

**PROCEDURAL ORDER GOVERNING
THE PROTECTIVE CUSTODY DOCKET
IN REGION 1**

In response to the COVID-19 pandemic, the Trial Chiefs have issued an Order indicating that the Courts will continue to hear Child Protective petitions and hearings. Consistent with that Order, Biddeford District Court remains open to hear Child Protective petitions and hearings. Subject to ongoing modifications and further Orders from the Trial Chiefs, the following guidance applies to the Protective Custody docket in Region 1 through May 1, 2020.

Summary Preliminary Hearings

Summary preliminary hearings will occur in the courthouse as scheduled. The statute, 22 M.R.S § 4034(3), requires that waivers must be executed in court before a judge. However, the statute also provides that if a party fails to appear after proper notice has been given, a summary hearing need not be held and the party's failure to appear will be deemed a waiver.

If a party intends to waive, but would prefer to not come to the courthouse to execute the waiver, one alternative might be to enter into an agreement in advance with the AAG whereby the party will not appear for the SPH, and the proposed Order After Opportunity For Summary Preliminary Hearing submitted to the Clerk by the AAG, with copies to all counsel and the GAL, will indicate the party's failure to appear was the result of an agreed-to default for COVID-19 purposes. The Court will accept agreed-upon Orders with language to that effect.

Counsel, however, will need to advise their clients as they determine appropriate.

If a case management hearing is scheduled to occur with a summary preliminary hearing, and parties plan not to come to the courthouse, the case management hearing will occur telephonically at the originally scheduled date and time.

Jeopardy Hearings

Contested jeopardy hearings will occur in the courthouse as scheduled. The Court will consider requests to have witnesses testify telephonically on a witness-by-witness basis. The Court will consider motions to continue on a case-by-case basis. Motions will be accepted by email sent to the Clerk, copied to all counsel and the GAL.

If parties to a contested jeopardy hearing know in advance they plan to agree to jeopardy findings, and as a result the parties and counsel would prefer not to come to the courthouse, the Court will take the jeopardy agreements telephonically. Contact the Clerk in advance, so that the Clerk can distribute Bridge line call-in information.

Work out conferences will occur as scheduled. Work out conferences can occur at the courthouse or in other mutually agreeable locations. The Court urges parties to conduct work out conferences telephonically if possible. The Court will consider motions to continue on a case by case basis. Motions will be accepted by email sent to the Clerk, copied to all counsel and the GAL. If work out conferences lead to jeopardy agreements, the AAG will take the lead on calling the Clerk to arrange a time to take the jeopardy agreements telephonically.

Termination of Parental Rights Hearings

Hearings on termination petitions will occur in the courthouse as scheduled. The Court will consider requests to have witnesses testify telephonically on a witness-by-witness basis. The Court will consider motions to continue on a case by case basis. Motions will be accepted by email sent to the Clerk, with copies to all counsel and the GAL.

Work out conferences will occur as scheduled. Work out conferences can occur at the courthouse or in other mutually agreeable locations. The Court urges parties to conduct work out conferences telephonically if possible. The Court will consider motions to continue on a case by case basis. Motions will be accepted by email sent to the Clerk, copied to all counsel and the GAL. If work out conferences lead to consents to termination, the AAG will take the lead on calling the Clerk to arrange a time to take the consents.

The statute, 22 M.R.S § 4055(1)(B)(1), requires that consents must be executed in court before a judge. As has historically been the case in Region 1, under certain narrow circumstances, the Court will consider taking consents by video. If you anticipate your client will be consenting to a TPR, notify all counsel and the GAL, and contact the Clerk to schedule a date and time to take the consent in the courthouse or possibly by video.

Judicial Reviews, Permanency Planning, and Case Management

Judicial Reviews will occur as scheduled, subject to the following procedures intended to allow flexibility and reduce the need for counsel, GALs, and parties to physically appear in the courthouse.

Agreed upon judicial review orders will be accepted by email, with a copy to all counsel and the GAL, submitted on or before the scheduled judicial review day. On or as long before the scheduled judicial review day as possible, the AAG must send an email to the Clerk (and all counsel and the GAL) representing that all parties and the GAL agree to the judicial review order, and asking that counsel, the GAL, and all parties be excused from appearing in Court. The AAG must promptly email the proposed judicial review order to the Clerk.

The Court nevertheless reserves the right to require parties to appear in person, depending on the status of the case.

Contested judicial reviews will likely need to be heard in the courthouse. Motions to conduct the contested judicial review telephonically will be considered, depending on the number of witnesses and complexity of the issues. Motions to continue will also be considered. Motions will be accepted by email sent to the Clerk, copied to all counsel and the GAL.

The Court will continue to consider motions for expedited judicial reviews, but urge counsel to limit such motions to the most pressing issues.

Judicial reviews combined with permanency planning, and separately scheduled permanency planning hearings, will be handled using the procedures described above for contested judicial reviews.

Case management conferences will occur as scheduled, but to the extent possible will be conducted telephonically, so that dates for trial can be discussed. The Clerk will provide Bridge line call-in information. Following the hearing, case management orders will be accepted by email, with a copy provided to all counsel and the GAL.

GAL Reports

GAL reports and compliance reports for all matters will be accepted via email sent to the Clerk, copied to all counsel. GALs do not need to come to the courthouse to file their reports.

Writs

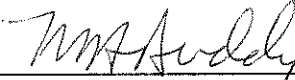
Writs will still be served, but consideration will be given to the extent possible for inmates to participate in proceedings telephonically or by video. The Court will consider motions for inmates to participate remotely on a case by case basis. Motions will be accepted by email sent to the Clerk, copied to all counsel and the GAL.

Submissions to the Clerk

Motions, requests, reports, and other documents emailed to the Clerk must be emailed to Lindsay.duranceau@courts.maine.gov, cc: tamara.rueda@courts.maine.gov and sarah.bosk@courts.maine.gov. Documents submitted to the Clerk must be copied to all counsel and the GAL, along with persons (or their counsel) designated as having interested person status. Documents must be in PDF format, and contain a signature or electronic signature. If documents are submitted by email, do not additionally deliver or mail hard copies to the Clerk's office.

So ordered.

March 17, 2020.



Michael A. Duddy, Judge
Maine District Court