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Massachusetts Juvenile Delinquency and Child Welfare Law Sourcebook & Citor
Part 4

CHILDREN REQUIRING ASSISTANCE: GENERAL PRINCIPLES AND PRACTICES

Amy M. Karp [FNa]

Hon. Stephen M. Limon [FNb]

Wendy Wolf [FNc]

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[Children's Law Center Quick Reference Guide on CRA](#)

[CRA: Filing to Preliminary Hearing \(Chart\)](#)

[CRA: Fact Finding Hearing to Disposition \(Chart\)](#)

NOTE Children in Need of Services (CHINS) was replaced by Children Requiring Assistance (CRA) pursuant to 2012 Mass. Acts c. 240, effective Nov. 5, 2012. See [G.L. c. 119, §§ 39E—39L](#) in Part 1 of this book for the entirety of the CRA statute. Some case law cited in this section was decided under CHINS, but remains relevant. Supplementary reference materials on CRA are included in this part's additional materials: Quick Reference Guide on CRA (prepared by the Children's Law Center of Massachusetts); CRA: Filing to Preliminary Hearing (chart prepared by the Juvenile Court Administrative Office); and CRA: Fact-Finding Hearing to Disposition (chart prepared by the Juvenile Court Administrative Office). For resources on mental health and clinical issues, please see the additional materials in Part 3 of this book.

Appeal

“A child, parent, legal guardian or custodian may appeal from any order or determination made under [[G.L. c. 119, §§ 39E through 39H](#)].” [G.L. c. 119, § 39I](#).

Contempt

“Although we conclude that the Juvenile Court does not have the power of contempt for violation of conditions of custody because the plain language of [G.L. c. 119, § 39G](#), as well as our case law, precludes Juvenile Court judges from issuing direct orders in CHINS cases, thereby prohibiting that court from charging a child with criminal contempt, we urge the Legislature to address and resolve this well-known and long-standing problem.” [Commonwealth v. Florence F.](#), 429 Mass. 523, 523 (1999).

Definition

A child requiring assistance is “a child between the ages of 6 and 18 who: (i) repeatedly runs away from the home of the child's parent, legal guardian or custodian; (ii) repeatedly fails to obey the lawful and reasonable commands of the

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child's parent, legal guardian or custodian, thereby interfering with their ability to adequately care for and protect the child; (iii) repeatedly fails to obey the lawful and reasonable regulations of the child's school; (iv) is habitually truant; or (v) is a sexually exploited child.” [G.L. c. 119, § 21](#).

Dispositional Options

[General Laws c. 119, § 39G](#) provides for three alternatives for disposition. The court may:

- (a) “subject to any conditions and limitations the court may prescribe, ... permit the child to remain with his parents, legal guardian or custodian”;
- (b) “subject to such conditions and limitations as the court may prescribe, ... place the child in the care of ... a relative, probation officer or other adult individual ... a private charitable or childcare agency ... or ... a private organization”;
- (c) “subject to the provisions of sections 32 and 33 and with such conditions and limitations as the court may recommend, place the child in the custody of the department of children and families.”

A child who is the subject of a CRA petition “may not be confined in shackles or similar restraints or ... in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent.” [G.L. c. 119, § 39G](#).

a. A judge did not have the authority, under [G.L. c. 119, §§ 39G and 39J](#), to order that the juvenile be enrolled in a specifically named, specialized private school and that the county pay for those educational expenses. [Oscar F. v. County of Worcester](#), 412 Mass. 38, 40-42 (1992).

b. A Juvenile Court judge did not have the authority, under [G.L. c. 119, § 39G](#) to declare unconstitutional a Worcester school committee policy which called for the expulsion of any high school student who brought a weapon onto school premises. [Sch. Comm. of Worcester v. Worcester Div. of the Juvenile Court Dep't](#), 410 Mass. 831, 832, 836-38 (1991).

c. “We held in [[In re Vincent](#), 408 Mass. 527 (1990)] that [§ 39G](#) authorized the judge to make an order determining the custody of the juvenile, and to make the custody subject to various conditions, but that [§ 39G](#) does not authorize a judge to order a juvenile directly to attend school.” [Sch. Comm. of Worcester v. Worcester Div. of the Juvenile Court Dep't](#), 410 Mass. 831, 836 (1991).

d. If a child is in the custody of DSS, the court does not have the authority to order DSS to place that child in a specific program. [Care & Protection of Jeremy](#), 419 Mass. 616, 621-23 (1995); [Care & Protection of Isaac](#), 419 Mass. 602, 604 (1995).

