

**Operating Procedure for the Barnstable Division of the Probate and Family Court Under Standing Order 2 – 20, as amended July 1, 2020 and Supreme Judicial Court third updated order regarding court operations under the exigent circumstances created by the COVID-19 (coronavirus) pandemic effective July 1, 2020**

**Court Operations starting on July 13, 2020**

**A. Access to Courthouses**

As outlined in Paragraph 4 of SJC Order OE-144 effective July 1, 2020, starting on July 13, 2020, courthouses will reopen for court staff and persons who are present in courthouses for attending in-person court proceedings as described in Sections E and F below; conducting in-person business with a register's office; meeting with a probation officer or probation staff person; or conducting business at other offices that are open to the public and housed in the courthouse.

1. **Virtual Business Encouraged.** Due to occupancy limits at the Register's Office, unless you have an Emergency as defined in Section D below, it is strongly recommended that you visit our Virtual Registry from the comfort of your home or office or make an appointment to speak with Registry staff in person in order to avoid a long wait. You may visit our virtual Registry on Tuesdays and Thursdays from 9:00am to 11:00am. The link for the Virtual Registry is <https://www.zoomgov.com/j/1605462604>.
2. **Virtual or In Person Appointments.** You may also set up a virtual appointment or an in person appointment at other times by Emailing the court at [barnstableprobate@jud.state.ma.us](mailto:barnstableprobate@jud.state.ma.us). You may also call the court at (508) 375-6710. Please include your name, telephone number, email address, physical address, and a brief description of what you need. If there is a specific case, please include the name and or docket number of the case.
3. **Emergencies.** If you do have an Emergency as defined in Section D below, the Registry Staff is prepared to help you virtually by telephone or email so you do not physically have to come to the courthouse. If you have an emergency, you may call the court at (508) 375-6710 or Email the Court at [barnstableprobate@jud.state.ma.us](mailto:barnstableprobate@jud.state.ma.us).
4. **Copy Requests and Record Requests.** Copy requests and record requests from our storage location may be made without coming to the courthouse in person. We strongly recommend that you email your request to: [barnstableprobate@jud.state.ma.us](mailto:barnstableprobate@jud.state.ma.us). Registry representatives will review your request. In the discretion of the Register, if the volume of the request is within reason, Registry representatives may be able to scan and email the plain copies to you at the email address of your choice. If the documents are too voluminous to Email, or if you need Certified or Attested copies, or a Certificate of Divorce Absolute, the Registry representative will mail you the copy requests. Any fees for Certified, Attested, or plain copies must be paid by credit card. You will speak with the court cashier for payment over the phone.
5. **One Method of Filing Only.** In order for Court Staff not to duplicate efforts, please only use one method of filing. In other words, if you Email the case papers

to the Court, please do not send in the originals unless requested to do so by Registry Staff. If you choose to mail documents to us, please do not Email the documents. **Additionally, all court filings should be sent directly to the Registry or through the Registry Email at [barnstableprobate@jud.state.ma.us](mailto:barnstableprobate@jud.state.ma.us) unless otherwise ordered by the Judge.** Please do not copy Judicial Staff or other Staff at the court as it causes multiple staff members to duplicate work efforts.

6. **Title Examiners.** Title Examiners are encouraged to do their work virtually where possible. If it is necessary to review files in person, Title Examiners are requested to make an appointment with the list of files that they would like to view. In order to provide access to all due to our occupancy limits, appointments will be limited to thirty (30) minutes per appointment. We are limiting the number of files to ten (10) at one time. A public copy machine is no longer available in the Registry Office. Please bring a hand scanner or your phone to take pictures of documents that you need. Registry staff will accept in person copy order Requests for Documents that must be Certified or Attested, but due to reduced staffing levels, copy order requests for Certified or Attested documents will be fulfilled in order of receipt and will be mailed upon completion.

## **B. Virtual Proceedings**

To continue to limit the number of persons entering courthouses, the Probate and Family Court will continue to conduct most business virtually. **The volume and type of cases to be heard virtually will be determined by the Register and First Justice, collectively, and will be scheduled based upon on-site and remote staffing availability and the availability of technological support and training needed to conduct virtual hearings. Because of the unique characteristics of each physical location, some courts will not be able to safely increase staffing levels in the same way as other locations.** To facilitate the business of each division, in the discretion of the First Justice, the individual assignment of cases may be relaxed so that all cases may be heard as scheduled.

Whether it is practicable to address certain case types/events will differ for each division of the Probate and Family Court, and will be based on a variety of considerations. However, the Probate and Family Court is committed to hearing as many case types/events as is possible.

