 - (ii) publication in accordance with subsection (f), below.
- (e) If the place of residence or whereabouts of a parent is known but the plaintiff has been unable to accomplish service by delivery despite diligent efforts to do so, on a written motion of the plaintiff, setting forth the diligent efforts made, the court may order service in accordance with subsection (d)(i) and (ii), above.
- (f) Whenever service by publication is required in a paternity or child support case:
 - (i) The court shall, upon motion of the plaintiff, other party, or *sua sponte*, issue an Order for Service by Publication, and the plaintiff shall cause notice to be published at least one time in the newspaper or newspapers designated by the court, the publication to appear at least seven days before the complaint is heard, unless otherwise directed by the court. Whenever the court orders Service by Publication the court shall also require the plaintiff to file a Military Affidavit as to the person to be served by Publication.

4. Change of Name Cases, G.L. c. 201, s. 12 et seq.

Order of Notice. Except as provided for in subsection (f), following the filing of a change of name petition, the petitioner shall serve notice on each of the parents of the subject

child, and upon the Department of Social Services if it is the child's legal custodian in accordance with an order of notice. An order of notice shall be on a form issued or approved by the court and shall be served with a copy of the petition in the following manner:

(a) Service shall be accomplished on the parent by certified or registered mail, return receipt requested, to the last known place of residence of the parent, the mailing to be at least fourteen days before the petition for change of name is heard, unless the court otherwise orders.

(b) Service may be accomplished by a court officer when the matter comes before the judge if the parent is present and upon a representative of the Department of Social Services if it is the child's legal custodian.

(c) If the Department of Social Services is not the legal custodian of the child, the petitioner shall provide notice to the department of the filing of the petition by first class mail, postage prepaid.

(d) If the place of residence or whereabouts of a parent is known but the petitioner has been unable to accomplish service by certified mail despite diligent efforts to do so or if the place of residence or whereabouts of a parent cannot be found after diligent efforts, on a written motion of the petitioner setting forth the diligent efforts made to ascertain the place of residence or whereabouts, the court may order that service shall be accomplished on that parent, either within or without the Commonwealth, by publication in accordance with subsection (e), below.

(e) Whenever service by publication is required in a change of name case:

(i) The court shall, upon motion of the petitioner, or *sua sponte*, issue an Order for Service by Publication, and the petitioner shall cause notice to be published at least one time in the newspaper or newspapers designated by the court, the publication to appear at least seven days before the petition for change of name is heard, unless otherwise directed by the court. Whenever the court orders Service by Publication the court shall also require the petitioner to file a Military Affidavit as to the parent to be served by Publication.

(f) No notice need be given in the following circumstances: (1) to a person entitled to notice under this rule who has assented in writing to the allowance of the petition if the assent is filed in court; (2) to a parent who executes an adoption surrender in conformance with G.L. c. 210, s. 2, or (3) if the court has terminated parental rights pursuant to G.L. c. 210, s. 3.

(g) The officer or other person making service in accordance with this rule shall make a return of service on a copy of the summons or order of notice which the petitioner shall promptly file with the court.

B. Filing Proof of Publication. Following publication in accordance with the order, counsel for the petitioner or plaintiff, as the case may be, shall promptly complete and file in the Clerk- Magistrate's office an Affidavit of Notice of Publication on a form issued or approved by the court and shall file a completed Military Affidavit as to the person served by Publication.

C. Joint Publication. In a case involving two or more children who have the same parents, the petitioner or plaintiff, as the case may be, may accomplish service by joint publication. In all other cases, there shall be a separate publication for each child who is a subject of a case.

D. Filing of Return of Service. The officer or other person making service in accordance with this rule shall make a return of service on a copy of the summons or order of notice which the petitioner or plaintiff, as the case may be, shall promptly file with the court.

Rule 4. Filing of Birth Certificates

A. Care and Protection and Guardianship Cases. The petitioner or plaintiff, as the case may be, shall file, within sixty days of commencement of the action, a certified copy of the birth certificate issued after the date of the filing of the petition or complaint, of each child named in the petition or complaint unless waived by the judge for good cause shown. The petitioner or plaintiff may request an order from the court to produce a birth certificate pursuant to c. 46, s. 2A of the General Laws if said petitioner or plaintiff does not have custody of the child.

B. Paternity and Change of Name Cases. The petitioner or plaintiff, as the case may be, shall file along with the petition or complaint, a certified copy of the birth certificate for each child named in the petition or complaint unless waived by the judge for good cause shown. The birth certificate shall have been issued within thirty days of filing with the court. The petitioner or plaintiff may request an order from the court to produce a birth certificate pursuant to c. 46, s. 2A of the General Laws if said petitioner or plaintiff does not have custody of the child.

Rule 5. Service and Form of Papers

A. Every motion or other paper filed in court shall be promptly served by the attorney or party filing it by mailing or delivering a copy to each attorney of record, and each party appearing pro se.

B. Unless a motion is made during a hearing or trial, any request for a court order shall be made by written motion accompanied by an affidavit signed by the person with personal knowledge of the factual basis of the motion, and shall state with particularity the grounds therefore, and shall set forth the relief or order sought, provided however, that the following types of motions are not required to be accompanied by an affidavit: motions in limine, motions to strike, motions for discovery, motions for appointment of appellate counsel and motions for continuance or change of court date. Whenever a motion is supported by an affidavit or memorandum, the affidavit or memorandum shall be served with the motion.

C. All motions other than those which do not require a hearing shall be scheduled by the court in accordance with procedures established by the court division. A written motion, other than one which may be heard ex parte, and notice of the hearing of the motion, shall be served pursuant to paragraph A of this rule, no later than seven days prior to the hearing.. When service is made by mail, three days shall be added to the seven days' notice requirement. An application for ex parte relief from the seven day notice requirement shall be by motion and supported by affidavit setting forth the nature of the emergency.

D. Every motion or other paper filed with the court, other than documents offered in evidence, shall be on 8 1/2" x 11" white paper and shall have a heading which includes the name, division and county of the court; the docket number, the title of the action and a designation of the nature of the motion or paper, and shall set forth the name, address,

telephone number of the attorney or pro se party filing it, and the Board of Bar Overseers registration number of the attorney; and the date on which the motion or other paper was filed with the court.

Rule 6. Appearances

All counsel shall file a notice of appearance by hand delivering or mailing a notice of appearance which shall include the name of the attorney, address, telephone number and Board of Bar Overseers number. A copy of the appearance shall be served on all parties. Court appointed counsel, upon acceptance of the appointment, must file a separate paper entitled Notice of Appearance. A Notice of Assignment of Counsel does not satisfy the requirements of this rule.

Rule 7. Investigator's Report in Care and Protection Cases

In a care and protection action, including actions in which the need for parental consent to adoption is in issue, the report of the court-appointed investigator shall be filed in the Clerk's Office within sixty days after the appointment of the investigator, unless the court otherwise orders. A request for extension of time for the filing of the court investigator's report shall be in writing, signed by the court investigator and approved by a justice of the juvenile court. The court investigator shall file a request for extension of time no later than fourteen days prior to the date the report is due, provided however, that the court may permit the filing of a request for an extension at some other time in the interests of justice. If the court approves a request for an extension, the court investigator shall provide a copy of any such approved request to all counsel of record and to any party who is not represented by counsel.

