



Massachusetts Probate and Family Court 2022 Pathways Initiative Implementation and Training Guide



Introduction

The mission of the Probate and Family Court is to “deliver timely justice to the public by providing equal access to a fair, equitable and efficient forum to resolve family and probate legal matters and to assist and protect all individuals, families and children in an impartial and respectful manner.” For many years, the ability of the Court to accomplish this mission has been severely strained due to scarce resources.

Despite the dedication and determination of the Probate and Family Court judges, staff, and bar, the challenges for the Probate and Family Court were noted by Chief Justice Ralph Gants in his State of the Judiciary address in October 2017 when he stated, “In no other court do we have so many self-represented parties being asked to litigate disputes as complex, as emotional, as enduring, and as life-changing, as in the Probate and Family Court ... The burdens we place on our Probate and Family Court judges are simply not sustainable; we need to reimagine how we do justice in our Probate and Family Court.”

To that end, different groups worked toward creative solutions for case management and staffing. At the request of Chief Justice Gants, the Hon. Margot Botsford (Ret.) met with many people involved with the Probate and Family Court and then offered suggestions and guidance. The 2025 Transition Leadership Team considered how the Probate and Family Court could work more efficiently and offered recommendations to that end. Chief Justice Gants and Chief Justice of the Trial Court Paula Carey advocated for additional funding for the Probate and Family Court at the State House. In the fiscal year 2019 budget, Speaker Robert DeLeo and the Legislature allocated funds to address the specific needs of the Probate and Family Court – the need to hire sessions clerks and legal research and writing staff, the need for case management triage, and the need for alternative dispute resolution resources.

As a result of all these efforts, the Probate and Family Court started to reimagine itself. Sessions clerks were hired so that judicial case managers and assistant judicial case managers could then spend their time outside of the courtroom working on case management. Additional Probate and Family Court law clerks and research attorneys were hired to assist the judges with their legal research and writing.

And then, the next steps were taken. The Probate and Family Court began to revamp its case management processes, solidifying and building on ideas that had been discussed for many years. It began utilizing a pathways approach to case management, which includes matching parties and cases to available resources and services. Using the Family Justice Initiative’s Principles and Pathways, and with a grant from the State Justice Institute and the help of the National Center for States Court, the Probate and Family Court initiated a pathways approach to case management in the Bristol and Plymouth Divisions of the Probate and Family Court. Building on the success in the Bristol and Plymouth Divisions, the pathways approach will now be expanded statewide.

All of this is possible because of the work of the many people mentioned above, as well as the staff and judges of the Probate and Family Court and the staff of the Administrative Office of the Probate and Family Court. This guide is a testament to what can be accomplished when there is a common goal and cooperation among many people to meet that goal.

Table of Contents

Purpose of Pathways	4
Background of Pathways in Massachusetts	4
Pathways Initiative Rollout in Plymouth County	5
Goal of Pathways	6
Pathways Case Management Assignments	6
Pathways Case Management Process	8
MassCourts Docketing and Resulting Codes	10
Pathways Case Management Forms	11
Additional Resources	12

Case Overview For All Divisions FY 2019-2021

FY 2019 Filings for All Case Types

Total Filed: 130,228

Non-Sub. Action: 78,407
Disposed Non-Sub. Action:
71, 113

FY 2019 Modifications Filed

January through June

Total Filed: 20,479
Disposed: 17,107

FY 2020 Filings for All Case Types

Total Filed: 113,950

Non-Sub. Action: 70,507
Disposed Non-Sub. Action:
59,670

FY 2020 Modifications Filed

Total Filed: 32,269
Disposed: 26,451

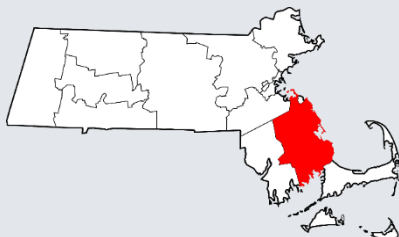
FY 2021 Filings for All Case Types

Total Filed: 107,068

Non-Sub. Action: 72,342
Disposed Non-Sub. Action:
57,722

FY 2021 Modifications Filed

Total Filed: 23,973
Disposed: 16,413



Purpose of Pathways

This document has been developed to provide a guide of work done by the Massachusetts Probate and Family Court to implement a Pathways Case Management approach.

As set forth in an evaluation of Alaska's triage and Early Resolution Program, "Courts can resolve 80% of their contested divorce and custody cases between self-represented parties in just one hearing with a special calendar that employs a problem-solving approach, triage, a simplified process, and early intervention" (March, 2019).

