

Operating Procedure for the Franklin 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.

To protect the health and safety of the public and our staff, litigants, attorneys and members of the public are encouraged to conduct business remotely to the greatest extent possible. Therefore, even once the court is open to the public users are encouraged to continue to use the following methods:

To get paperwork:

Most court forms are available on-line at <https://www.mass.gov/guides/probate-and-family-court-forms>. The most commonly used court forms are also available for pick up directly outside the entrance to the courthouse at the Forms Center.

To file paperwork:

All pleadings may be mailed to: Franklin Probate Court, P.O. Box 590, Greenfield MA 01302. Paperwork may also be dropped off at a table directly inside the court entrance.

For questions about filing or scheduling:

Please call the Registry of Probate at (413) 775-7464. Questions may also be emailed to franklinprobate@jud.state.ma.us. The Court Service Center is also an excellent resource for questions; it may be reached at (413) 775-7483 or greenfieldcsc@jud.state.ma.us.

For document requests:

Please submit requests by phone to (413) 775-7464 or by email to franklinprobate@jud.state.ma.us. All reasonable requests will be processed expeditiously. Documents will be sent to the requestor by regular mail.

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.

At this time, the Franklin Division is hearing motions, contempts and uncontested hearings remotely. All pre-trial conferences are being converted to status conferences until further notice, unless a pre-trial conference is specifically ordered in a particular matter. Parties filing motions are encouraged to review the Motions Protocol attached to the end of this document.

All parties filing new actions that will require a hearing are requested to serve a Notice of Remote Hearing along with the summons or citation (a copy is attached to the end of this protocol).

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.

There will be a table in the lobby of the courthouse with a tray for filing documents with the Probate and Family Court. Court users will be able to leave documents for filing in this tray without having to come through security. Staff will periodically retrieve documents left in this tray.

As of this time, the court does not have a secure drop-box. Filing by mail remains the preferred method.

The following forms are available immediately outside the courthouse at the Forms Center:

1. Affidavit of Indigency
2. Notice of Appearance

3. 209A Complaint Package
4. Plaintiff's Motion to Modify/Terminate 209A
5. Defendant's Motion to Modify/Terminate 209A
6. Short Form Financial Statement
7. General Motion form
8. Complaint for Modification
9. Complaint for Custody-Support-Parenting Time
10. Complaint for Contempt
11. Complaint for Mod w/Motion for TO ("Co-Motion")
12. Complaint to Establish Paternity
13. Guardianship Petition

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.

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 Franklin County Justice Center is temporarily closed due to COVID19, no scheduled nonemergency hearings will take place. Prior to any scheduled hearing, all parties are encouraged to check the status of the Franklin County Justice Center by visiting www.mass.gov/info-details/temporarycourt-closures-due-to-covid-19.

During closure of the Justice Center, only emergency matters will be addressed. If an emergency arises during any closure, please contact the court at franklinprobate@jud.state.ma.us or 413 775 -7464.

I. Contact Information

Emergency phone number	(413) 775-7464
Emergency email address	franklinprobate@jud.state.ma.us
Registry phone number	(413) 775-7464
Probation contact	franklinprobate@jud.state.ma.us ; (413) 775-7452
Judicial Case Manager	Alexa Flanders; alexandra.flanders@jud.state.ma.us (413) 775-7464

J. Additional Information

1. Please see attached Motions Protocol and Notice.

2. The following Notice of Remote Hearing shall be served with new complaints and petitions and being sent by the court with orders:

FRANKLIN PROBATE AND FAMILY COURT MOTIONS PROTOCOL

Effective July 13, 2020

Until further notice, and unless ordered otherwise, the Franklin Division will conduct motion hearings remotely, using Zoom (parties can participate in a Zoom hearing by telephone). Because of this, the following procedures apply to motions until further notice:

A. *Filing the motion*

- Because the court can hear fewer motions remotely than in person, effective July 13, 2020, the motion list shall be capped at twelve contested matters (not including hearings on petitions for guardianship of incapacitated persons and citation dates for petitions for guardianship of a minor). **Any party or counsel seeking to file a motion shall call the Registry of Probate at (413) 775-7464 prior to scheduling a hearing to determine the next available date.**
- Once available dates have been determined, parties and counsel are encouraged to consult with the other party/counsel to coordinate a mutually convenient date for the motion to be heard.
- Motions that are served by mail to the other party require at least 10 days' notice (unless the court allows a motion for short order of notice in advance).
- All motions should be marked for 9:00 a.m., however, not all motions will be heard at that time.
- All motions should be filed by regular mail or e-filed (if available), or may be dropped off at the courthouse. Motions may only be filed by email in emergency situations and as authorized by Standing Order 2-20 (For emergency procedures, see section D below). The court's mailing address is P.O. Box 590, Greenfield, MA 01302.
- Filers should include their email address on the motion, or send a separate appearance that includes their email address. A notice of appearance is available at <https://www.mass.gov/doc/notice-of-appearance/download>.

- Filers should include the other party's phone number and email address in the motion if this information is known to them. Please print legibly.
- If the subject of the motion is a financial issue, the filer should file a financial statement with the court along with the motion, and should mail a copy of his or her financial statement to other party along with the motion. Failure to file a financial statement may result in the motion hearing being postponed. The filer is also requested to include with the motion a notice notifying the other party of his or her obligation to file a financial statement. (See attached notice at the end of this protocol).
- A motion for temporary orders filed with a Complaint for Modification of Child Support (sometimes referred to as a "co-motion") should be marked for hearing on a regular motion day, not a DOR block day, unless DOR is filing the complaint.
- Parties who had motions scheduled for hearing in March and April that were not heard due to the current pandemic can re-notice their motions on an available motion date with proper notice to the other party/parties.