Rule 8. Assignment of Care and Protection Cases

At the conclusion of the temporary custody hearing in a care and protection case, if not before, a judge shall be assigned to that case in accordance with procedures established by the Chief Justice of the Juvenile Court Department. Nothing in this rule shall preclude changing the assignment of a case to, or matters being heard by, a different judge in the interests of justice.

Rule 9. Discovery

A. Department of Social Services or Licensed Placement Agency. In any care and protection case in which the Department of Social Services or a licensed placement agency is or becomes a party, the Department of Social Services or the licensed placement agency shall produce for each other party a copy of its entire social services file, including reports made pursuant to G.L. c. 119, s. 51A and s. 51B, within thirty days from the date the case is commenced, or within thirty days from the date the Department of Social Services or the licensed placement agency becomes a party, whichever is later. No party receiving material produced pursuant to this rule shall further duplicate or divulge the material to any person not a party to the case unless by order of court, except that counsel for a party may disclose the material to an expert retained by counsel.

When producing a copy of its social services file in compliance with this rule, the Department of Social Services or licensed placement agency may withhold therefrom privileged material and work product of its attorney, and may withhold therefrom the names, and other reasonable, identifying data, of past or present foster parents of a child who is a subject of the case or of an adoptive parent or prospective adoptive parent of a child who is a subject of the case or of the reporter on reports made pursuant to G.L. c. 119, s. 51A, subject to orders for further production.

The attorney for the Department of Social Services or licensed placement agency shall produce with the copy of the file a list of the materials and information withheld. The attorney for the Department of Social Services shall have an ongoing duty to produce for each other party on a timely basis any additions to the social services file made after initial production required in this subsection.

B. Other Discovery. Other discovery may be had only by leave of court on such terms as the court prescribes. Leave of court shall be requested by motion in accordance with [Rule 5](#).

Rule 10. Motion/Status Conference

A. There shall be a motion/status conference within ninety days after the commencement of any proceeding governed by these rules. All pending discovery motions, if any, shall be heard at the conference. The conference shall result in a status order addressing, at the least, service of process in accordance with Rule 3; a discovery order and schedule (if further discovery is to be had); any special evidentiary issues requiring pretrial hearing and the scheduling thereof; any special issues regarding services being offered or delivered to the family pending trial requiring pretrial hearing and the scheduling thereof; the scheduling of the pretrial conference.

B. Nothing in this rule shall preclude the court from hearing the motions at other times in the interests of justice.

C. Counsel for the parties shall file written certification that mediation has been discussed pursuant to Rule 5 of Rule 1:18 of the Supreme Judicial Court.

Rule 11. Pretrial Conference in Care and Protection Cases

A. Pretrial Conference. A pretrial conference shall be scheduled at the time of the first appearance to occur no later than one hundred twenty days after the filing of the petition, provided however, that it shall be scheduled to occur after the date upon which the court investigator's report is due. All parties are required to be present with counsel at the pretrial conference, except that counsel for the child may appear without his/her client. Failure of one or more parties to appear shall not preclude the court from proceeding with the pretrial conference.

B. Pretrial Memorandum. The parties shall file with the court at the pretrial conference a joint pretrial memorandum, provided however, the Chief Justice of the Juvenile Court Department may waive the requirement of joint pretrial memoranda for a particular division upon the written request of the First Justice. In the event the Chief Justice waives the requirement that joint pretrial memoranda be filed in a particular division, each attorney shall file an individual pretrial memorandum. All pretrial memoranda, whether joint or individual, shall be signed by each counsel of record certifying that all counsel

have met and discussed all of the matters set forth below which must be included in the memorandum:

1. Name, address and telephone number of trial counsel
 2. Names and date and place of birth of each parent
 3. Names and date and place of birth of each child named in the petition
 4. Whether parents have been served [petitioner] *and the date of service*
 5. Certification that discovery has been completed; and if discovery has not been completed, a list of discovery items not yet completed and the compliance date
 6. Relief sought, including whether or not there will be a request for a decree dispensing with the need for parental consent to the adoption, custody, guardianship or other disposition of the child named in the petition
 7. An identification of the specific contested issues to be litigated at trial [Not a restatement of statutory language]
 8. A stipulation of all uncontested facts and issues
 9. A numerical list of proposed exhibits (no objections) to be introduced at trial
 10. An alphabetical list of pre-marked exhibits that may raise objections and detailed grounds for objections including document, page number, paragraph, and sentence
 11. A list of proposed witnesses with expert witnesses clearly designated, a delineation of the issues to which the expert is expected to testify, and a copy of his or her curriculum vitae
 12. An estimate of trial time
 13. A procedural history of the case
 14. A statement addressing such matters as may aid in the disposition of the action
- The pretrial memorandum or memoranda shall also include, where applicable:
15. Whether a writ of habeas corpus is needed
 16. Whether an interpreter is needed for trial
 17. A statement acknowledging that the possibility of settlement has been discussed
 18. A statement regarding consolidation or interdepartmental assignment including whether it has been requested
 19. A statement that counsel for the parties have discussed mediation with their client(s) pursuant to Rule 5 of Rule 1:18 of the Supreme Judicial Court
 20. A statement by the petitioner as to whether the Indian Child Welfare Act may apply to the proceeding

Parties shall be bound by the witness and exhibit lists set forth in the pretrial memoranda, except by leave of court for good cause shown.

Failure of counsel to appear at any scheduled pretrial conference or to meet and participate in the drafting of the pretrial memorandum or to otherwise fail to comply with the provisions of the court's order, if any, may result in the imposition of sanctions. The court may award costs against any party or attorney whose unjustified absence or lack of preparation prevented the conduct of a pretrial conference.

C. Scheduling the Hearing on the Merits. At the pretrial conference, the court shall schedule a hearing on the merits to be heard within twelve months of the filing of the petition.

Rule 12. Sanctions; Contempt

A. Sanctions: If a party, or an attorney, or both, engages in conduct that either delays the progress of litigation, wastes judicial resources or causes an unnecessary increase in expenses on a party, or otherwise impedes the full and effective administration of justice, without sufficient justification as determined by the court, the court may order the party, or the attorney, or both to pay reasonable costs and expenses. The court shall provide notice and a hearing before final imposition of costs. The court shall articulate, in writing, the reasons for the imposed sanctions.

B. Contempt: Enforcement of compliance with court orders may be sought by means of civil contempt, which shall proceed in accordance with the provisions of Mass. R. Civ. P. 65.3 (b) - (h). Proceedings for summary contempt shall be held in accordance with the provisions of Mass. R. Civ. P. 43. Prosecutions for criminal contempt shall proceed in accordance with the provisions of Mass. R. Civ. P. 44.

Rule 13. Subpoenas

Subpoenas shall be served and enforced as provided by Mass. R. Civ. P. 45 and may be issued by the office of the Clerk-Magistrate or as provided in Mass. R. Civ. P. 45.

Rule 14. Trial Judge's Order, Findings of Fact and Conclusions of Law: Notification by Clerk of Issuance of Findings of Fact and Conclusions of Law.

A. Entry of Adjudication, Order of Commitment, Order Dispensing with the Need for Consent to Adoption, Allowance or Denial of Guardianship Petition: Upon the trial judge's making an adjudication, an order of commitment, or an order dispensing with the right of the parents to receive notice of or consent to the adoption, custody, or guardianship or any other disposition of the child or an allowance or denial of a guardianship petition, the Clerk shall forthwith enter that adjudication, order, allowance or denial on the court's docket.