The FJI is a national effort led by the Conference of Chief Justices and Conferences of State Court Administrators through the National Center for State Courts, IAALS and NCJFCJ.

The principles of the Family Justice Initiative are designed to remove unnecessary procedural barriers that prevent parties from resolving cases quickly, efficiently, and cost-effectively; to offer appropriate resources and tools for parties to use to develop solutions that fit their unique circumstances; and to identify and provide appropriate judicial involvement in high-conflict cases with especially vulnerable parties and children.

Background of Pathways in Massachusetts

The 2017 Massachusetts Justice for All Strategic Action Plan noted that the Massachusetts Probate and Family Court was in crisis due to the burden placed on the Probate and Family Court, and that it was necessary to reimagine how justice was done. The growing number of unrepresented litigants in civil matters concentrated in the Probate and Family Court was coupled with the need to connect users with appropriate resources earlier, simplify processes, and offer broader dispute resolution options. The report also highlighted the need to recognize unique challenges in family law cases, like the complexity of issues and interests, and the relationships of parties before and after litigation.

Due in part to the large number of self-represented litigants in the Massachusetts Probate and Family Court, staff expressed concern that the Probate and Family Court is undertaking social services functions that it is not equipped to undertake and overwhelming the Court. The Massachusetts Probate and

Family Court has expressed that there is an inconsistent approach across the state in handling domestic relations cases, especially modifications, and that there is a need to improve the user experience with the Court. Chief Justice John Casey led this effort to assist with operations in the Probate and Family Court throughout the Commonwealth. The Probate and Family Court sought and received federal grant funding through the State Justice Institute to implement the FJI Principles in Massachusetts. The first divisions chosen for FJI implementation were the Bristol and Plymouth Divisions. The Pathways approach to case management is currently implemented in Barnstable, Berkshire, Dukes, Franklin, Hampshire, Nantucket, and Plymouth Counties.

In many divisions, once a Return of Service is filed with the Court, the first scheduled event is a Pre-Trial Conference with the assigned judge. On the day of the hearing, the case may be referred to the Probation Department for dispute intervention or the parties and/or counsel may be speaking for the first time. Often, parties are preparing paperwork such as Financial Statements and Memoranda that are filed with the Court that day. This may also be the first contact the parties have with the Court on their case.

From January 2020 to April 12, 2022, in the divisions currently conducting Pathways, there have been 712 cases scheduled into the Pathways Case Management track. In Plymouth and Barnstable Counties, there were a total of 2,151 modifications filed with the summons returned. Many modifications filed with the summons returned have been processed through Pathways and have been resolved after meeting with the Assistant Judicial Case Manager (“AJCM”) or Designee.

Pathways Initiative Rollout in Plymouth County

The implementation of FJI Pathways in Plymouth County commenced in early January 2020, when Chief Justice John Casey, former Judicial Case Manager Michael Stevens and Keith Nalbandian of the Administrative Office of the Probate and Family Court met the staff on January 3rd to start training regarding protocols for establishing one of three "Pathways" for contested, newly filed complaints for modifications in divorce, paternity or 209C cases. Due to the Covid-19 Pandemic, the Pathways Case Management Initiative was suspended. Pathways resumed in Plymouth in February 2021.

*"This is the first time I have ever been contacted by the court in years."
- Court User, Plymouth County*

Plymouth County reports great enthusiasm and an overall positive response from all aspects of this initiative. Support has been apparent from leadership at the Court, starting with the First Justice, associate judges and Register to the AJCMs, Probation and Registry staff. Attorneys and pro se litigants that have been contacted have generally expressed a very positive reaction to the Pathways approach.

*"It would be great if I don't have to wait at the court for six hours prior to my five-minute hearing."
-Court User, Plymouth County*

Since resuming in February 2021, Pathways has expanded to Barnstable, Berkshire, Dukes, Nantucket, Franklin, Hampshire and now Middlesex Counties. Worcester is scheduled to begin in October 2022.

Goal of Pathways

The goal of the Pathways Case Management Initiative is to have Court intervention earlier in the process, provide information on appropriate resources and tools for the parties to use to assist them with resolving their cases quickly and efficiently and to provide the parties with information about court procedure.

Pathways takes a problem-solving approach to assist the parties in resolving their case rather than proceed in an adversarial process. Parties should be provided information and empowered to play a proactive role in their case. The Pathways Case Management process is designed to be fluid to allow a case to be scheduled between the different paths and allows for flexibility to triage a case so that the needs are being met and can be handled in a manner that makes the most sense for that particular case.

