

Standing Order 2-11

Probate and Family Court's Use of Information Obtained by the Department of Children and Families

1. Whenever the Probate and Family Court determines that it requires information from the Department of Children and Families (DCF) in order to make a determination relating to the care and custody of a child, the Court shall either obtain the written, informed consent of the party(ies), after identifying the documents requested on the form entitled "Consent and/or Order for Production of Department of Children and Families Documents", and/or issue an order identifying the documents to be produced. Such orders may, in the judge's sound discretion, be made under G. L. c. 119, §§ 51E and 51F, or any other applicable provision of law. Any written, informed consent and/or order shall be docketed. Parties may request a hearing on the issue of the need for DCF documents.
2. Circumstances where documents may be requested include, but are not limited to, where (a) a party's "Affidavit Disclosing Care or Custody Proceedings (Trial Court Uniform Rule IV)" or other filing reveals a pending child welfare case; (b) a Probation or guardian ad litem report reveals a party's past or pending child welfare case, past or present DCF involvement, or history of child abuse or neglect; (c) witness testimony reveals a party's past or pending child welfare case, past or present DCF involvement, or history of child abuse or neglect; or (d) a party discloses his or her own, or alleges another party's, past or pending child welfare case, past or present DCF involvement, or history of child abuse or neglect.
3. The Court shall provide DCF with a copy of the written, informed consent or order, which identifies the requested documents.
4. The parties and counsel shall be given the opportunity to review all documents obtained from DCF prior to the hearing, and be provided with an adequate and meaningful opportunity to respond. Upon the request of counsel or a party for additional time to rebut or respond to the DCF documents, the matter may be continued for up to 7 days for hearing. Leave to continue shall be freely granted. The Court shall enter an order if necessary to protect the interests of the child or children prior to the continued hearing. At the hearing, the DCF documents shall be available to the Court and to the parties and shall be admissible in accordance with applicable rules of evidence.
5. Upon its own initiative, or upon the request of any party, or upon the request of DCF, the Court may issue an order allowing a representative of DCF to present oral testimony at a hearing or trial by electronic means. The phrase "electronic means" shall include communication by telephone, video teleconference, or the Internet. Testimony presented by electronic means shall be admissible in accordance with the applicable rules of evidence.
6. The Court shall afford a party the opportunity to object to and rebut information about the party that appears in the DCF documents and otherwise to respond to the DCF documents or information presented in person by DCF.
7. Parties and counsel shall have the right to view the DCF documents as often as they wish, upon reasonable request. Handwritten notes may be taken, however, no electronic reproductions shall be allowed. This restriction includes, but is not limited to, scanning and photography, by mobile device or otherwise.
8. Unless otherwise ordered by the court, the attorney(s) of record, if both parties are represented by counsel, shall be entitled to copies of the DCF documents. In the event only one party, or neither party, is represented by counsel and a party wishes to obtain a copy of the DCF documents, the party or his/her attorney must file a motion with the Court. Service of the motion and the time periods for hearing shall be

in accordance with the Massachusetts Rules of Domestic Relations Procedure, or the Massachusetts Rules of Civil Procedure, as applicable.

9. In order to protect the privacy of the parties and the children involved, all documents received from DCF will be segregated by the Court and will be made available to parties, counsel and any other individual who would otherwise be authorized to have access to such information, who shall treat such information as confidential. Any individual who views DCF documents, including counsel, is prohibited from disclosing an impounded address or using information in the DCF documents except as allowed by order of the Court. Any DCF documents produced pursuant to the procedures set forth in this Standing Order will be maintained in the Probation Department of each division of the Probate and Family Court. In the event DCF records are subpoenaed for trial or evidentiary hearing, the records shall be kept in the Registry of Probate, in the customary manner.
10. This Standing Order shall be construed to authorize a judge to issue such other or additional orders or rulings as are necessary and appropriate under the circumstances and consistent with due process.
11. Once the Court has placed a child with DCF pursuant to G. L. c. 119, § 23(a)(3), the provisions of this Standing Order no longer apply and the protections and procedures of Chapter 119 apply.