B. Notice. Immediately following the Clerk's entry of the above adjudication, order, allowance or denial on the docket, the Clerk shall notify all parties by mail of the entry of said adjudication, order, allowance or denial. The Clerk shall note on the docket the names of the persons to whom he/she mails such notice, with the date of the mailing. This notice shall include: 1) a copy of said adjudication, order, allowance or denial; 2) the date of the Clerk's entry, and 3) notice that each party has thirty (30) days from said date of entry within which to file a claim of appeal.

C. Order or Decree dispensing with consent to adoption. In all cases in which the court issues an order dispensing with the right of the parents to receive notice of or consent to the adoption, custody, or guardianship or any other disposition of the child, the court shall enter the order or decree on a document separate from any findings of fact and conclusions of law.

D. Trial Judge's Findings of Fact and Conclusions of Law. The trial judge, upon making an adjudication or issuing an order of commitment or an order dispensing with the right of the parents to receive notice of or consent to the adoption, custody, or guardianship or any other disposition of the child, shall file with the Clerk consistent with time standards

promulgated by the Chief Justice of the Juvenile Court Department, findings of fact and conclusions of law to support said order and/or adjudication.

E. Notification to All Parties by Clerk. Immediately upon the filing of said findings of fact and conclusions of law the Clerk shall mail a copy to each party.

Rule 15. Appeal

A. Claim of Appeal. An appeal, as permitted by G.L. c. 119, s. 27, shall be governed by the Massachusetts Rules of Appellate Procedure. The claim of appeal shall be taken to constitute the “notice of appeal” for the purposes of applying the Massachusetts Rules of Appellate Procedure. The notice of appeal and any request for a transcript, if required, shall be signed by the party or parties taking the appeal, unless the appellant is the minor subject of the action; a claim of appeal that is not so signed by the party or parties shall not be accepted for filing by the Clerk.

B. Record on Appeal. In addition to the requirements of the Rules of Appellate Procedure, the record on appeal as assembled shall include a copy of the trial judge’s findings of fact and any conclusions of law.

Standing Order 1-82: Court Hours

The hours during which the Divisions of the Juvenile Court Department shall be open for business to the general public shall be 8:30 a.m. to 4:30 p.m., Monday through Friday.

Adopted February 3, 1982.

Standing Order 1-84: Juvenile Court Case Records and Reports

All juvenile court case records and reports are confidential and are the property of the court.

Reports loaned to or copied for attorneys of record, or such other persons as the court may permit, shall be returned to the court after their use or at the conclusion of the litigation, whichever occurs first.

Said reports shall not be further copied or released without permission of the court.

Adopted May 8, 1984.

Standing Order 1-88: Time Standards

(superseded by [1-04](#))

Applicable to All Divisions

The time standards set forth below for the trial, settlement or other disposition of cases are applicable to cases entered in any division of the Juvenile Court Department on or after July 1, 1988:

Arraignment/Bail Determination: within the next court business day of entering any detention facility by any person under arrest.

Transfer Hearing Part A: within 30 days of complaint.

Transfer Hearing Part B: within 45 days of Part A.

Adjudication (Non-Jury) for Person in Detention: within 21 days of complaint or Transfer Hearing Part B.

Adjudication (Non-Jury) for Person not in Detention: within 30 days of complaint or Transfer Hearing Part B.

Adjudication (Jury): within 60 days of complaint * (including discovery and pre-trial conference).

Adjudication (Care and Protection): within 75 days of petition.** Pre-trial agreements do not satisfy this standard unless they go to judgment.

Determination to Issue Petition or Continue Information Assistance (CHINS): within 45 days of application.

* Date of docketing in the appellate session.

** Adjudication means full hearing and determination, whether or not children are in need of care and protection. It is recognized that there are situations where, in the opinion of the trial judge, an adjudication on the record may be contra-indicated. Such a determination should be deemed extraordinary and never routine. In such a case, adjudication may be satisfied by a close of the evidence to be taken and a finding of facts sufficient to warrant an adjudication. All parties must have rested their cases. While the standard provides for adjudication within 75 days of petition, the case shall be called within 60 days of petition, at which time the sitting judge will read the investigator's report.

Adopted June 9, 1988, effective July 1, 1988 - September 30, 2004.

Standing Order 1-04: Time Standards

(superseded by [2-07](#))

Applicable to All Divisions

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.
Added August 24, 2004, effective October 1, 2004 - December 31, 2006.

Standing Order 2-04: Electronic Recording of Court Proceedings

See also:

Newer [Standing Order 2-09](#): Sound Recording of Court Proceedings

A. Official Recordings.

1. When required. In all divisions of the Juvenile Court Department all courtroom proceedings shall be recorded electronically, subject to the availability and functioning of appropriate recording devices, except that the following may but need not be recorded: (a) the call of the list and similar matters of an administrative nature; and (b) proceedings conducted by a magistrate other than a judge. Said recording shall take place whether or not a court stenographer is present in the courtroom.
2. Logging. During every proceeding which is required to be recorded, the clerk shall: (a) announce clearly the name of the case and its docket number at the beginning of the proceeding; and (b) note, whenever practicable, on the case papers or in a separate log the cassette number and the index numbers representing the beginning and end points of the proceeding.
3. Counsel's responsibility. Counsel shall be responsible for assisting in the creation of an audible record by properly using the microphones provided. Counsel shall speak with sufficient clarity and in sufficient proximity to the microphones to ensure an audible record, and shall be responsible for requesting the judge, when necessary, to instruct other counsel, witnesses or others as to the proper use of the microphones in order to ensure an audible record.

4. Preservation of tapes. The clerk-magistrate shall preserve for at least three years the original recording of any trial, evidentiary hearing, guilty plea or admission to sufficient facts that was presided over by a judge.

5. Access to cassette copies.

(a) Open proceedings. Any person whether or not a party, shall be permitted to obtain a cassette copy of an original recording, or any portion thereof, of any proceeding which was open to the public, unless the record of such proceeding has been sealed or impounded.

(b) Closed proceedings. The original recording of a proceeding which was not open to the public, or of a proceeding whose record has been sealed or impounded, shall be deemed to be impounded and a cassette copy of the original recording, or any portion thereof, shall be made available only in accordance with the following provisions:

(i) Cassette copies of closed proceedings for purposes of appeal. Counsel for any party, or any party who has entered an appearance pro se, shall be permitted to obtain a cassette copy of such a proceeding upon certifying that such cassette copy will be used solely for an appeal, or to determine whether to claim an appeal, in the same matter. Unless the judge who presided over the proceeding has ordered otherwise, the clerk-magistrate shall provide such cassette copy upon such certification without requiring a judge's approval of the request.

(ii) Cassette copies of closed proceedings for other purposes. A cassette copy of such a proceeding may be made available to other persons or for other purposes only with the approval of the judge who presided over the proceeding or, if that judge is unavailable for an extended period or the proceeding was conducted by a magistrate other than a judge, any judge of the court. Any such request shall be accompanied by an affidavit, setting forth the reason for the request and the specific use to be made of the cassette copy, and shall be served on all parties to the proceeding. Any other party or interested person may file a statement in support of or in opposition to such a request. A judge may determine such a request with or without hearing wherever he or she is then sitting. A judge may permit access subject to appropriate restrictions upon the use and dissemination of the cassette copy of such proceeding.

(c) Ordering cassette copies. A request for a cassette copy shall be filed with the clerk-magistrate on a form prescribed by the Chief Justice of the Juvenile Court. In order that multiple cassette copies may be made simultaneously whenever possible, any person making such a request regarding a proceeding that is presently pending on appeal shall certify that he has notified all other parties of his request.