Since the inception of Pathways, the process has been updated to include more information provided to the parties prior to the scheduling of a Pathways Case Management Conference. Materials to assist with the Pathways Case Management Conferences, along with this guide are available for the AJCM/Designee. In addition, forms have been created exclusively for Pathways for the divisions. There will also be a hands-on approach by the Administrative Office of the Probate and Family Court to assist the divisions in the implementation and continuing support of the Pathways Case Management Initiative. In June of 2022, a virtual Alternative Dispute Resolution (“ADR”) Training Program for the Probate and Family Court was conducted for the Judicial Case Managers and Assistant Judicial Case Managers, as well as the ADR Coordinators. The training program will be recorded and available to the First Assistant Registers and Assistant Registers. There will be an opportunity for the divisions to request additional or follow up training with the Administrative Office.

Pathways Case Management Assignments

Process for the Pathways Case Management Initiative

Initial Review (Assistant Judicial Case Manager/Designee): The initial review is a “Streamlined” process that requires the AJCM/Designee to review the case for determination as to which Pathway would be appropriate. The AJCM/Designee may also contact the parties if more information is needed prior to scheduling. A letter is sent to each of the parties explaining the Pathways Case Management Initiative, the Pathway they are assigned to, paperwork that will need to be filed and a list of resources to assist them. A Pathways Case Management Notice and Order is also sent that provides the parties with information about their scheduled event.

If there is an active abuse prevention order or no contact order, the AJCM/Designee will reach out to the parties to inform them that the Pathways Case Management Conference is available if they agree to participate. The Pathways Case Management Conferences will be conducted virtually and the AJCM/Designee can discuss parameters, such as meeting the parties individually or meeting the parties without their video on.

The AJCM/Designee shall screen for domestic violence, child abuse, substance abuse, or mental health issues when determining the scheduling of the case.

The AJCM/Designee shall complete a Pathways Case Management Worksheet when reviewing the case for either Pathways 1 or 2.

Pathways 1 (Assistant Judicial Case Manager/Designee): In Pathways 1 the AJCM/Designee conducts a Pathways Case Management Conference virtually with the attorneys and/or parties in an effort to resolve the case. The hearings are also recorded. If the parties reach an agreement, the matter may be handled administratively.

If the AJCM/Designee is unable to settle the matter, they will provide the parties with court approved alternative dispute resolution options such as mediation, conciliation, or dispute intervention with the Probation Department prior to judicial involvement. The AJCM/Designee will identify the contested issues in the case, set discovery deadlines, and enter orders as provided in the Scheduling Order to Pathways 3 Pre-Trial Conference form.

An AJCM/Designee Pathways Case Management Reference Card will be provided for each division which includes the following information:

- Pathways Introduction
- Oath
- Colloquy
- Requirements for a modification
- List of court connected ADR resources and court settlement programs
- Court resources: mass.gov, Court Service Center (in person and virtual), Lawyer for the Day, etc.
- Resources for the AJCM/Designee to assist them in conducting the conference

If an agreement is reached, the AJCM/Designee will draft the agreement and enter an Order or Judgment administratively.

If there is no agreement, the AJCM/Designee may issue an order for a further Pathways hearing, refer the case to Pathways 2 or schedule it in Pathways 3 for a Pre-Trial Conference with the assigned judge.

If a case settles at a Pathways 1 or Pathways 2 conference, the AJCM/Designee has been given authority to draft a stipulation for signature by the parties/counsel and approve the stipulation administratively. Additionally, judges may request that the parties, if pro se, sign a separate affidavit that would indicate they understood the agreement and signed it voluntarily of their own free will. Barring unusual facts or circumstances, the parties/counsel would not have to appear

before the court and the matter would go to judgment administratively.

Pathways 2 (Probation Department/ADR Options): The second Pathway is a “Tailored Services” track where the case can be referred to the Probation Department for dispute intervention. These cases typically involve substance abuse concerns, drug/alcohol testing, supervised parenting time, DCF involvement or any case the AJCM/Designee determines a probation dispute intervention would be beneficial to assist the parties in resolving the case.

If the parties are able to reach an agreement, Probation will refer the case to the AJCM/Designee with the agreement for either an order and a further date to be scheduled or a judgment to be entered administratively. If necessary, the AJCM/Designee will determine whether the case will be scheduled for an uncontested hearing before the assigned judge.

If the parties are unable to come to an agreement, Probation will identify the contested issues and will refer the case back to the AJCM/Designee for a Pathways Case Management Order to enter.

Each division will work with their Probation Department to determine how Pathways cases will be referred and scheduled with Probation.

