

QUICK REFERENCE ON CRA (Child Requiring Assistance): GUIDE FOR CHILD ADVOCATES IN MASSACHUSETTS

THE FIVE TYPES OF CRA CASES, as defined in M.G.L. c. 119, § 21, and commonly referred to as:

1. **“Runaway”**: A child between ages of 6 and 18 who repeatedly runs away from the home of a parent, legal guardian, or custodian. A parent/guardian/custodian having custody of the child may apply to the court for assistance. M.G.L. c. 119, § 39E.
2. **“Stubborn Child”**: A child between ages of 6 and 18 who repeatedly fails to obey reasonable home rules, interfering with the parent’s ability to care for the child. A parent, guardian/custodian may apply to the court for assistance. M.G.L. c. 119, § 39E.
3. **“Habitual School Offender”**: A child between ages of 6 and 18 who repeatedly fails to obey school rules. The school district’s application must state the steps taken to improve the child’s conduct. M.G.L. c. 119, § 39E.
4. **“Habitual Truant”**: A child between ages of 6 and 18, who, without excuse, willfully fails to attend school for more than 8 days in a quarter. The school district’s application must state whether the child and the child’s family have participated in a truancy prevention program. M.G.L. c. 119, § 39E.
NOTE: Although the definitions of the school-filed CRA types include children up to age 18, the law also requires that the school-filed CRA petitions be dismissed when the child turns 16. M.G.L. c. 119, § 39G.
5. **“Sexually Exploited Child”**: Any person under 18 who has been subjected to sexual exploitation. This includes anyone who: is the victim of sexual servitude or sex trafficking; engages in sexual conduct for a fee or in exchange for food, shelter, clothing, education or care; is the victim of the crime of inducing a minor into prostitution; or engages in common night walking/ streetwalking. M.G.L. c. 119, § 21. A parent or a police officer may file an application. M.G.L. c. 119, § 39L.

SELECT STATUTES & REGS

From M.G.L. c. 119:

- § 21: Definitions
- § 23(f): DCF involvement at age 18
- § 29B: Permanency planning requirement, including reasonable efforts
- § 39E: Filing, referral, preliminary hearing, informal assistance, expungement
- § 39F: Parent, child rights to an attorney
- § 39G: Fact finding, conference, disposition
- § 39H: Custodial protection, shackling ban
- § 39I: Appeal process
- §§ 39K, 39L: Sexually exploited children
- 110 CMR 4.01–4.09 (voluntary DCF services), 4.60–4.67 (former CHINS cases)

STEPS IN A CRA PROCEEDING, within the Juvenile Court system:

1. **Application**: Applications for a CRA petition are filed in the Juvenile Court clerk’s office. M.G.L. c. 119, §§ 39E, 39L. Clerks shall inform applicants, including in writing, about community-based services, Family Resource Centers (FRC), and about the court process, including the possibility of a custody change. M.G.L. c. 119, § 39E.
2. **Preliminary Hearing (PH)**: Within 15 days of application filing, probation conducts an inquiry, and, after notice to child, the court holds PH with child’s counsel present. The court may decline the application (if no probable cause); decline the application and order informal assistance; or schedule a fact-finding hearing. M.G.L. c. 119, § 39E.
3. **Informal Assistance (IA)**: Probation conducts meetings to eliminate the need for a fact finding hearing. IA may last up to 90 days with one 90-day extension, if agreed to in writing by parent and child. After 90 or 180 days, the application must be dismissed or accepted and scheduled for a fact finding hearing. Statements made during the period of IA may not be used against the child at any subsequent court hearing but may be received and used by the court at disposition. M.G.L. c. 119, § 39E.
4. **Temporary Custody Hearing (TCH)**: The court may hold a TCH to place a child in the custody of DCF for 15 days pending disposition. Parents are entitled to counsel at this hearing. The court may renew the temporary order twice, totaling 45 days. M.G.L. c. 119, § 39H.
5. **Fact Finding Hearing (FFH)**: The FFH is a bench trial and must be held before a judge other than the one who presided at the PH, unless the parties waive that requirement. If the child waives the right to a hearing or the court, at the hearing, finds the statements in the application have been proved beyond a reasonable doubt, the court may determine the child in need of assistance and will schedule the case for conference and disposition; otherwise, the application is dismissed. M.G.L. c. 119, § 39G.
6. **Conference**: The court convenes and may participate in a conference that includes the probation officer; parties; the parent/guardian/custodian; DCF (if involved); and any other person who may be helpful. Be aware of issues of confidentiality if school attends. Probation presents (and others may present) written recommendations to the court on treatment, services, and placement. M.G.L. c. 119, § 39G.
7. **Disposition**: Upon a motion, the Judge may dismiss the CRA prior to disposition if in the best interest of the child or all parties agree. At disposition, the court may make custodial orders, including (1) permitting the child to remain with a parent, legal guardian, or custodian; (2) placing the child with a relative or adult, following a probation assessment; or (3) placing the child in DCF custody. DCF may not refuse out-of-home placement of the child if recommended by court. M.G.L. c. 119, § 39G. The court may impose conditions of custody, e.g., that a child must obey certain rules of the home in order for the child to stay in the custody of their parent(s), but the court may not make direct orders to the child.
NOTE: The FFH, Conference, and Disposition are often combined into one hearing to avoid multiple court dates, but there may be reason to advocate for separate dates.
8. **Dispositional Reviews and Dismissal**: The initial dispositional order lasts 120 days but may be extended after a hearing for up to three additional 90 day periods. Dismissal must occur after 390 days, when child turns 18, or at age 16 for a school-filed CRA petition. M.G.L. c. 119, § 39G.
9. **“Report” Hearings**: The court or parties sometimes schedule “Report” hearings in between IA hearings or between Dispositional Reviews to discuss the status of the case.
10. **Appeal**: A child or parent/guardian/custodian may appeal any order or determination made under sections 39E through 39H to the Massachusetts Appeals Court, pursuant to M.G.L. c. 231, § 118. Pending the appeal, the juvenile court retains jurisdiction. M.G.L. c. 119, § 39i.

WARRANTS & CUSTODIAL PROTECTION (M.G.L. c. 119, §§ 39E, 39H)

- ◆ The court may not issue an arrest warrant in CRA cases but may issue a warrant instructing police to take a child who fails to respond to a summons to court.
- ◆ Children may also be taken into custodial protection (without a warrant) if they fail to respond to a summons or police have probable cause to believe that the child has run away and will not respond to a summons.
- ◆ CRA warrants do not enter into the warrant management system or any other criminal record information system, which means that police on the street often do not know if a child is a runaway or has failed to respond to a summons.
- ◆ The police may not take the child to the police station, shackle the child, or place the child in lock-up at court.
- ◆ The Runaway Assistance Program (RAP) assists the police with runaway youth. Officers who encounter runaway youth can call 211 to coordinate an interagency response, including behavioral health assessments and safe placement.

ADVOCACY TIPS

- ◆ Request probation intake form and work with delinquency attorney, if applicable.
- ◆ Ensure counsel is provided for child at all times and for parents in proceedings regarding a possible custody change. M.G.L. c. 119, § 39F.
- ◆ Move to dismiss if the school fails to state the steps it has taken with the child and family to resolve the school-related issue. See M.G.L. c. 119, § 39E.
- ◆ After meeting with the probation officer at the 90-day IA review, request that the probation officer submit a form to the judge to extend IA, if the child would prefer not to appear before the judge and all parties agree. M.G.L. c. 119, § 39E.
- ◆ Ask the court to expunge the file when dismissed prior to FFH. M.G.L. c. 119, § 39E.
- ◆ Argue for dismissal, particularly at the PH or FFH, if the truancy alleged results from a disability or other reason rather than for reasons “portending delinquent behavior.” Millis Public Schools v. M.P., 478 Mass. 767, 768 (2017). Such cases should be resolved through the special education process, not court.