The cost of a cassette copy shall be as established by the Chief Administrative Justice of the Trial Court pursuant to G.L. c. 262, s. 4B. The clerk-magistrate may require prepayment of all or some portion of such cost. There shall be no cost for a cassette copy produced for the use of the court, the Attorney General's office, a district attorney's office, any other agency of the Commonwealth, a police prosecutor, or a party represented by an attorney provided by the Committee for Public Counsel Services. General Laws c. 261, ss. 27A-27G shall apply to any request on behalf of an indigent party who is not represented by an attorney provided by the Committee for Public Counsel Services, and in such case the cost of a cassette copy shall be deemed an "extra cost" as defined in s. 27A.

6. Impermissible uses. No cassette copy shall be used for a commercial purpose, for public or private entertainment or amusement, or for any other purpose detrimental to the administration of justice. No cassette copy shall be duplicated or tampered with. No cassette copy shall be erased, nor its labels removed or defaced, while the matter is pending in any court, or is subject to direct appellate review. Any cassette copy which is thereafter erased shall be erased in its entirety.

Any further dissemination of the cassette copy of a closed proceeding, or its contents, is permissible only: (a) for the purposes for which access was permitted; (b) subject to all provisions of law and court rules governing the records of such closed proceedings; and (c) subject to any additional restrictions with regard to its use which have been prescribed by the judge permitting access.

Any person requesting a cassette copy shall take all reasonable precautions to assure compliance with the requirements of this rule, including notifying anyone permitted to use the cassette copy of such requirements. Any person violating any such requirement shall be subject to appropriate sanctions, including contempt proceedings.

B. Unofficial recordings.

1. Covert recording forbidden. No person shall make any electronic recording in any courtroom, hearing room, office, chambers or lobby of a judge or magistrate without prior authorization from the judge or magistrate then having immediate supervision over such place.

2. Recording by the news media. The recording by the news media of a proceeding open to the public is governed by the provisions of Supreme Judicial Court Rule 1:19.

Added October 13, 2004, effective November 1, 2004.

Standing Order 1-07: Violation of Probation Proceedings

I. Scope and Purpose

This standing order prescribes procedures in the Juvenile Court to be followed upon the allegation of a violation of an order of probation issued in a delinquency, youthful offender or criminal case after a finding of delinquency, youthful offender, or guilty, or after a continuance without a finding. This standing order does not apply to an alleged violation of pretrial probation, as the latter term is defined herein.

The purpose of this standing order is to ensure that judicial proceedings undertaken upon the allegation of a violation of probation are conducted in a manner consistent with the Commonwealth's policy regarding children as set forth in G.L. c. 119 and in full compliance with all applicable law, promptly and with an appropriate degree of procedural uniformity.

II. Definition of terms

In construing this standing order, the following terms shall have the following meanings: "Continuance without a finding" means the order of a court, following a formal submission and acceptance of a plea of guilty or an admission to sufficient facts in a youthful offender case or criminal case; or, in a delinquency case, following a formal submission and acceptance of a plea of delinquency or an admission to sufficient facts or after a trial in which the allegations are proven beyond a reasonable doubt, whereby the case is continued to a date certain without the formal entry of a delinquency, youthful offender, or guilty finding. A continuance without a finding may include conditions imposed in an order of probation (1) the violation of which may result in the revocation

of the continuance, entry of a finding of guilty, youthful offender or delinquency and imposition of sentence or commitment to the Department of Youth Services and (2) compliance with which will result in dismissal of the case.

"District Attorney" means the criminal prosecuting authority including the Attorney General if the delinquency, youthful offender, or criminal case in which probation was ordered was prosecuted by the Office of the Attorney General.

"General conditions of probation" means the conditions of probation that are imposed as a matter of course in every order of probation, as set forth in the official form promulgated by the Administrative Office of the Juvenile Court for such orders.

"Probation order" means the formal, written court order whereby a defendant is placed on probation and which expressly sets forth the conditions of probation.

"Pretrial probation" means the probationary status of a defendant pursuant to a probation order issued prior to a trial or prior to the formal submission and acceptance of a plea of delinquent, youthful offender or guilty, or prior to an admission to sufficient facts.

"Revocation of probation" means the revocation by a judge of an order of probation as a consequence of a determination that a condition of that probation order has been violated.

"Special conditions of probation" means any condition of probation other than one of the general conditions of probation.

"Surrender" means the procedure by which a probation officer requires a probationer to appear before the court for a judicial hearing regarding an allegation of a probation violation.

III. Commencement of Violation Proceedings: Charged Criminal Conduct

(a) General. This standing order prescribes the procedures to be undertaken upon the issuance of a delinquency or criminal complaint or youthful offender indictment against a probationer.

(b) Where Probation Order and Delinquency or Criminal Complaint or Youthful Offender Indictment Involve Same Division

(i) Issuance and Service of Notice. When a delinquency or criminal complaint is issued by a division or a youthful offender indictment is returned by a grand jury and remitted to a division of the Juvenile Court Department against a defendant who is the subject of a probation order previously issued by that same division, the Probation Department shall commence violation proceedings against that probationer. Such proceedings shall be commenced by the issuance by the Probation Department of a Notice of Probation Violation/Hearing at or before the arraignment on the delinquency or criminal complaint or youthful offender indictment. The Notice shall be served on the probationer in hand at arraignment and such service shall be recorded on the case docket, provided that if such in-hand service is not possible, the Notice shall be served on the probationer by first-class mail, unless the court orders otherwise. Service of the Notice by first-class mail shall be recorded on the case docket. Out of court service other than by mail shall require a written return of service. A copy of each Notice of Probation Violation/Hearing shall be provided to the District Attorney forthwith upon its issuance.

The court, upon review of the Notice at arraignment and as a matter of its discretion, may order no further proceedings in the matter, and in such cases formal service of the Notice on the probationer shall not be required.

(ii) Contents of Notice. The Notice of Probation Violation/Hearing shall set forth the criminal conduct alleged to have been committed by the probationer as indicated in the

delinquency or criminal complaint or youthful offender indictment, and shall set forth any other specific conditions of the probation order that the Probation Department alleges have been violated with a description of each such alleged violation.

(iii) Scheduling of Hearing. The probation violation hearing shall be scheduled to be conducted on the date of the pretrial hearing for the new delinquency or criminal complaint or youthful offender indictment, unless the court expressly orders an earlier hearing. The hearing shall be scheduled for a date certain no less than seven days after service on the probationer of the Notice of Violation/Hearing unless the probationer waives said seven day notice period. The hearing date shall not be later than fifteen days after service of the Notice of Violation/Hearing without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after service of the Notice of Violation/Hearing if the probationer objects, except in extraordinary circumstances. In scheduling the pretrial hearing on the new delinquency or criminal complaint or youthful offender indictment together with the probation violation hearing, the court shall give primary consideration to the need for promptness in conducting the probation violation hearing.

(c) Where Probation Order and Delinquency or Criminal Complaint or Youthful Offender Indictment Involve Different Divisions.