Cases may also be referred to mediation, conciliation, a court-connected program, or other ADR option that is available in that particular division.

Pathways 3 (Assigned Judge): The third Pathway is the “Judicial” track. If the case is unable to be resolved in either Pathways 1 or Pathways 2 or a combination thereof, the case is then scheduled for a Pathways Pre-Trial Conference before the assigned judge. A Scheduling Order to Pathways 3 is drafted by the AJCM/Designee outlining the uncontested and contested issues, setting a discovery deadline, referring a case for ADR services or conciliation, and scheduling a Pathways Pre-Trial Conference.

As the case has been initially reviewed and triaged by the AJCM/Designee and may have been scheduled into Pathways 1, Pathways 2, or a combination thereof, the Pathways Pre-Trial Conference should be scheduled for the earliest possible date that makes the most sense for that particular case and as the judge’s calendar permits. As a result of the early intervention by the AJCM/Designee, a meaningful and productive Pre-Trial Conference with the assigned judge can be conducted.

If a matter comes before the Court on an emergency filing, the judge may determine, after review, that the case is appropriate for scheduling into Pathways 1 or Pathways 2.

Pathways Case Management Process

Step 1: Filing of the Complaint for Modification

The Registry (clerk’s office) shall review the Complaint for Modification upon filing for completeness prior to issuing the Summons.

The Registry shall add the DCM Track Pathways (1PATH) and shall issue a summons. If the matter came before the Court on an emergency, the Registry shall add the DCM Track Ex Parte Path (EX PARTE).

The Registry shall send a copy of the complaint and the summons to the Plaintiff or counsel for service.

Step 2: Proof of Service/Return of Service

Once the Proof of Service/Return of Service has been filed with the Court and reviewed by the Registry to confirm that service has been properly effectuated, the case is sent to the AJCM/Designee for the initial review.

Step 3: File Review by AJCM/Designee

The AJCM/Designee will review the files in order to achieve a better understanding of the issues presented on the recently filed complaint for modification and determine if the case will be scheduled or referred for Pathways 1 (AJCM/Designee) or Pathways 2 (Probation/ADR). The AJCM/Designee will identify the appropriate next steps after identification of conflict, readiness for resolution and possible emergency indicators.

The AJCM/Designee will then review the case with respect to party information and a potential direction as to what pathway this case should take.

Step 4: Pathways Scheduling

Once the file has been reviewed by the AJCM/Designee, the case will then be scheduled for either Pathways 1 (AJCM/Designee) or Pathways 2 (Probation). The AJCM/Designee may also determine that an ADR referral is appropriate.

Each division will be provided a dedicated Zoom Meeting ID to conduct their Pathways 1 Case Management Conference sessions.

Each division may also request additional resources to assist them with Pathways such as an email address dedicated for Pathways to be used by the AJCM/Designee to communicate with the attorneys and/or parties.

Auto-scheduling slots have been created for both the AJCM/Designee Pathways Case Management Conferences and the Probation Dispute Intervention Conferences, as per each Court's schedule. They will be designated as Pathways 1 Session (PWAJCM) and Pathways Probation Session (PWPROB). Each division will determine when and how the cases will be scheduled into each session. The divisions that currently conduct Pathways Case Management Conferences have the cases scheduled each hour beginning at 9:00 am. Some divisions keep open slots if the AJCM/Designee determines that a case needs to be scheduled for a further Pathways 1 conference.

A Pathways Case Management Conference Notice and Order will be sent to both parties/attorneys indicating the date, time, virtual hearing information, and which Pathways (either 1 or 2) the case is assigned to. If the case is scheduled for Pathways 2, the Pathways Case Management Notice and Order shall be provided to Probation. A letter explaining the Pathways Case Management Initiative will be sent to each of the parties along with the Notice and Order.

Each division shall work with their Probation Department to determine what additional information, if any, is needed by Probation for the Pathways 2 referral.

Step 5: Designate and Record Pathways Cases and MassCourts Codes

A docket entry is given automatically once a DCM Track is selected into MassCourts.

<u>1PATH</u>	Pathways
<u>EXPARTE</u>	Ex Parte Path
<u>PATHWAYCL</u>	Pathway Closed

Ticklers will be generated when the DCM Track is selected. The DCM Track will also display on the anchor screen with the Track information.