RELEVANT CASELAW

- ◆ Care and Protection of Rashida, 488 Mass. 237 (2021); Care and Protection of Walt, 478 Mass. 212 (2017): Together these cases reaffirm that DCF must make reasonable efforts to prevent removal of a child from home; establish motion practice for a finding of no reasonable efforts toward reunification; and confirm that if DCF fails to make reasonable efforts, the court may fashion orders to remedy the harm caused by the failure.
- ◆ Millis Public Schools v. M.P., 478 Mass. 767 (2017): Defines “willful” in the context of a truancy CRA as arising from “reasons portending delinquent behavior” and includes a discussion of disability-related absences.
- ◆ In re Hilary, 450 Mass. 491 (2008): Outlines the constitutional dimensions of a loss of custody by a parent.*
- ◆ In re Angela, 445 Mass. 55, 55–56 (2005): Establishes preponderance of the evidence as the standard at Dispositional Reviews.*
- ◆ Commonwealth v. Florence F., 429 Mass. 523 (1999): Reaffirms that, in these cases, judges may only impose conditions on the child as part of the custody order, rather than issue direct orders, and holding that judges may not hold a child in contempt for failure to abide by those conditions.*

* These cases arose under the former CHINS law, but their reasoning and the similarity of certain provisions in the CRA law suggest these cases remain valid.

ADVOCATING FOR SERVICES

- ◆ Divert children from the CRA court process to the Family Resource Centers.
- ◆ Use the case conference, when appropriate, to subpoena relevant parties (e.g., DCF and school) to develop a service delivery plan acceptable to your client. Draft written recommendations to the court regarding disposition.
- ◆ With permission of your client, advocate for services for the child such as:

DCF Services

- ⇒ Ensure that DCF abides by its regulations for providing assistance.
- ⇒ Review and seek revisions, if necessary, to the Family Action Plan.
- ⇒ Consider filing for a Fair Hearing to delay and appeal termination of services and to appeal denial of needed services. 110 C.M.R. 10.06(3), 10.06(8)(b).
- ⇒ Consider filing a motion for a finding of no reasonable efforts related to removal or reunification, and request remedial orders if DCF does not make reasonable efforts. Rashida, 488 Mass. 237 (2021); Walt, 478 Mass. 212 (2017).
- ⇒ Consider filing written motions in court to contest placement decisions. See Care and Protection of Isaac, 419 Mass. 602, 610–11 (1995).

Education Services

- ⇒ Advocate for (more) appropriate school services for a child with disabilities. See Quick Reference on Special Education.
- ⇒ Even when DCF has temporary custody of a child through a CRA, the parent usually retains the right to make education decisions. See DCF, No. 97-002, Education Policy, at 20 (rev. Jan. 3, 2022).
- ⇒ Advocate that the child remain in their school of origin if placed in DCF custody through a CRA. See Quick Reference on School Stability.

Community-Based Behavioral Health Services

- ⇒ Youth may also receive services through the Children’s Behavioral Health Initiative (CBHI). See Quick Reference on CBHI Services.

HELPFUL RESOURCES

- ◆ Committee for Public Counsel Services (CPCS): <https://www.publiccounsel.net/cafl/professional/children-requiring-assistance-cra/>
- ◆ Family Resource Centers (FRCs): www.frma.org
- ◆ Juvenile Court: Standing Order 3-21: CRA proceedings: <https://www.mass.gov/juvenile-court-rules/juvenile-court-standing-order-3-21-child-requiring-assistance-proceedings>

The **Children’s Law Center of Massachusetts** (CLCM) is located at P.O. Box 710, 2 State Street, 2nd Floor, Lynn, MA 01903. Contact and related information available at www.clcm.org, call **781-581-1977 (toll-free 1-888-KIDLAW8)**, or find us on Facebook. The **EdLaw Project** is supported by the **Youth Advocacy Foundation of the Committee for Public Counsel Services**, located at 75 Federal Street, 6th Floor, Boston, MA 02110. Contact and related information at www.edlawproject.org, call our **Helpline at 617-910-5829**, or find Youth Advocacy Foundation on Facebook, Instagram, Twitter, and LinkedIn. **Revised April 2022.**