(i) Issuance and Service of Notice. When a delinquency or criminal complaint is issued by a division of the Juvenile Court Department or a youthful offender indictment is returned by a grand jury against a defendant who is the subject of a probation order issued by a different division of the Juvenile Court Department, the Probation Department in the division that issued the delinquency or criminal complaint or youthful offender indictment shall issue a Notice of Probation Violation/Hearing to the probationer at or before arraignment on the new delinquency or criminal complaint or youthful offender indictment. The Notice, as provided in section (c)(ii), below, shall be served on the probationer in hand at arraignment and such service shall be recorded on the case docket. The Probation Department forthwith shall send a copy of said Notice, indicating such in-hand service, to the Probation Department of the division that issued the probation order, together with a copy of the complaint and police report on the new delinquency or criminal complaint or youthful offender indictment that constitutes the alleged probation violation. Nothing in this standing order shall preclude the issuance and service on the probationer of a Notice of Probation Violation/Hearing by the Probation Department of the division that issued the probation order. If in-hand service is not possible, the notice shall be served on the probationer by first-class mail unless the court orders otherwise.

(ii) Contents of Notice. The Notice of Probation Violation/Hearing issued to and served on the probationer at the division that issued the delinquency or criminal complaint or youthful offender indictment shall set forth the criminal conduct alleged to have been committed by the probationer as indicated in the delinquency or criminal complaint or youthful offender indictment and shall order the probationer to appear at a specific date and time at the division that issued the probation order.

(iii) Scheduling of Hearing; Service by Probation Division. Upon appearance of the probationer at the division that issued the probation order in accordance with the Notice served pursuant to subsection (ii), the court shall appoint counsel, if necessary, and schedule a probation violation hearing for a date certain, said date to be no less than

seven days later unless the probationer waives said seven-day period. The hearing date shall not be later than fifteen days after service of the Notice of Violation/Hearing without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after service of the Notice of Violation/Hearing if the probationer objects, except in extraordinary circumstances. The Probation Department may revise the Notice of Probation Violation/Hearing by adding to it any additional alleged violations. Such additional allegations shall set forth the specific conditions of the probation order alleged to have been violated with a description of each such alleged violation. The Notice, with amendments, shall be served on the probationer in hand while he or she is before the court. Such service shall be recorded on the case docket. A copy of the Notice, with any amendments, shall be provided to the District Attorney. The probationer shall receive either written or actual notice of the date, time and place of the hearing.

The court, upon review of the Notice at the outset of the hearing and as a matter of its discretion, may order no further proceedings in the matter, and in such cases no hearing shall be scheduled nor further Notice served.

Commentary

Notice to District Attorney

This standing order requires that a copy of the Notice of Probation Violation and Hearing be provided to the District Attorney. The relevant law, G.L. c. 279, §3, gives the District Attorney the right to receive a copy of the notice and appear at such hearings only when the original conviction for which the probationer is on probation involves at least one felony. However, this standing order reflects the position that the District Attorney should be allowed to appear at all such hearings. It allows the District Attorney to decide which hearings to attend and provides as an alternative the submission of a written statement.

This is appropriate, given the fact that some misdemeanor charges may have greater public safety implications than felony charges, e.g., assault and battery. Also, the District Attorney has certain obligations to victims of crime regarding probation violation hearings that can be met only if the District Attorney is informed of the scheduling of such hearings.

IV. Commencement of Violation proceedings: Violations other than Criminal Conduct

(a) General. This standing order prescribes the procedures to be undertaken regarding alleged violations of probation that do not involve or include criminal conduct charged in a delinquency or criminal complaint or youthful offender indictment.

(b) Issuance and Service of Notice. When a probation officer of a division that has issued a probation order determines that a probationer has violated any condition of that order other than the alleged commission of a crime as charged in a delinquency or criminal complaint or youthful offender indictment, that probation officer shall decide whether to commence probation violation proceedings. Such decision shall be made in accordance with the rules and regulations of the Office of the Commissioner of Probation, provided, however, that probation violation proceedings shall be commenced (1) upon the issuance of a criminal complaint or indictment, (2) when the judge issuing the probation order orders that such proceedings are to be commenced upon an alleged violation of one or more conditions of probation, or (3) when the commencement of such proceedings is required by statutory mandate. In any case, a judge of the division may order the commencement of violation proceedings.

The Notice of Probation Violation/Hearing as provided in section (c), below, shall be served on the probationer in hand or by first-class mail, unless the court orders otherwise. Service of the Notice in hand or by first-class mail shall be recorded on the case docket. Out-of-court service other than by first-class mail shall require a written return of service. A copy of each Notice of Probation Violation/Hearing shall be provided to the District Attorney forthwith upon its issuance.

(c) Contents of Notice. The Notice of Probation Violation/Hearing shall set forth the conditions of the probation order that the Probation Department alleges have been violated and shall order the probationer to appear at a specific date and time.

(d) Scheduling of Hearing. Upon appearance of the probationer in accordance with the Notice required by section (c), the court shall appoint counsel, if necessary, and schedule a probation violation hearing for a date certain, said date to be no less than seven days later unless the probationer waives said seven-day notice period. The hearing date shall not be later than fifteen days after said appearance without the probationer's consent if he or she is held pursuant to Section V of this standing order, or in any case no later than thirty days after said appearance if the probationer objects, except in extraordinary circumstances.

V. Preliminary Violation Hearings

(a) Purpose. A preliminary probation violation hearing shall be conducted when the Probation Department seeks to hold a probationer in custody or to request an order of release with terms on the basis of an alleged violation of probation pending the conduct of a full probation violation hearing. The issues to be determined at a preliminary probation violation hearing are whether probable cause exists to believe that the probationer has violated a condition of the probation order, and, if so, whether the probationer should be held in custody, or whether an order of release with terms pending a final probation violation hearing is appropriate. An order of release with terms shall issue only with the consent of the probationer.

(b) Notice of Hearing. When a probationer is before the court having been arrested on a new delinquency or criminal complaint, or youthful offender indictment for a probation violation, or for any other reason, and the Probation Department seeks to hold the probationer in custody or request an order of release with terms, he or she shall be given notice of the alleged probation violation and advised that the purpose of the hearing is to determine whether there is probable cause to believe that he or she committed that violation.

(c) Conduct of Hearing. Preliminary probation violation hearings shall be conducted by a judge or, if a judge is not available, a clerk-magistrate, in a courtroom on the record. The probationer shall be entitled to counsel. After the probationer has been advised of the alleged probation violation; that a preliminary probation violation hearing will be conducted as provided in section (b), above, and counsel has been appointed, if necessary; the probationer shall be allowed a reasonable time to prepare for the hearing. At the hearing, the probation officer shall present evidence to support a finding of probable cause. The District Attorney may assist in the presentation of such evidence. The probationer shall be entitled to be heard in opposition. Testimony shall be taken under oath. The court shall admit such evidence as it deems relevant and appropriate. The

proceeding shall be limited to the issue of probable cause to believe that the alleged violation of probation has occurred.

If probable cause is found, a final probation violation hearing shall be scheduled, the probationer shall be served in hand a Notice of said hearing, and the court may order the probationer to be held in custody, or issue an order of release with terms with probationer's consent to such order, pending the conduct and completion of the scheduled final violation hearing. The court's decision whether to release the probationer or issue an order of release with terms pending the conduct and completion of the final probation violation hearing, notwithstanding a finding of probable cause on an alleged violation, shall include, but not necessarily be limited to:

- i. the probationer's criminal or juvenile record;
- ii. the nature of the offense for which the probationer is on probation;
- iii. the nature of the offense or offenses with which the probationer is newly charged, if any;
- iv. the nature of any other pending alleged probation violations;
- v. the likelihood of probationer's appearance at the final probation violation hearing if not held in custody; and
- vi. the likelihood of incarceration or commitment if a violation is found following the final probation violation hearing.

