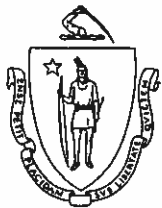


JAN 03 2011



**THE COMMONWEALTH OF MASSACHUSETTS
ADMINISTRATIVE OFFICE OF THE JUVENILE COURT**

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MICHAEL F. EDGERTON
Chief Justice

JANE STRICKLAND
Court Administrator

To: Virginia Peel, Department of Children and Families
Michael Dsidá, Committee for Public Counsel Services

From: Jane Strickland *JS*

Date: December 30, 2010

Re: Scheduling Permanency Hearings for Young Adults and Children

Enclosed please find a copy of Juvenile Court Uniform Practice and Procedure 01-2011 *Scheduling Permanency Hearings for Young Adults and Children* issued by this office to implement certain outside sections of Chapter 359 of the Acts of 2010.

Thank you for your assistance and please call or email me if you have any questions.

Uniform Practice and Procedure 01-2011

Scheduling Permanency Hearings for Young Adults and Children Who Choose to Remain in the Care of the Department of Children and Families Upon or After Turning 18 Years Old

I. INTRODUCTION

This uniform practice sets forth the practice and procedure for scheduling permanency hearings for young adults and children who choose to remain in the care of the Department of Children and Families (DCF) upon or after turning 18 years old. For the purposes of this uniform practice: **'Care'** is a written agreement between the young adult and DCF to continue to provide services and support to the young adult in preparing for their future outside of DCF; **'Young Adult'** is a person between the ages of 18 and 22; **'Child'** is a person who has not yet attained the age of 18.

This uniform practice addresses the following three groups of young adults and children:

- **GROUP ONE:** young adults, who turned 18 on or before January 3, 2011, are not yet 22, and are in the care of DCF on January 3, 2011.
- **GROUP TWO:** children, in the care and custody of DCF, who turn 18 after January 3, 2011.
- **GROUP THREE:** children, in the care and custody of DCF, who turn 18 after January 3, 2011, who subsequently leave the care of DCF but return to the care of DCF at a later date, prior to turning 22. An example of this group is a child, in the care and custody of DCF, who, upon turning 18, decides to not remain in the care of DCF, but then returns to the care of DCF prior to turning 22. Another example of this group is a child, in the care and custody of DCF, who upon turning 18, decides to remain in the care of DCF, but then decides to leave DCF, only to return to the care of DCF, prior to turning 22.

II. GROUP ONE: YOUNG ADULTS WHO TURNED 18 ON OR BEFORE JANUARY 3, 2011, ARE NOT YET 22, AND ARE IN THE CARE OF DCF ON JANUARY 3, 2011

A. Identifying the Young Adult

DCF will identify every young adult currently in its care. The names of these young adults will be provided to the court that entered the final custody order in either a care and protection or CHINS case.

B. Motion to Schedule a Permanency Hearing for a Young Adult

DCF will file a **Motion to Schedule a Permanency Hearing for a Young Adult (JV-F)** for each young adult on the list provided to the court. The **Motion**

includes a request that if the underlying case was dismissed by the court in order to dispose of the case or the young adult was dismissed from a care and protection case that is currently active due to other children on the case, that the dismissal be vacated in order for the new permanency hearings to be entered on the same docket.

- The court will docket the **Motion** under the original docket number of the care and protection or CHINS case.
- The court shall schedule the **Motion** for a hearing to be held ex parte.
- More than one **Motion** may be scheduled for the same date and time.
- **All permanency hearings for Group One must be scheduled by April 1, 2011.**

Session Code: MO
MOTF: Motion for [C][C] filed.
Motion for scheduling a permanency hearing for a young adult filed.

C. Hearing on the Motion

A legal representative of DCF shall be present at the hearing on the **Motion**. Once the **Motion** is allowed, the permanency hearing shall be scheduled. The permanency hearing shall be held within 180 days of January 3, 2011. **Therefore all permanency hearings for young adults in Group One shall be held on or before July 1, 2011.** Please use the new session code **PY** when scheduling a permanency hearing for a young adult.

MOTA: Motion for [C][C] allowed.
Motion for scheduling a permanency hearing for a young adult allowed.

Session Code: PY

1. If Case/Child was Dismissed

Included in the **Motion to Schedule a Permanency Hearing for a Young Adult** is a request that if the underlying case was dismissed by the court in order to dispose of the case or the young adult was dismissed from a care and protection case that is currently active due to other children on the case, that the **dismissal be vacated** in order for the new permanency hearings to be entered on the same docket. If the case was dismissed, the judge must vacate the dismissal. After entering **MOTA**, please enter the following new major action code to vacate the dismissal:

DISV Dismissal vacated for the limited purpose of holding a permanency hearing as required by G.L. c. 119, sec. 29B.