MassCourts Docketing and Resulting Codes for Pathways:

Event Codes:

Description:

PCSC	Pathways Case Management Conference
PPTDE	Pathways Pre-Trial Conference
PPTC	Pathways Continued Pre-Trial

Sessions Codes:

PWAJCM	Pathways1 – AJCM/Designee Case Management Session
PWPROB	Pathways2 – Probation Department Session

Docket Codes:

EXPARTE	Ex Parte Pathway Modification
PATHJUD	Judgment on Pathways
PATHORD	Order on Pathways
PATHSTIP	Stipulation in Pathway Case
PATHWAY	Automated docket entry when an initial DCM Track is entered

Result Codes:

Pathways – Judgment Entered

Pathways – Order Entered
Pathways – Party(s) did not appear
Pathways – Probation
Pathways – Pretrial
Pathways – Continued in Pathways 1
Pathways – Rescheduled to Pathways 1
Pathways – Trial

****Coming soon:** ADR functionality to assist in monitoring and tracking cases referred for ADR services. Further information will be available and trainings will be provided. ******

Step 6: Data collection and performance measures

The MassCourts Pathways codes created will assist the division in not only managing and tracking the Pathways cases but will allow us to provide meaningful data on the impact of the initiative on the Judges calendars and the cases themselves.

The codes will provide the following information:

- Number of cases scheduled for the AJCM/Designee;
- Number of cases scheduled for Probation;
- Number of cases referred to ADR, the status of the case, and their outcome;
- Number of cases scheduled for Pre-Trial Conference with the assigned Judge;
- Number of cases resolved or dismissed in Pathways 1 and/or 2 (clearance rate);
- Time to disposition; and
- Manner of disposition (ie dismissed/withdrawn, agreement, judgment entered after bench hearing, default judgment, etc.).

The Pathways forms created will also provide us with information regarding the effectiveness of the initiative and the triage process. The AJCM/Designee conducting the Pathways Case Management Conference will complete a Disposition Sheet, which provides case information, including the result of the conference. The Order provides information on the next event if an agreement was not reached. The Scheduling Order to Pathways 3 Pre-Trial Conference indicates that alternative dispute resolutions (ADR) options were discussed and what, if any, participation was agreed to.

Pathways Case Management Forms

The following forms have been created for the Pathways Case Management:

- Letter to the Parties (PATHLTR);
- Pathways Worksheet (PATHWRK);
- Pathways Case Management Notice and Order (PATHNOT);
- Stipulation of the Parties (INTERIM PATHSTIP);
- Order (INTERIM PATHORD);
- Judgment (INTERIM PATHJUD); and
- Scheduling Order to Pathway 3 Pre-Trial Conference (INTERIM PATH3ORD).

Additional Resources

Information that can be provided to the parties regarding the standards for modification, court rules and caselaw, an explanation regarding the forms required, and web and print sources can be found at: <https://www.mass.gov/info-details/massachusetts-law-about-modifications-of-family-law-judgments-and-orders>.

Information and helpful links were provided in the Letter to the Parties, which are listed below:

Financial Statement – Forms can be found on mass.gov under Probate and Family Court or go to <https://www.mass.gov/filing-financial-statements-in-the-courts>.

Child Support Guidelines Worksheet – The most recent child support guidelines are effective as of October 4, 2021. The worksheet and additional child support guidelines information can be found at <https://www.mass.gov/info-details/child-support-guidelines>.

Information on the **Court Service Center** can be found at <https://www.mass.gov/court-service-centers>.

- Court Service Center locations include Boston (Edward W. Brooke Courthouse), Brockton (George N. Covett Courthouse), Greenfield (Franklin County Courthouse), Lawrence (Fenton Judicial Center), Lowell (Lowell Justice Center), Springfield (Springfield Hall of Justice) and Worcester (Worcester Trial Court Complex).
- Virtual Court Service Centers via videoconference: <https://www.zoomgov.com/j/1615261140> or via phone: dial (646) 828-7666 and enter Meeting ID: 1615261140 then press # #.

Information about Lawyer for the Day programs and other Probate and Family Court resources for your Court can be found at <https://www.mass.gov/probate-family-court-department-resources>.

As part of the AJCM/Designee Pathways Case Management Conference Reference Card, information is provided regarding court-connected alternative dispute resolution (ADR) in the Probate and Family Court as well as ADR information for each of the divisions. The information can also be found at: [Probate and Family Court approved Alternative Dispute Resolution \(ADR\) programs | Mass.gov](#)

If you would like more information about the Pathways Initiative, there are several resource materials available on the National Center for State Courts website at <https://www.ncsc.org>.

For additional information or assistance with Pathways, please contact Senior Program Manager Michelle Yee of the Administrative Office of the Probate and Family Court at michelle.yee@jud.state.ma.us or (617) 788-6659.