If no probable cause is found, a probation violation hearing may be scheduled and the probationer thereupon served with notice thereof, but the probationer may not be held in custody nor shall an order of release with terms be issued pending said hearing based on the alleged probation violation.

(d) Bail. Upon a finding of probable cause and an order of custody, the court shall not consider or impose any terms of release such as bail, personal recognizance or otherwise as an alternative to such custody. Notwithstanding such order of probation custody, the court shall proceed to determine the issues of bail and pretrial detention ("dangerousness") on any newly charged offense, as provided by law.

Commentary

Order of Release

This standing order provides two alternatives for judges to consider, after a finding of probable cause, regarding the probationer's custody status pending the violation of probation hearing: an order of release with terms with the probationer's consent or held in custody. [Section V](#) specifically allows for an order of release with terms to be issued by a judge with the consent of the probationer in lieu of ordering a probationer to be held in custody. The order of release with terms provides the Juvenile Court with the ability to release a juvenile, when custody may not be in the best interest of the juvenile, with imposed terms of release that strike a balance between issues of public safety and the best interests of the child. Examples of terms of release include shortening curfew and/or other restriction on the juvenile's activities. The term(s) of the order shall be limited and consistent with the purpose of providing judges with a mechanism for releasing a juvenile to attend school and to receive services available only in the community. Allowing for an order of release with terms with consent of the probationer, where appropriate, rather than holding in custody, is consistent with the Juvenile Court's mission to further the best interests of children who appear before the court by offering a course of rehabilitation rather than punishment, consistent with the provisions of G.L. c 119. See also *Jake J. v.*

Commonwealth, 433 Mass. 70, 75 (2000). If a probationer released on an order of release with terms fails to comply with the order, the probationer may be subject to arrest and brought before the court for a review of custody status.

Order of Custody

Section (d) makes clear that bail and other terms of pretrial release have no application to a probationer's custody pending the conduct and completion of a final probation violation hearing. Bail and other conditions of pretrial release, including pretrial detention based on "dangerousness" under G.L. c. 276, § 58 and 58A, have no legal or conceptual relevance to custody on an alleged probation violation. They relate solely to a newly alleged crime. If the court finds probable cause for a probation violation, it may order the defendant into custody pending the final hearing on the violation. If the court does not find probable cause, the probationer cannot be held in custody on the alleged violation. Even if the probationer is held on the probation allegation, if he or she is also before the court on a new criminal charge, the court must address the terms of pretrial release. This issue is unrelated to custody on the probation charge. The prosecutor may want to be heard on the issue of bail or dangerousness because if the probation matter is promptly resolved, the defendant may be released from custody on the probation matter well before the criminal case is concluded.

Conversely, the issue of probation custody should be addressed regardless of whether or not the prosecutor plans to ask for high bail or pretrial detention based on dangerousness.

VI. Conduct of Hearings

(a) In General. Probation violation hearings shall be conducted by a judge, on the record, with such flexibility and informality as the court may deem appropriate, consistent with the requirements of this standing order and applicable law. All testimony shall be taken under oath. The presentation of the case against the probationer shall be the responsibility of the probation officer assigned by the Chief Probation Officer of the court. The probationer shall be entitled to the assistance of counsel, including the appointment of counsel for probationers determined by the court to be indigent.

(b) Requirement of Two Step Procedure. Probation violation hearings shall proceed in two distinct steps, the first to adjudicate the factual issue of whether the alleged violation or violations occurred, the second to determine the disposition of the matter, if a violation of probation is found by the court to have occurred.

(c) Adjudication of Alleged Violation. Probation violation hearings shall commence with testimony by the probation officer describing the violation or violations alleged in the Notice of Violation and Hearing, and shall proceed with a presentation of the evidence supporting said allegations. The probationer shall be permitted to present evidence relevant to the issue of the alleged violation. Each party shall be permitted to cross-examine witnesses produced by the opposing party. Hearsay evidence shall be admitted by the court in accordance with [Section VII](#) of this standing order, provided that the court shall enforce any statutory privileges unless waived and any legally required disqualifications. The probation officer shall have the burden of proving the alleged violations with or without the participation of the District Attorney as provided below. The standard of proof at such hearings shall be the civil standard of preponderance of the evidence. After the presentation of evidence, both the probation officer and the probationer shall be permitted to make a closing statement.

(d) Dispositional Decision. If the court finds that the probationer has violated one or more conditions of probation as alleged, the probation officer shall recommend to the court a disposition consistent with the dispositional options set forth in [Section VIII\(d\)](#), below, and may present argument and evidence in support of that recommendation. The probationer shall be permitted to present argument and evidence relevant to disposition and to propose dispositional terms.

(e) Continuances. Probation violation hearings shall be continued only by a judge and for good cause shown. The reason for any continuance shall be stated by the judge and recorded on the case docket. No continuance shall be ordered other than to a date certain and for a specific purpose, and as provided in [Section VIII\(a\)](#). The pendency of a delinquency, criminal or youthful offender action on a complaint or indictment which also constitutes an alleged violation of probation shall not be grounds for a continuance of the probation violation hearing unless a judge determines the interests of justice will be served by such a continuance.

(f) Participation of the District Attorney.

(i) In General. The District Attorney may participate in probation violation hearings as provided in G.L. c. 279, s. 3, and such participation shall be permitted in any such proceeding regardless of whether the delinquency or criminal or youthful offender case in which the probation order was issued involved a felony charge.

(ii) Coordination with the Probation Department. If the District Attorney intends to appear at a probation violation hearing, he or she shall confer prior to the hearing with the probation officer responsible for presenting the matter to the court, for the purpose of coordinating the District Attorney's involvement in the hearing with the planned presentation of the probation officer.

(iii) Presentation of Evidence. The District Attorney may present and examine witnesses at the hearing and may examine witnesses presented by the probation officer, and may cross-examine witnesses presented by the probationer. The probationer may cross-examine witnesses presented by the District Attorney. The District Attorney shall be responsible for the attendance of every witness he or she wishes to present, and for the summoning of such witnesses.

(iv) Finding and Disposition. After the presentation of evidence, the District Attorney may make a statement regarding the factual issue of whether one or more violations of probation has occurred.

Commentary

District Attorney Participation

Section (f) addresses participation by the District Attorney. [Sections III](#) and [IV](#) of this standing order require the court to provide a copy of every Notice of Probation Violation and Hearing to the District Attorney. Section (f) is intended to clarify the involvement of the District Attorney in those cases where he or she decides to participate, consistent with the statutory provisions of G.L. c. 279, § 3.

It should be noted that as a constitutional matter, probation functions are within the judicial branch, and the office of the District Attorney is considered within the executive branch. *Commonwealth v. Tate*, 34 Mass.App.Ct. 446 (1993). Under the Massachusetts Constitution, Pt. 1 Art. 30, the branches must maintain a separation of governmental powers. That separateness does not, however, lead to the conclusion that a district attorney's office may not assist the probation service in presenting evidence in support of

a position that the probation service had decided upon. Probation officers are only aided, not interfered with, when district attorneys, upon invitation, conduct examination of witnesses and present evidence. Commonwealth v. Tate at 448 and cases cited.

Thus the right of District Attorneys to present evidence and witnesses, and to examine and cross-examine witnesses at these proceedings would appear to be constitutionally acceptable as long as it does not fundamentally interfere with probation.

