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JUVENILE COURT RULES

Standing Orders

Juvenile Court Standing Order 1-21: Emergency court operations under the exigent circumstances created by COVID-19

ADOPTED DATE:

01/05/2021

EFFECTIVE DATE:

01/11/2021

UPDATES:

Issued January 5, 2021, effective January 11, 2021 (https://www.mass.gov/media/2228861/download)

Rescinding and superseding Juvenile Court Standing Order 10-20.

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Introduction

Pursuant to my authority under G.L. c. 211B, §10, it is hereby ORDERED that Juvenile Court Standing Order 11-20 issued on Friday, November 27, 2020 expire on Sunday, January 10, 2021. In addition, this Order rescinds and supersedes Juvenile Court Standing Order 10-20 issued on Thursday, October 8, 2020.

In accordance with the Executive Office of the Trial Court's 90 Day Operational Plan issued on January 5, 2021, First Justices and Clerk-Magistrates shall staff their divisions in teams with a cap of no more than 50% of staff working in a court location at any time. In the event the division is not able to conduct the business described in this Standing Order while maintaining the 50% staffing cap the First Justice or Clerk-Magistrate shall contact the Chief Justice of the Juvenile Court who may waive the 50% cap, if the situation warrants.

I. Virtual and in-person hearings in all matters

To continue to limit the number of persons entering courthouses, unless otherwise provided for in this Order, *all matters within the jurisdiction of the Juvenile Court, including but not limited to all filings and events in delinquency, youthful offender, care and protection, child requiring assistance, guardianship, adoption, harassment prevention orders, substance use disorder petitions pursuant to G.L. c 123, § 35, and mental health petitions pursuant to G.L. c. 123, §§ 7,8, shall be heard virtually unless the matter can be handled more effectively or efficiently in person or cannot be handled virtually because a virtual proceeding is not practicable or would be inconsistent with the protection of constitutional rights.*

The determination as to whether a matter may be heard in person shall be made by the First Justice unless otherwise provided for in this Order.

A. Delinquency and Youthful Offender Bench Trials

Delinquency and youthful offender bench trials shall be held in person unless all parties and the trial judge agree to conduct the trial virtually. Priority shall be given to those matters where the youth is detained pending trial.

B. Care and Protection Bench Trials

Care and Protection bench trials may be held in- person or virtually in the discretion of the trial judge.

C. Jury Trials

Jury trials in the Juvenile Court shall be held in accordance with the Supreme Judicial Court's (SJC) Fourth Updated Order and the Report and Recommendations to the Justices of the Supreme Judicial Court on the Resumption of Jury Trials in the Context of the COVID-19 Pandemic by the Jury Management Advisory Committee, any subsequent memorandum and order issued by the SJC regarding jury trials and Juvenile Court Standing Order 9-20.

D. G.L. c. 123, § 35 Hearings

If a petitioner contacts the court regarding the filing of a petition for commitment pursuant to G.L. c. 123, § 35, the court shall make every effort to provide the petitioner with the petition without requiring the petitioner to appear in person at the court. Once the petition is completed and filed with the court, the court shall schedule the hearing.

Any youth apprehended on a warrant of apprehension issued pursuant to a G.L. c. 123, § 35 petition shall be brought to court by the police and an in-person hearing shall take place at the court.

E. Recording and Docketing of Virtual Hearings

All virtual hearings shall be held, to the extent practicable, in a courtroom or other location that can be recorded by FTR. Clerk-Magistrates shall docket all cases in MassCourts consistent with normal procedures.

II. Presence of individuals at virtual and in-person hearings

Pursuant to the SJC's Fourth Updated Order, where a virtual hearing is scheduled, no one other than court personnel may be physically present in the courtroom during the virtual hearing without the approval of the judge or Clerk-Magistrate conducting the hearing. In the absence of exceptional circumstances, as determined by the judge or Clerk-Magistrate conducting the hearing, no party (or attorney for a party) may be physically present in the courtroom for a scheduled virtual hearing.

Where an in-person hearing is scheduled for an event, a judge may authorize a participant (an attorney, party, or witness) to appear virtually while other participants appear in-person, so long as it is consistent with the protection of constitutional rights. A participant who requests to appear virtually for an otherwise in-person proceeding shall have no grounds to object to other participants appearing in-person.

III. Entry into courthouses

Entry into a courthouse will be limited to personnel who work in the courthouse and persons who are present for one or more of the following purposes: attending in-person court proceedings for the purposes set forth in this Order; conducting in-person business with a clerk's office (including but not limited to the posting or return of bail); or meeting with a probation officer or staff person.

