

Joint Standing Order 2-22 of the Boston Municipal Court Department and District Court Department: Court Operational Order

Introduction

As Chief Justices of the Boston Municipal Court Department and District Court Departments, we issue the following Joint Standing Order pursuant to our authority under G.L. c. 211, § 10, G.L. c. 218, § 38, and G.L. c. 220, § 5.¹

This Standing Order shall REPLACE First Amended Joint Standing Order 1-21 of the Boston Municipal Court Department and District Court Department: Court Operational Order (issued August 19, 2021 and effective August 23, 2021). Additionally, to the extent provisions in:

- 1) Boston Municipal Court First Revised Standing Order 12-20 (issued February 27, 2021 effective March 1, 2021) (jury trials);
- 2) Boston Municipal Court Third Revised Standing Order 11-20 (issued January 15, 2021, effective January 19, 2021) (summary process cases);
- 3) District Court Standing Order 1-21 (issued and effective March 1, 2021) (jury trials); and
- 4) District Court Third Amended Standing Order 10-20 (issued January 15, 2021, effective January 19, 2021) (summary process cases)

are inconsistent with the provisions of this Order, the provisions of this Order shall control; all other provisions of these past Standing Orders shall remain in effect until further ordered.

It is hereby ORDERED, effective September 1, 2022:

I. Court Operations and Courthouse Access:

The Divisions of the Boston Municipal Court and the District Court shall be physically open to the public for all purposes as outlined in the orders of the Supreme Judicial Court, Executive Office of the Trial Court, and this Order and will continue to operate with regard for the health and safety of court users and personnel, in accordance with any orders or

¹ All current court orders are available at the judiciary's "Court System Response to COVID-19" webpage at <https://www.mass.gov/guides/court-system-response-to-covid-19>.

protocols established by the Supreme Judicial Court, Executive Office of the Trial Court, and the provisions of this Order.

II. In-Person Events:

Upon the effective date of this Order, the following court events shall be in-person unless a party requests and the judge or clerk allows, or the judge or clerk orders *sua sponte*, parties to appear virtually, and doing so would be consistent with constitutional rights and statutory requirements:

- a. Arraignments, except for persons in custody of a sheriff or the department of correction;
- b. Hearings on motions to revoke bail or conditions of release;
- c. Hearings on motions for pretrial detention pursuant to G.L. c. 276, § 58A;
- d. Warrant removal hearings, except for persons in custody of a sheriff or the department of correction;
- e. Hearings on motions for return of bail;
- f. Criminal pre-trial hearings pursuant to Mass. R. Crim. P. 11 (defendant's appearance required only upon judge's order);
- g. Probation detention hearings, probation violation hearings;
- h. Plea or admission hearings;
- i. Evidentiary motions in criminal and civil cases, and probable cause hearings in criminal cases;
- j. Trial readiness conferences;
- k. Criminal bench trials, unless the parties and the trial judge all agree to conduct the trial virtually and the trial judge ensures the protections in *Commonwealth v. Curran* 488 Mass. 792, 799 (2021) are followed;
- l. Hearings pursuant to G.L. c. 123;
- m. Ex parte and two party hearings (i.e., hearings after notice) for protection order hearings pursuant to G.L. c. 209A (abuse prevention orders), G.L. c. 258E (harassment prevention orders) and G.L. c. 140 (extreme risk protection orders);
- n. Civil bench trials, unless the parties and the trial judge all agree to conduct the trial virtually;
- o. Small claims hearings;
- p. Summary process trials;
- q. Supplementary process hearings;
- r. Petitions to seal records pursuant to G.L. c. 276, § 100C, and to expunge records pursuant to G.L. c. 276, §§ 100G, 100H, and 100K;

- s. Hearings in administrative appeal cases; and
- t. Specialty court sessions, other than staffing meetings which may continue to be conducted virtually.

III. Virtual Events:

Parties are to appear virtually for the following court events unless a party requests and the judge or clerk allows one or more parties appear in-person, or, where it is determined to be in the best interest of justice, the judge or clerk *sua sponte* orders an in-person appearance. A request to appear in-person must be allowed where the requesting party does not have the ability to appear virtually.:

- a. Criminal compliance and election hearings;
- b. Hearings on non-evidentiary motions in all cases, including speedy trial requests;
- c. Assignment of trial dates;
- d. Status hearings;
- e. Summary process hearings apart from trials;
- f. Criminal show cause hearings;
- g. Hearings on probation matters other than detention or violation hearings;
- h. Civil motor vehicle infraction hearings and appeals;
- i. Civil case management conferences and pre-trial conferences, non-evidentiary motions, and judicial settlement conferences; and
- j. Appellate Division hearings, unless the presiding justice orders the matter be heard in-person.

Any other court event not specifically listed in this Order is presumptively to be held in-person.

IV. Virtual Appearance:

Appearing virtually means that one or all parties appear by videoconference (e.g., Zoom). A judge or clerk may allow a party to connect to a videoconference system with audio only, but only if circumstances require this accommodation. Appearance by telephone on a conference line is not an option for a virtual appearance. A party's request to appear virtually waives any objection to other parties appearing in person. The requirement that a party (or parties) appear in person does not preclude an attorney or witness from being permitted to appear virtually. An attorney or witness may appear virtually if the judge or clerk-magistrate presiding over the hearing allows the request, and doing so would be consistent with constitutional rights and statutory requirements.

V. Public Access:

Members of the public shall be permitted to attend all in- person hearings subject to any orders or protocols established by the Supreme Judicial Court, Executive Office of the Trial Court, and the provisions of this Order. Unless prohibited by law or court order, members of the public may access virtual court hearings as they are happening. During a virtual court hearing, members of the public are not permitted to speak, interrupt, or otherwise disrupt the hearing and must mute whatever device they are using to access the hearing. No person shall take any photographs or other digital images or make any recording or transmission by electronic means of a virtual court hearing, whether being held virtually or in person, without prior authorization from the First Justice or Magistrate in accordance with Supreme Judicial Court Rule 1:19 governing electronic access to the courts.

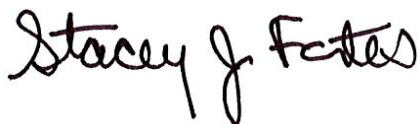
VI. Filings:

All original case filings are to be submitted conventionally, through mailing, in-person filing, or for civil, small claims, and supplementary process cases, through the Tyler e-filing system at <https://massachusetts.tylerhost.net/ofswweb/>.² Clerk-Magistrate's Offices receiving an e-mail with an attached case filing are authorized to return the filing and notify the filer that such case documents must be filed through conventional methods or, if applicable through the Tyler e-filing site (<https://massachusetts.tylerhost.net/ofswweb/>). If, for exigent reasons, a court wants to allow certain documents to be filed by e-mail, the filer must obtain prior approval from the court before transmitting the documents through the e-mail account.

VII. Expiring Orders Extended Upon Courthouse Closure:

In the event of a temporary courthouse closure, any order set to expire during the closure of the courthouse shall automatically be extended until the matter can be addressed by the court.

This Order is effective September 1, 2022 and shall remain in effect until further order of this Court.



Hon. Stacey J. Fortes
Chief Justice of the District Court



Hon. Robert Ronquillo, Jr.
Chief Justice of the Boston Municipal Court

Promulgated: August 15, 2022

² The types of cases that documents may be eFiled in can be found at www.mass.gov/info-details/learn-about-efiling-in-the-trial-court.