Length of Disposition

The initial duration of any court-ordered CRA disposition may not exceed 120 days. [G.L. c. 119, § 39G](#). After a hearing, the court that entered the initial dispositional order may “extend its duration for up to 3 additional periods, each such period not to exceed 90 days if the court finds that the purposes of the order have not been accomplished and that such extension would be reasonably likely to further those purposes.” [G.L. c. 119, § 39G](#). No dispositional order may continue “after the eighteenth birthday of a child named in an application for assistance authorized to be filed by a parent, a legal guardian or custodian or a police officer or after the sixteenth birthday of a child named in a petition authorized to be filed by a school district.” [G.L. c. 119, § 39G](#).

The standard for a judicial finding that the purposes of a dispositional order have not been accomplished, and that an extension for a period not to exceed six months would further those purposes, is a preponderance of the evidence. No “redetermination” or “readjudication” is required for such a dispositional extension. [In re Angela](#), 445 Mass. 55, 55, 61-62 (2005).

Dismissal

The petitioner or any party may file a motion to dismiss at any time prior to a dispositional hearing, which motion may be allowed by the court if dismissal is in the best interests of the child or if all parties agree to the dismissal. [G.L. c. 119, § 39G](#).

Expungement

When a CRA petition is dismissed prior to a factfinding hearing under [Section 39G](#), the court shall order the expungement of any and all records pertaining to the case. [G.L. 4c. 119, § 39E](#).

Parent's Right to Counsel

A parent has a right to counsel “at any hearing or proceeding regarding custody” of his or her child. [G.L. c. 119, § 39F](#).

Process and Procedure

See [G.L. c. 119, §§ 39E—39G](#).

Recusal

“The judge who conducted the hearing on the acceptance of the application for assistance shall not preside at any subsequent hearing.” [G.L. c. 119, § 39E](#). (Note: For practical considerations, these rights are often waived.)

Standard of Proof

The standard of proof is proof beyond a reasonable doubt. [G.L. c. 119, § 39G](#).

Additional Materials

Note: The following materials, included here for your reference, are not available in the printed version of this book.

Children's Law Center Quick Reference Guide on CRA

CRA: Filing to Preliminary Hearing (Chart)

CRA: Fact Finding Hearing to Disposition (Chart)

Children's Law Center Quick Reference Guide on CRA [\[FNal\]](#)



[Image 1 within document in PDF format.](#)

CRA: Filing to Preliminary Hearing (Chart) [\[FNaa1\]](#)



[Image 2 within document in PDF format.](#)

CRA: Fact Finding Hearing to Disposition (Chart) [\[FNaaa1\]](#)

FN_a. AMY M. KARP is the training director for the Children and Family Law Division of the Committee for Public Counsel Services in Boston. She is a graduate of Cornell University and Harvard Law School. She joined the Children and Family Law Program in 1995 as a staff attorney. From 1990 to 1995, she was in private practice. Ms. Karp has served on a number of boards and committees addressing issues related to children and families, including the Massachusetts Appleseed Center for Law and Justice, the Massachusetts Children's Justice Act Task Force, the Massachusetts Court Improvement Program Steering Committee, and the Task Force on Children Affected by Domestic Violence. As training director for the Children and Family Law Division, Ms. Karp develops training programs and resources for trial and appellate attorneys appointed to represent children and indigent parents in state intervention cases. She has served as cochair for a number of multidisciplinary conferences, including the Children's Justice Act Conference and MCLE's annual Juvenile Delinquency and Child Welfare Conference.

FN_b. HON. STEPHEN M. LIMON is an associate justice of the Suffolk County Juvenile Court in Boston. Previously, he was legal counsel to the Massachusetts attorney general, deputy chief of the criminal bureau in the Middlesex

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District Attorney's Office, executive secretary to the Commission on Judicial Conduct, and court specialist for the Committee on Criminal Justice. He is chair of the board of directors of the Mental Health Legal Advisors Committee of the Massachusetts Supreme Judicial Court. Judge Limon, a graduate of Boston College Law School and Middlebury College, teaches "Children and the Law" at New England Law Boston and Suffolk University Law School.

FNc. WENDY WOLF is director of training for the Youth Advocacy Division of the Committee for Public Counsel Services (CPCS) in Boston. She has been a trial attorney with CPCS since 1985. She began her practice representing adults accused of felonies and was a supervising attorney in the Cambridge office of CPCS. In 1996, she joined the Youth Advocacy Project as the supervising attorney. In 2002, Ms. Wolf started the Juvenile Defense Network, which has evolved into the Youth Advocacy Division Training Unit. She served as cochair of the Juvenile and Child Welfare Section of the Massachusetts Bar Association (2008-2009) and is codirector of the New England Juvenile Defender Center. She is the 2007 recipient of the Massachusetts Bar Association Access to Justice Defender Award and was identified as one of the "Top Women in the Law" by *Massachusetts Lawyers Weekly* in 2010. Ms. Wolf earned her B.S. in social work from the University of Vermont and her J.D. from Suffolk University Law School.

FNal. Available online at <http://www.clem.org/publications.html>.

FNaa1. Drafted by the Administrative Office of the Juvenile Court

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