2. If Case/Child was not Dismissed

If the underlying case was disposed of using the major action code **CPNJ** (Child attained age 18 and is no longer subject to the court's jurisdiction), that major action code is not considered a dismissal and therefore only the filing of the motion and its allowance is required on the docket in order to schedule the new permanency hearings. Therefore if **CPNJ** was used to dispose of the underlying case, you only need to enter the major action code **MOTA**.

D. Appointment of Counsel for the Young Adult

The young adult is entitled to counsel. Whenever practicable, counsel who previously represented the young adult on the care and protection or CHINS, shall be appointed. The Clerk's Office shall determine the name of the last appointed counsel for the young adult on the underlying case. The Clerk's Office shall contact the attorney to determine whether he/she would like to represent the young adult for the permanency hearings. If the attorney agrees to represent the young adult that attorney shall be appointed. If the attorney declines to represent the young adult, then an attorney shall be appointed following the normal appointment procedures.

E. Permanency Hearing

The judge who entered the final custody order in the underlying case shall be the judge presiding over the permanency hearing, to the extent that it is practicable. DCF will notify the young adult of the opportunity to attend the hearing. The young adult should be present at the hearing unless he/she chooses otherwise. If the young adult is not present, the hearing may still go forward. The court must determine whether DCF had made reasonable efforts to achieve the permanent plan and that the plan is an appropriate transition plan for a young adult. Once the plan is approved, the court shall schedule the next permanency hearing to be held within a year. The court shall schedule the hearings on an annual basis, until the young adult turns 22 or leaves the care of DCF, whichever occurs first. The court may, in its discretion, schedule a permanency hearing on a more frequent basis than once a year. Please use the new session code **PY** for scheduling these hearings.

F. Disposing of the Case Once Young Adult Turns 22

If the young adult remains in the care of DCF until he/she turns 22, after the final permanency hearing, please enter the following new major action code to dispose of the case:

CP22

Young adult attained age 22 and is no longer subject to the court's jurisdiction.

III. GROUP TWO: CHILDREN IN THE CARE AND CUSTODY OF DCF WHO TURN 18 AFTER JANUARY 3, 2011

A. Permanency Hearing Held on the Child's 18th Birthday or Just Prior to the Child's 18th Birthday

This section refers to the permanency hearing held on the child's 18th birthday or just prior to the child's 18th birthday. Prior to this hearing, DCF will notify the child of the opportunity to attend the hearing. The child should be present at the hearing unless he/she chooses otherwise. If the child is not present, the hearing may still go forward.

At this hearing, DCF shall notify the court of whether the child is requesting to remain in the care of DCF following his/her 18th birthday. DCF shall indicate this in the written permanency plan for the child.

Regardless of whether DCF indicates that the child will remain in the care of DCF after his/her 18th birthday, the court shall schedule another permanency hearing to be held 6 months from the date of this hearing. Please use the following new session code **PY** to schedule the next permanency hearing.

B. Permanency Hearing Held After the Child Turns 18

This section refers to the hearing scheduled to be held 6 months after the child's 18th birthday. Prior to this hearing, DCF will notify the young adult of the opportunity to attend the hearing. The young adult should be present at the hearing unless he/she chooses otherwise. If the young adult is not present, the hearing may still go forward.

At this hearing, DCF shall notify the court of whether the young adult remains in the care of DCF following his/her 18th birthday. DCF shall indicate this in the written permanency plan for the young adult.

1. Child Remains in DCF Care after 18th Birthday

If the child remains in DCF care after his/her 18th birthday, then a permanency hearing shall be held for him/her on an annual basis until he/she turns 22 or leaves the care of DCF, whichever occurs first. Please use the new session code **PY** when scheduling these hearings. The court may, in its discretion, schedule a permanency hearing on a more frequent basis than once a year.

2. Child No Longer Remains in DCF after 18th Birthday

If DCF notifies the court that the child, upon turning 18, chose not to remain in the care of DCF, then no more permanency hearings shall be scheduled. The court may enter the following major action code in order to dispose of the case:

PNX: Permanency hearing notice filed by DCF that child/young adult is no longer in the care or custody of DCF.

IV. GROUP THREE: CHILDREN, IN THE CARE AND CUSTODY OF DCF, WHO TURN 18 AFTER JANUARY 3, 2011, WHO SUBSEQUENTLY LEAVE THE CARE OF DCF BUT RETURN TO THE CARE OF DCF AT A LATER DATE, PRIOR TO TURNING 22

The amendments to G.L. c. 119, as appearing in Chapter 359 of the Acts of 2010, permits a child in the care and custody of DCF who turns 18 after January 3, 2011, and who subsequently leaves the care of DCF, to return to the care of DCF, prior to turning 22. This section addresses the procedure for those young adults which is similar to the procedure for **GROUP ONE**.