A. Bail

A parent, guardian or custodian may appear at the courthouse to post bail for a youth being detained at the courthouse following the issuance of a bail order. When a youth is detained on bail at the Department of Youth Services (DYS) and is ordered to be placed on a global positioning system (GPS) as a condition of release, following notification by the parent, guardian or custodian to DYS that the parent, guardian or custodian is able to pay the bail amount, arrangements shall be made between DYS, the Clerk-Magistrate, probation, and the youth's attorney to enable the transportation of the youth to the court, the posting of bail by the parent, guardian or custodian at the court and the installation of GPS by probation at the court. Procedure for Posting Bail When GPS is a Condition of Release During Emergency Court Operations issued by the Administrative Office of the Juvenile Court shall govern this process.

B. GPS and Remote Alcohol Monitoring

Where a judge has ordered electronic monitoring in the form of either GPS or remote alcohol monitoring or in cases where, pursuant to an earlier court order, previously installed equipment requires maintenance or removal, all installations, maintenance, or removals of such equipment may occur in the courthouse to ensure security and access to personal protective equipment by probation personnel.

IV. Office of the Clerk-Magistrate

Pursuant to the SJC's Fourth Updated Order, all Juvenile Court clerk's offices will be physically open to the public to conduct court business. To continue to limit the number of persons entering courthouses, clerks' offices will continue to conduct business virtually to the extent possible. Each Clerk-Magistrate is authorized to require the physical presence of additional staff as may be necessary to address the additional business contemplated by this Order, provided that any such increase in staff presence will be conducted in accordance with health and safety protocols established by the Trial Court.

V. Other court business

A. Court Investigators and Guardians Ad Litem

Any court investigator appointed to a care and protection matter shall conduct the investigation as required by G.L. c. 119, §§ 21A, and 24. Court investigators may conduct in-person interviews, in their discretion, if such interviews are able to be conducted in compliance with the guidelines set forth by the Centers for Disease Control regarding social distancing and person to person contact. Court investigators shall mail one copy of the completed investigation to the appropriate court location. Court investigators shall not fax or email any reports to the court, unless directed to do so. Court investigators shall contact the court by phone only with any questions regarding their appointment. Any guardian ad litem appointed shall conduct their work as outlined by the scope of their appointment. Guardians ad

litem may conduct in-person interviews, in their discretion, if such interviews are able to be conducted in compliance with the guidelines set forth by the Centers for Disease Control regarding social distancing and person to person contact. All bills shall continue to be mailed to the appropriate court locations with the understanding that there may be a delay in the processing of bills due to limited staff.

B. Motions for Funds

Pursuant to **CPCS v. Chief Justice of the Trial Court (No. 2)** (http://masscases.com/cases/sjc/484/484mass1029.html), SJC-12926, (2020) any motions for funds filed where the juvenile is currently detained pre-trial, has been civilly committed pursuant to G.L. c. 123, § 35, or has been permanently committed to the Department of Youth Services, shall be heard as soon as possible. The motion may be heard administratively or virtually.

C. Detained Youth

Any motions for bail reconsideration, motions seeking release of youth detained as a result of a bail revocation order or detained awaiting a violation of probation hearing shall be considered in accordance with the provisions of **Juvenile Court Standing Order 5-20** (/juvenile-court-rules/juvenile-court-standing-order-5-20-protocol-governing-requests-for-release).

D. Juvenile Court Locations

The Chief Justice of the Juvenile Court, after consultation with the Chief Justice of the Trial Court, for reasons of public health and safety may order that a court division or location conduct all business virtually and/or may transfer some or all in-person matters to specified courts within the Juvenile Court Department. Juvenile Court First Justices shall not order the closure of a court location within their division to the public without the permission of the Chief Justice of the Juvenile Court. All Juvenile Court locations shall be staffed, at a minimum, once a week unless the location is closed to the public due to an emergency or by authorization of the Chief Justice of the Juvenile Court.

Downloads

Juvenile Court Standing Order 1-21: Emergency Court Operations Under the Exigent Circumstances Created by COVID-19

(https://www.mass.gov/doc/juvenile-court-standing-order-1-21-emergency-court-operations-under-the-exigent-circumstances/download)

(PDF 313.32 KB)

UPDATES:

Issued January 5, 2021, effective January 11, 2021 (https://www.mass.gov/media/2228861/download)

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