1. The Judges will continue to operate on a rotating basis until further notice, meaning that there will always be one judge present and available in Court Monday through Friday from 8:30AM to 4:30PM to hear cases by zoom video or by telephone, while the other judge is available to hear cases in the same manner remotely. Our preference is to conduct all hearings by Zoom Video. Therefore, all litigants and counsel shall assume that their case is going to be heard by Zoom Video unless they are otherwise notified by the Court. We have a recurring Zoom Video hearing that commences every day at 8:30AM. Every Order that is issued by the Court scheduling a hearing will provide a hearing date and time, with a "Notice of Zoom Hearing" which provides the Passwords and ID's for the judges, and also provides instructions to lawyers and litigants

on how to logon on to Zoom Video with or without a computer, Iphone, Ipad, Android phone or similar device. We are currently conducting approximately 20 Zoom hearings per day between both judges. Any matter may be marked for Zoom hearings, not just emergencies. The Court is also considering Motions for Short Order of Notice and is marking emergency cases for immediate hearing as provided under the Probate and Family Court Standing Order, and when otherwise necessary and appropriate.

2. It is the responsibility of the lawyers to provide their clients with the Zoom meeting ID and Password and to assist their clients in accessing Zoom Video.
3. Beginning July 13, 2020 we will slowly begin hearing cases in person consistent with the SJC and Probate Family Court Standing Order.
4. If your case is scheduled for an in-person hearing, you will be notified of the date and time to appear in court for that hearing. We do not expect to have any more than ten people appear for in-person hearings at any one time, which means that our quota for the two courtrooms combined is 10 people. Therefore, it is possible that only the litigants and their lawyers will be allowed into the building for an in-person hearing. If a witness is called to testify they may be required to remain outside the building until they are called in to testify. When they are finished testifying they may have to exit the building. Spectators, family members and friends of litigants may not be allowed into the courthouse depending on occupancy limits. Everyone entering the building will be required to wear a face mask and may have their temperature taken by security. If a person's temperature exceeds 100 degrees they will not be allowed into the building. Litigants and Lawyers will also be asked several questions related to possible exposure to Covid-19 by security staff. If the answers to the questions indicate possible exposure to the disease then the person will not be allowed into the building.

### **C. New Filings**

1. For the actions listed in Section D below, parties may file by email, mail, in-person, e-filing where available, or utilizing the MassAccess filing procedure where available.
2. For all other matters: Parties may file by the above means, except that email may only be used for filing when done so by a Court Service Center staff member or an attorney volunteering through a Lawyer for the Day program on behalf of a self-represented litigant.
3. Drop-box: Every courthouse location will have a drop-box for filings.

The Barnstable Probate and Family Court has a drop box for the filings listed in Section D only. If it is necessary to travel to the Court in person for an emergency, a box will be available for paperwork out in front of the building. Please call the Registry once you have dropped off your paperwork at (508) 375-6710. A Registry Staff member will assist you. All other Court filings

should be accomplished as set forth in Section C above. Please only use one method of filing as set forth in Section A above.

As set forth in Section C, except for Emergencies defined in Section D below, all new case filings must be done through Efiling, if available or by Regular or Overnight mail.

Parties are encouraged to obtain Court forms virtually as follows:

1. **Adoption** <https://www.mass.gov/how-to/file-for-adoption>
2. **Abuse Prevention** <https://www.mass.gov/how-to/request-an-abuse-prevention-order>
3. **Change of Name** <https://www.mass.gov/how-to/legally-change-your-name-as-an-adult>
4. **Contempt** <https://www.mass.gov/info-details/probate-and-family-court-forms-for-contempt-actions>
5. **Child Support/ Financial Statements** <https://www.mass.gov/info-details/probate-and-family-court-forms-for-child-support-guidelines>
6. **Divorce** <https://www.mass.gov/divorce>
7. **Guardian/Conservator** <https://www.mass.gov/lists/probate-family-court-forms-for-guardianship-and-conservatorship>
8. **Modifications** <https://www.mass.gov/info-details/massachusetts-law-about-modifications-of-family-law-judgments-and-orders>
9. **Actions Involving Unmarried Parents** <https://www.mass.gov/info-details/probate-and-family-court-forms-for-actions-involving-unmarried-parents>
10. **Wills, Estates, Trusts** <https://www.mass.gov/lists/probate-and-family-court-forms-for-wills-estates-and-trusts>
11. **Motion** <https://www.mass.gov/doc/motion-for-temporary-orders-cjd-400/download>

If you are not able to obtain the forms virtually on your own, you may call the Law Librarian who will assist you at (508) 362-8539. In addition in the court lobby, there will be a table with packets of forms and instructions for commonly requested case types, as well as financial statement forms.

#### D. Occupancy Limits

As outlined in Paragraph 4 of SJC Order OE-144 effective July 1, 2020, entry into a courthouse may be limited to avoid exceeding occupancy limits. In that event, the Probate and Family Court considers the below actions to be emergency proceedings for purposes of entry into a courthouse. This list is not ranked in order of importance.

