

Agreements you make will be reduced to a written document which will be signed by the parties, their attorneys, if they are represented, and the Probation Officer. A Judge will review the agreement, usually in your presence, and generally will adopt it as a court order which is then legally binding. If you do not understand the written agreement, think it is not workable, or do not agree with its terms, you do not have to sign it.

Either party **may withdraw from the negotiation phase of dispute intervention at any time.** If one of you does withdraw, the negotiation will end at that point and you will be sent to the courtroom where you can present your issues to the Judge.

You should be safe at all times during this process. You are neither required to participate in a meeting with someone who has abused you nor stay alone in a meeting room with someone who has abused you. If you feel unsafe or uncomfortable, tell the Probation Officer.

You are not required to meet together with the other party in cases where you are seeking an abuse protection order, where you have an abuse protection order, where there has been domestic

violence, or where you feel unsafe meeting with the other party. In such situations, you may request to meet separately with the Probation Officer and may consider more carefully the option of not participating in the negotiation phase of the dispute intervention process. However, you are still required to participate in the information-gathering phase of the process.

The Probation Office provides a variety of services to the court in addition to dispute intervention. The most common one is **investigation.** The Judge will order the Probation Officer to meet with you and to contact others to gather information so the Judge can make a more informed decision about your case. Taking part in an investigation is not voluntary; you are required to participate. Agreement may result from an investigation, but is not the purpose of investigation. The Probation Officer will prepare a written report on the outcome of the investigation and file it with the court.

Disclosures made to a Probation Officer are not confidential. Anything you say may be reported to a Judge or the appropriate authority.

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Dispute Intervention In The Probation Office

Commonwealth of Massachusetts

**Probate and Family Court
Department**



DISPUTE INTERVENTION AND THE PROBATION OFFICE

When you come to the Probate and Family Court for a hearing in your case, you may be referred to the Probation Office. Guardianship, divorce, paternity, and other types of cases are routinely referred to Probation for dispute intervention if there is disagreement on such issues as custody, visitation, and support.

Dispute intervention involves meeting with a Probation Officer to assess issues and, if possible, come to an agreement on one or more of the issues before the court. Dispute intervention is different from a courtroom proceeding because the formal rules of evidence and rules of court do not apply. This will allow you to participate more fully in your case. The Probation Officer, who is an officer of the court and under the direction of a Judge, will serve as an impartial party in your negotiation.

FUNCTIONS OF DISPUTE INTERVENTION

- to gather facts about each case, and, in some cases, to report what is found to the Judge;
- to make recommendations to the Judge, if asked, based upon the facts which have been gathered;
- to evaluate whether the parties can reach full or partial agreements before hearing;
- if possible, to assist parties to negotiate and write up an agreement.

WHAT TO EXPECT IN DISPUTE INTERVENTION

The following are principles that should apply to all dispute intervention sessions. If, at any time, you believe they are not being followed in your case, please raise your concerns with the Probation Officer or with some other court official.

Dispute intervention sessions are **private**. Your case will not be discussed in public or in front of other people who are not involved with your case.

The Probation Officer will discuss the issues before the court with each side of the case. You are **required to participate in this information-gathering phase of the process**.

However, **negotiation** in the dispute intervention process, or working towards compromise or agreed-upon settlement, is **voluntary**; you will not be forced to make an agreement. If no agreement or only partial agreement is reached in dispute intervention, your case will be brought before the Judge who will hear the evidence and enter an order.

The Probation Officer will listen, respectfully and without bias, to what you and the other party have to say. You will be given time to present your issues and concerns.

Probation Officers do not give legal advice, make referral to specific attorneys, or predict Judges' decisions. They can tell you some of what is likely to be ordered at hearing, but no one can actually predict what a Judge may decide.

It is **not necessary to have a lawyer** present for dispute intervention but parties may ask for their attorneys to be present. The Probation Officer may ask attorneys to limit their participation.