VII. Hearsay Evidence

(a) Admissibility of Hearsay Evidence. Hearsay evidence shall be admissible at probation violation hearings.

(b) Sufficiency of Evidence When Case Rests Solely on Hearsay. Where the sole evidence submitted to prove a violation of probation is hearsay, that evidence shall be sufficient only if the court finds in writing (1) that such evidence is substantially trustworthy and demonstrably reliable and (2) if the alleged violation is charged or uncharged criminal behavior, that the probation officer has good cause for proceeding without a witness with personal knowledge of the evidence presented.

VIII. Finding and Disposition

(a) Requirement of Finding. Upon the completion of the presentation of evidence and 9 closing arguments on the issue of whether the probationer has violated one or more conditions of a probation order, as alleged, the court shall make a determination of that issue. The court shall decide the matter promptly and shall not continue the proceeding generally.

(b) Finding of No Violation. If the court determines that the probation officer has failed to prove by a preponderance of the evidence that the probationer committed a violation alleged in the Notice of Probation Violation and Hearing, the court shall expressly so find and said finding shall be recorded on the case docket.

(c) Finding of Violation; Written Findings of Fact. If the court determines that the probation officer has proved by a preponderance of the evidence that the probationer has violated one or more conditions of probation as alleged in the Notice of Probation Violation and Hearing, or if the probationer admits or stipulates to such violation, the court shall expressly so find, and said finding shall be recorded on the case docket. The court shall make written findings of fact to support the finding of a violation, stating the evidence relied upon.

(d) Disposition After Finding of Violation. After the court has entered a finding that a violation of probation has occurred, the court may order any of the following dispositions set forth below, as it deems appropriate. These dispositional alternatives shall be the exclusive options available to the court. In determining its disposition, the court shall give appropriate weight to the recommendation of the Probation Department and such factors as public safety; the seriousness of any offense of which the probationer was convicted or adjudicated; the nature of the probation violation; the occurrence of any previous violations and the impact on any victim of the underlying offense, as well as any mitigating factors.

(i) Continuance of Probation. The court may decline to modify or revoke probation and, instead, issue to the probationer such admonition or instruction as it may deem appropriate.

(ii) Termination. The court may order that the probation be considered completed and terminate the probation order.

(iii) Modification. The court may modify the conditions of probation. Such modification may include the addition of reasonable conditions and the extension of the duration of the probation order.

(iv) Revocation; Statement of Reasons. The court may order that the order of probation be revoked. If the court orders revocation, it shall state the reasons therefor in writing.

(e) Execution of Suspended Sentence or Commitment; Stay of Execution. Upon revocation of a probation order, any sentence or commitment to the Department of Youth Services that was imposed for the offense involved, the execution of which was suspended, shall be ordered executed forthwith; provided, however, that such execution may be stayed (1) pending appeal in accordance with Mass.R.Crim.P. 31, or (2) at the court's discretion, and upon the probationer's motion, to provide a brief period of time for the probationer to attend to personal matters prior to commencement of a sentence of incarceration or commitment to the Department of Youth Services. The execution of such sentence or commitment shall not be otherwise stayed.

(f) Imposition of Sentence or Commitment Where No Sentence or Commitment to the Department of Youth Services Previously Imposed. Upon revocation of probation in a case where no sentence or commitment was imposed following conviction or adjudication, the court shall impose a sentence or commitment as provided by law.

IX. Violation of Conditions of a Continuance Without a Finding

(a) Notice, Conduct of Hearing, Adjudication. The procedures set forth in this standing order regarding notice for, and the conduct and adjudication of, probation violation hearings shall also apply where the Probation Department alleges a violation of probation that was imposed together with a continuance without a finding.

(b) Disposition. The dispositional options available to the court following a determination that one or more conditions of probation imposed together with a continuance without a finding have been violated shall be as follows:

(i) Continuation of the Continuance. The court may decline to modify or revoke the probation order and instead may continue the continuance without a finding and issue to the probationer such admonition or instruction as it may deem appropriate.

(ii) Termination. The court may order that the continuance without a finding be considered completed, terminate the order of probation and enter a dismissal on the underlying criminal case.

(iii) Modification. If the violation consists of a criminal or delinquent act, or if the court determines that the violation constitutes a material change in circumstance, it may continue the continuance without a finding and modify the conditions of probation including the duration of the continuance.

(iv) Revocation. The court may revoke the order of probation and terminate the continuance without a finding, whereupon a finding of guilty, delinquency or youthful offender shall be entered.

(c) Execution of Sentence or Commitment; Stay of Execution. Upon revocation of probation, any sentence or commitment to the Department of Youth Services that was specified as a condition of the plea or admission and accepted by the court that ordered the continuance, shall be imposed and executed forthwith; provided, however, that such execution may be stayed (1) pending appeal in accordance with Mass. R. Crim. P. 31, or (2) at the court's discretion, and upon the probationer's motion, to provide a brief period of time for the probationer to attend to personal matters prior to commencement of a

sentence of incarceration or commitment to the Department of Youth Services. The execution of such sentence shall not be otherwise stayed.

(d) Imposition of Sentence When No Sentence or Commitment Previously Specified.

Upon revocation of a probation order where no sentence or commitment to the Department of Youth Services was specified as a condition of the plea or admission and accepted by the court that ordered the continuance, the court shall impose sentence or commitment as provided by law.

Added October 6, 2006, effective January 1, 2007.

Standing Order 2-07: 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 January 1, 2007. 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 and G.L. 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.7](#): within sixty (60) days after the appointment of the investigator unless the court otherwise orders)

4. Motion/Status ([Juv. Ct. R.10](#): within ninety (90) days after filing)

5. Pre-trial Conference ([Juv. Ct. R.11](#): within one hundred and twenty (120) days after filing)

6. 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 the family does not necessarily result in an uncontested trial.

C. Decision and Findings: Within ninety (90) days from the close of evidence.
Effective January 1, 2007.

Standing Order 1-09: Application of G. L. c. 190B, Article V to Guardianship of a Minor Cases Pending On July 1, 2009 or With a Decree Issued Prior Thereto

On July 1, 2009, certain provisions of the Massachusetts Uniform Probate Code, G.L. c. 190B (Code), become effective. The provisions are primarily contained in Article V of the Code, Protection of Persons under Disability and Their Property. The Code significantly reforms the practice of guardianship law.

The Massachusetts Uniform Probate Code applies to any guardianship case:

(a) where a permanent decree has previously entered and the guardianship has not terminated;

(b) pending on July 1, 2009 without a permanent decree having entered; or

(c) commenced on or after July 1, 2009. Accordingly:

1. PENDING CASES WITH NO PERMANENT DECREE

Any Petition for Guardianship of the Minor pending before July 1, 2009 does not require amendment or the filing of a new petition.

2. CASES WHERE A GUARDIAN OF THE MINOR WAS APPOINTED BEFORE JULY 1, 2009

A. Issuance of Letters of Appointment.

When any party seeks a certified copy of the Decree appointing the guardian of the minor, Letters of Appointment of Guardian shall issue in accordance with the prior Decree and encompass duties and responsibilities set forth in the Code.

B. Reporting Requirements

Guardians of minors are required, at a minimum, to file a report on the condition of the minor and the condition of the estate of the minor within one year following the anniversary date of their appointment, but no later than July 1, 2010, whichever comes first. Whenever any guardian of the minor is before the court, the court shall ensure the timely filing and review of any and all reports.

Adopted June 22, 2009, effective July 1, 2009.