A. Motion to Schedule a Permanency Hearing for a Young Adult

DCF will file a **Motion to Schedule a Permanency Hearing for a Young Adult (JV-F)** for each young adult who returns to the care of DCF. The **Motion** includes a request that if the underlying case was dismissed by the court in order to dispose of the case or the young adult was dismissed from a care and protection case that is currently active due to other children on the case, that the dismissal be vacated in order for the new permanency hearings to be entered on the same docket. Along with the **Motion**, DCF shall file an affidavit that includes the date on which the young adult returned to the care of DCF.

- The court will docket the **Motion** under the original docket number of the care and protection or CHINS case.
- The court shall schedule the **Motion** for a hearing to be held ex parte.

Session Code: MO
MOTF: Motion for [C][C] filed.
Motion for scheduling a permanency hearing for a young adult filed.

B. Hearing on the Motion

A legal representative of DCF shall be present at the hearing on the **Motion**. Please use the new session code **PY** when scheduling a permanency hearing for a young adult.

MOTA: Motion for [C][C] allowed.
Motion for *scheduling a permanency hearing for a young adult* allowed.

Session Code: PY

1. If Case/Child was Dismissed

Included in the **Motion to Schedule a Permanency Hearing for a Young Adult** is a request that if the underlying case was dismissed by the court in order to dispose of the case or the young adult was dismissed from a care and protection case that is currently active due to other children on the case, that the **dismissal be vacated** in order for the new permanency hearings to be entered on the same docket. If the case was dismissed, the judge must vacate the dismissal. After entering **MOTA**, please enter the following new major action code to vacate the dismissal:

DISV Dismissal vacated for the limited purpose of holding a permanency hearing as required by G.L. c. 119, sec. 29B.

2. If Case/Child was not Dismissed

If the underlying case was disposed of using the major action codes **CPNJ** or **PNX**, those major action codes are not considered dismissals and therefore only the filing of the **Motion** and its allowance is required on the docket in order to schedule the new permanency hearings. Therefore if **CPNJ** or **PNX** was used to dispose of the underlying case, you only need to enter the major action code **MOTA**.

C. Appointment of Counsel for the Young Adult

The young adult is entitled to counsel. Whenever practicable, counsel who previously represented the young adult on the care and protection or CHINS, shall be appointed. The Clerk's Office shall determine the name of the last appointed counsel for the young adult on the underlying case. The Clerk's Office shall contact the attorney to determine whether he/she would like to represent the young adult for the permanency hearings. If the attorney agrees to represent the young adult that attorney shall be appointed. If the attorney declines to represent the young adult, then an attorney shall be appointed following the normal appointment procedures.

D. Permanency Hearing

The judge who entered the final custody order in the underlying case shall be the judge presiding over the permanency hearing, to the extent that it is practicable. DCF will notify the young adult of the opportunity to attend the hearing. The young adult should be present at the hearing unless he/she chooses otherwise. If the young adult is not present, the hearing may still go forward. The court must determine whether DCF had made reasonable efforts to achieve the permanent plan and that the plan is an appropriate transition plan for a young adult. Once the plan is approved, the court shall schedule the next permanency hearing to be held within a year. The court shall schedule the hearings on an annual basis, until the young adult turns 22 or leaves the care of DCF, whichever occurs first. The court may, in its discretion, schedule a permanency hearing on a more frequent basis than once a year. Please use the new session code **PY** for scheduling these hearings.

E. Disposing of the Case Once Young Adult Turns 22

If the young adult remains in the care of DCF until he/she turns 22, after the final permanency hearing, please enter the following new major action code to dispose of the case:

CP22 Young adult attained age 22 and is no longer subject to the court's jurisdiction.

COUNTY[IES] DIVISION



TRIAL COURT OF MASSACHUSETTS
JUVENILE COURT DEPARTMENT

DOCKET NO.

MOTION TO SCHEDULE A PERMANENCY HEARING FOR A YOUNG ADULT

1. The Department of Children and Families respectfully requests the Juvenile Court to schedule a permanency hearing in accordance with G.L. c. 119, s. 29B for the following young adult who remains in the agency's care:

(Young Adult's Name)

(Date of Birth)

2. The Department of Children and Families further requests that if the young adult's case has been dismissed, the court vacate the dismissal for the limited purpose of holding permanency hearings as required by G.L. c. 119, s. 29B.

3. The young adult has signed an agreement to remain in the care of the Department of Children and Families beyond his/her eighteenth birthday.

4. The young adult entered the Department of Children and Families' custody prior to his/her eighteenth birthday as the result of a

Care and Protection

Children in Need of Services

Department of Children and Families

Signed under the pains and penalties of perjury.

(Area Office)

(Regional/Assistant Regional Counsel)

(Telephone No.)

(BBO No.)

(Date)

FOR COURT USE ONLY

ORDER

Motion to schedule a permanency hearing and to vacate the dismissal, if necessary, for the limited purpose of holding a permanency hearing as required by G.L. c. 119, s. 29B.

ALLOWED

DENIED _____

(Date)

(Justice)