B. Upon receiving a motion

- If a party receives a motion that is scheduled for hearing, they should confirm that the contact information listed for them in the motion is correct. If it is incorrect, the party should file a notice of appearance right away (by mail or by filing at the courthouse). The party may also call the probation office at (413) 775-7452 to provide correct/updated contact information.
- If the motion involves financial issues, the party receiving the motion must file a financial statement. The financial statement should be mailed to the court at P.O. Box 590, Greenfield, MA 01302 as soon as possible or may be delivered to the courthouse.

C. On the day of the hearing

- Do not come to court. All hearings will take place remotely unless there is a further court order.
- Unless both parties are represented by counsel, the Probation Office will conduct a dispute intervention. The parties should expect a call from the Probation Office

at any time during the morning the motion is scheduled, and in some cases the Probation Office may reach out prior to the date of the hearing.

- If after the dispute intervention a hearing is still needed, the Probation Officer will let the parties know how to participate in the hearing. In most cases the parties will be emailed a link to a Zoom hearing. If a party cannot participate in a video hearing using a computer or phone, the party will be provided a phone number, meeting code and password to participate in the Zoom hearing by telephone.
- If both parties are represented by counsel, the sessions clerk will email counsel prior to the hearing to provide a specific hearing time and a Zoom link.
- The court typically will not conduct evidentiary hearings during motion sessions. If the court after hearing concludes evidence must be taken, the matter will be scheduled for a further date.
- If the court is unable to hold a hearing on a particular motion, the court will contact the parties and let them know when the hearing will take place. The court will make every effort to hold that hearing within a few days of the original date.

D. Emergency situations

- Certain matters have been designated by the Administrative Office of the Probate and Family Court as emergency matters, and once filed shall be scheduled for hearing by the court, with notice as directed by the court. These matters include restraining order applications, requests for Do Not Resuscitate orders, motions for the appointment of a temporary guardian or conservator, motions for the appointment of a special personal representative, and other urgent matters (see Standing Order 2-20, as amended, for additional detail). These matters may be filed by email; pleadings should be sent to franklinprobate@jud.state.ma.us. (E-filing is also available for some matters). Please do not mail original documents to the court if they are filed by email.
- Motions for temporary orders and Complaints for Contempt where there are exigent circumstances may be filed by email with the permission of the Judicial Case Manager. The party seeking permission to file the documents by email shall email them to franklinprobate@jud.state.ma.us and should indicate in the subject line of the email "Request for permission to file by email." The Registry of Probate shall not docket the pleadings until the Judicial Case Manager has reviewed them. The Judicial Case Manager shall either direct that the pleadings

be accepted for docketing or shall notify the filer that the pleadings must be filed by mail or e-file (if applicable) or delivered to the court. If pleadings are accepted for filing by email, no original documents should be mailed to the court. If short notice/ex parte hearing is requested, a motion for short order of notice is expected to be filed.

- If there is a filing fee, it must be paid at the time of filing. Checks may be hand-delivered or mailed to the Franklin Probate Court, P.O. Box 590, Greenfield MA 01302. Where filing by email is permitted, affidavits of indigency may be filed by email, or for the time being the Registry of Probate can also accept credit card payments by phone (the filer must include contact information and should expect a call).

FRANKLIN PROBATE AND FAMILY COURT

NOTICE

The attached motion involves a financial issue. Therefore, as governed by Rule 401 of the Supplemental Rules of the Probate and Family Court, a financial statement must be filed. The financial statement should be mailed as soon as possible to the Franklin Probate and Family Court, P.O. Box 590, Greenfield MA, 01302 or may be filed at the Registry of Probate, 43 Hope Street, Greenfield. A copy must be mailed to the other party in the case. You should keep a copy for your records.

Financial statements are available on-line by visiting <https://www.mass.gov/info-details/probate-and-family-court-forms-for-child-support-guidelines>. You may also pick up a financial statement at the courthouse. The financial statement and other documents are available outside the building at the Forms Center.

For additional assistance, you may contact the Court Service Center at (413) 775-7483 or at greenfieldcsc@jud.state.ma.us.

**** Serve this notice with the summons or citation in this matter****

FRANKLIN PROBATE AND FAMILY COURT NOTICE OF REMOTE HEARING

Until you are informed otherwise, **all hearings in this matter will be held remotely** using the platform Zoom. You can participate in Zoom hearings by video, using a smartphone or webcam, or by telephone using a cellphone or a landline.

- In order for the court to communicate with you about upcoming hearings in this case, **please file an appearance** form including your telephone number and email address. A blank appearance form can be found at <https://www.mass.gov/doc/notice-of-appearance/download>. Please mail it to Franklin Probate Court, PO Box 590, Greenfield MA 01302. Please include the docket number of your case on the appearance.
- For all hearings in this matter (including motions if scheduled), do not come to court unless you are ordered to do so. You will either receive a phone call from our probation office on the date of the hearing or you will receive an email prior to the hearing containing a Zoom link and call-in information.
- **If your case involves a financial issue**, you will be expected to file a financial statement prior to the hearing. Financial statements are available online at <https://www.mass.gov/info-details/probate-and-family-court-forms-for-child-support-guidelines> or may be picked up at the courthouse.

Questions? If you have questions about this notice or about how to participate in court hearings remotely, call the Registry of Probate at 413-775-7464. You can also contact the Court Service Center at 413-775-7483 or our Probation Office at 413-775-7452.