Standing Order 2-09: Sound Recording of Court Proceedings

A. DEFINITIONS.

1. Sound Recording: a recording, such as but not limited to a cassette tape or compact disc, used to store recorded sound.

B. OFFICIAL RECORDINGS.

1. When Required. In all divisions of the Juvenile Court Department all courtroom proceedings shall be recorded, subject to the availability and functioning of appropriate recording devices, except that the following may but need not be recorded: (a) the call of the list and similar matters of an administrative nature; and (b) proceedings conducted by a magistrate other than a judge. Said recording shall take place whether or not a court stenographer is present in the courtroom.

2. Logging. During every proceeding which is required to be recorded, the clerk shall: (a) announce clearly the name of the case and its docket number at the beginning of the

proceeding; and (b) log, whenever practicable, the sound recording number and the index numbers or dates representing the beginning and end points of the proceeding.

3. Counsel's Responsibility. Counsel shall be responsible for assisting in the creation of an audible record by properly using the microphones provided. Counsel shall speak with sufficient clarity and in sufficient proximity to the microphones to ensure an audible record, and shall be responsible for requesting the judge, when necessary, to instruct other counsel, witnesses or others as to the proper use of the microphones in order to ensure an audible record.

4. Preservation of Recordings. The clerk-magistrate shall preserve for at least three years the original recording of any trial, evidentiary hearing, guilty plea or admission to sufficient facts that was presided over by the judge.

5. Access to Copies of Sound Recordings.

(a) Open proceedings. Any person whether or not a party, shall be permitted to obtain a sound recording copy of an original recording, or any portion thereof, of any proceeding which was open to the public, unless the record of such proceeding has been sealed or impounded.

(b) Closed proceedings. The original recording of a proceeding which was not open to the public, or of a proceeding whose record has been sealed or impounded, shall be deemed to be impounded and a sound recording copy of the original recording, or any portion thereof, shall be made available only in accordance with the following provisions:

(i) Sound recording copies of closed proceedings for purposes of appeal. Counsel for any party, or any party who has entered an appearance pro se, shall be permitted to obtain a sound recording copy of the original recording of such a proceeding upon certifying that such sound recording copy will be used solely for an appeal, or to determine whether to claim an appeal, in the same matter. Unless the judge who presided over the proceeding has ordered otherwise, the clerk-magistrate shall provide such sound recording copy upon such certification without requiring a judge's approval of the request.

(ii) Sound recording copies of closed proceedings for other purposes. A sound recording copy of such a proceeding may be made available to other persons or for other purposes only with the approval of the judge who presided over the proceeding or, if that judge is unavailable for an extended period or the proceeding was conducted by a magistrate other than a judge, any judge of the court. Any such request shall be accompanied by an affidavit, setting forth the reason for the request and the specific use to be made of the sound recording copy, and shall be served on all parties to the proceeding. Any other party or interested person may file a statement in support of or in opposition to such a request. A judge may determine such a request with or without hearing wherever he or she is then sitting. A judge may permit access subject to appropriate restrictions upon the use and dissemination of the sound recording copy of such proceeding.

(c) Ordering sound recording copies. A request for a sound recording copy shall be filed with the clerk-magistrate on a form prescribed by the Chief Justice of the Juvenile Court. In order that multiple sound recording copies may be made simultaneously whenever possible, any person making such a request regarding a proceeding that is presently pending on appeal shall certify that he has notified all other parties of his request. The cost of a sound recording copy shall be as established by the Chief Administrative Justice of the Trial Court pursuant to G.L. c. 262, s. 4B. The clerk-magistrate shall require prepayment of all or some portion of such cost. There shall be no cost for a sound

recording copy produced for the use of the court, the Attorney General's office, a district attorney's office, any other agency of the Commonwealth, a police prosecutor, or a party represented by an attorney provided by the Committee for Public Counsel Services. General Laws c. 261, ss. 27A-G shall apply to any request by a party who is not represented by an attorney provided by the Committee for Public Counsel Services, and in such case the cost of a sound recording copy shall be deemed an "extra cost" as defined in s. 27A.

6. Impermissible Uses. No sound recording copy shall be used for a commercial purpose, for public or private entertainment or amusement, or for any other purpose detrimental to the administration of justice. No sound recording copy shall be duplicated or tampered with. No sound recording copy shall be erased, nor its labels removed or defaced, while the matter is pending in any court, or is subject to direct appellate review. Any sound recording copy which is thereafter erased shall be erased in its entirety.

Any further dissemination of the sound recording copy of a closed proceeding, or its contents, is permissible only: (a) for the purposes for which access was permitted; (b) subject to all provisions of law and court rules governing the records of such closed proceedings; and (c) subject to any additional restrictions with regard to its use which have been prescribed by the judge permitting access.

Any person requesting a sound recording copy shall take all reasonable precautions to assure compliance with the requirements of this rule, including notifying anyone permitted to use the sound recording copy of such requirements. Any person violating any such requirement shall be subject to appropriate sanctions, including contempt proceedings.

C. UNOFFICIAL RECORDINGS.

1. Covert Recording Forbidden. No person shall make any recording in any courtroom, hearing room, office, chambers or lobby of a judge or magistrate without prior authorization from the judge or magistrate then having immediate supervision over such place.

2. Recording by the News Media. The recording by the news media of a proceeding open to the public is governed by the provisions of Supreme Judicial Court Rule 1:19.

Adopted October 7, 2009, effective November 1, 2009.

Standing Order 1-10: Scheduling Care and Protection and Termination of Parental Rights Trials

1. Purpose. The purpose of this Standing Order is to establish procedures and standards and promote uniformity to ensure that care and protection and termination of parental rights trials are completed within a reasonable time after commencement of trial.

2. Applicability. This Standing Order is applicable to all Divisions of the Juvenile Court and to all care and protection and termination of parental rights trials.

3. Definitions. Commencement of Trial - the date when testimonial evidence is presented by witnesses called to testify before the court; the date that a document is submitted to the court, accepted and admitted into evidence as an exhibit. Close of Evidence - the date when all parties have completed the submission of all evidence.

4. Length of Trial. All care and protection and termination of parental rights trials will conclude no later than thirty (30) calendar days after commencement of trial. Trial dates

should be scheduled for consecutive days, whenever possible. Potential exhibits should be "marked for identification" prior to the commencement of trial whenever possible.

5. Cases Under Advisement. An adjudication that a child is, or is not, in need of care and protection, or an order terminating, or a decision not to terminate, parental rights shall be made no later than thirty (30) days after the close of evidence.

6. Emergency Extension for Trial or Cases Under Advisement. In extraordinary circumstances, the justice presiding over the trial may request approval from the Chief Justice to extend the time for trial, or extend the time for adjudication, order or decision, for an additional fifteen (15) calendar days. Such request should be submitted in writing, should identify the extraordinary circumstances that necessitated the request and should be submitted no later than ten (10) calendar days prior to the expiration of the thirty (30) day period, except when the request for additional time is due to unforeseen circumstances which occur subsequent to the ten (10) calendar day period.

8. Dedicated Trial Sessions. Dedicated trial sessions for care and protection and termination of parental rights cases are encouraged where there are available judicial resources, sufficient attorneys to represent the parties and where multiple demands upon court time do not make such sessions impractical and inefficient.

9. Effective Date. This Standing Order and the procedures and standards contained herein shall apply to all care and protection and termination of parental rights trials commenced on or after September 1, 2010.

Adopted July 13, 2010, effective: September 1, 2010.