1. Restraining Orders Pursuant to G. L. c. 209A/Orders to Vacate Pursuant to G. L. c. 208, § 34B, although hearings under G. L. c. 209A are presumptively virtual (See Section G below);

2. Petitions/motions seeking a Do Not Resuscitate/Do Not Intubate/Comfort Measures Only (DNR/DNI/CMO) order, authorization for medical treatment order, or order for antipsychotic medication;
3. Petitions seeking appointment of a temporary guardian or conservator;
4. Petitions pursuant to G. L. c. 19A, § 7 and G. L. c. 19C, § 20 – protective services;
5. Health Care Proxy actions;
6. Petitions/Motions for Appointment of Special Personal Representative;
7. Petitions for marriage without delay;
8. Complaints for Dependency (SIJS) and any related motions;
9. All requests for injunctive relief;
10. Motions for temporary orders where exceptional/exigent circumstances have been demonstrated; and
11. Contempt actions where exceptional/exigent circumstances have been demonstrated.

**E. In-Person Matters Starting on July 13, 2020**

On July 13, 2020, the Probate and Family Court may begin hearing the below actions in person. All other matters will be heard virtually, unless the First Justice and Register of a division determine that additional actions may be heard in person.

1. Evidentiary hearings; and
2. Trials.

Money judgment Contempt actions may also be held in person
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**F. In-Person Matters Starting on August 10, 2020**

Beginning on August 10, 2020, the Probate and Family Court may hear the actions listed below in person. All other matters will be heard virtually, unless the First Justice and Register of a division determine that additional actions may be heard in person.

1. Evidentiary hearings;
2. Trials;
3. Motions for temporary orders involving custody/parenting time; and
4. Contempt actions.

**G. Abuse Prevention Orders**

Proceedings pursuant to G. L. c. 209A (abuse prevention orders) shall be conducted virtually unless otherwise ordered by the court. Virtual hearings shall be conducted by videoconference, unless it is not practicable to conduct the hearing by videoconference, in which case the hearing may be conducted by telephone.

An in-person hearing may be permitted by a judge if requested by one or more of the parties, or as ordered by a judge. In determining whether to permit an in-person hearing to occur, the judge should take into consideration all relevant factors, including but not

limited to the positions of the parties, case scheduling constraints, building and courtroom occupancy limits, and social distancing accommodations.

#### **H. Protocol in the event of a court closure by the Trial Court**

If the Court is closed Temporarily by the Executive Office then persons with emergencies may call 508-375-6710, or email the Court at [barnstableprobate@jud.state.ma.us](mailto:barnstableprobate@jud.state.ma.us) for further instructions. There will be one judge available Monday through Friday from 8:30am until 4:30 pm to handle any said emergency matters.

#### **I. Contact Information**

Emergency phone number	508-375-6710
Emergency email address	<a href="mailto:barnstableprobate@jud.state.ma.us">barnstableprobate@jud.state.ma.us</a>
Registry phone number	508-375-6710
Probation contact	Donna Feinberg Rachwal, <a href="mailto:donna.rachwal@jud.state.ma.us">donna.rachwal@jud.state.ma.us</a> , 508-375-6734
Assistant Judicial Case Manager	Lisa MacKenzie, <a href="mailto:lisa.mackenzie@jud.state.ma.us">lisa.mackenzie@jud.state.ma.us</a> , 508-375-6709
Sessions clerk	Leanna Morley, <a href="mailto:leanna.morley@jud.state.ma.us">leanna.morley@jud.state.ma.us</a> , 508-375-6949
Sessions clerk	Rita Carter, <a href="mailto:rita.carter@jud.state.ma.us">rita.carter@jud.state.ma.us</a> , 508-375-6804
Judicial Assistant, First Justice Arthur C. Ryley	Deborah Nardone, <a href="mailto:deborah.nardone@jud.state.ma.us">deborah.nardone@jud.state.ma.us</a> , 508-375-6743
Judicial Assistant, Justice Angela M. Ordoñez	Deborah Burke, <a href="mailto:deborah.burke@jud.state.ma.us">deborah.burke@jud.state.ma.us</a> , 508-375-6747
Assistant Register	Linda Larkin, <a href="mailto:linda.larkin@jud.state.ma.us">linda.larkin@jud.state.ma.us</a> , 508-375-6722

#### **J. Additional Information**

The Barnstable Probate and Family Court shall continue to conduct the majority of hearings by remote video means. Unless you are instructed otherwise, please do not appear at the courthouse for any scheduled court hearing. All in-person hearings will receive explicit instructions from the Court as to arrival time, and safety protocol to be adhered to while physically within the courthouse.