Operating Procedure for Hampden Division of the Probate and Family Court
Under Standing Order 1 – 21, effective July 12, 2021

A. General information:

Effective July 12, 2021, the Probate and Family Court will be open to conduct all emergency and non-emergency court business in person, except for the matters identified in Paragraph C below and any matter that a judge determines shall be held virtually.

The ability to conduct in-person hearings depends upon successful compliance with all safety protocols established by the Trial Court, including, but not limited to, Trial Court occupancy limits.

Parties may file pleadings by US mail, in person, or by e-filing where available. Email filings will be accepted when done so by a Court Service Center staff member or by an attorney volunteering through a Lawyer for the Day program on behalf of a self-represented litigant or if specifically authorized by the Supreme Judicial Court or the Executive Office of the Trial Court. Other email filings may be allowed at the discretion of each Register of Probate. Drop boxes may be available to file pleadings in some court locations.

We will accept email court filings, as described in Standing Order 1-21 effective 7/12/2021. Questions related to court filings can be directed to Mary Keeler, mary.keeler@jud.state.ma.us (413) 748-7737.

The drop box is located in the Registry and collected throughout the day. Any questions regarding where specifically it is located in the Registry or who may use the box can be made at the Reigstry Counter or by calling or emailing Thomas LeBlanc at Thomas.leblanc@jud.state.ma.us or (413)748-7862

Electronic signatures will continue to be used, consistent with the current order of the Supreme Judicial Court, unless and until otherwise amended by subsequent orders or rules.

Virtual registries may continue to be used. Virtual registries offer all of the assistance normally available during an in-person visit, including face-to-face contact, the ability to obtain and get assistance with court forms, and access to court documents and docket information. Information about virtual registries can be found here.

Days of week and hours of operation for virtual registry. Mon-Friday 8:30 a.m.-4:15 p.m.
The link to the virtual registry: Dial 646-828-7666, ID# 1600424858;
www.zoomgov.com/j/1600424858
Questions related to the virtual registry can be directed to Olivia Strohman, Olivia.strohman@jud.state.ma.us (413)748-8634.

B. In-Person Proceedings:

As of July 12, 2021, the Probate and Family Court will expand the scheduling of in-person hearings for all matters, except for the matters identified in Paragraph C below and any matter that a judge determines shall be held virtually. In-person hearings will be scheduled for the next available date and will be conducted on a staggered schedule.

Staggered scheduling for Hampden Probate and Family Court will be updated as available. All questions should be directed to the Registry first, by calling (413) 748-7758.

If notice has already gone out and a matter is scheduled for a virtual hearing on or after July 12, 2021, the matter will still be held virtually unless the assigned judge determines the matter should be heard in person and the parties are notified of such change.

Where an in-person hearing is scheduled, a party may request that the hearing be conducted virtually, and the judge will rule on the request.

Any party asking to conduct a hearing virtually when the matter has been scheduled in person must present a motion to the Court, asking permission with notice to the other side. All questions should be directed to the Registry first, by calling (413) 748-7758.

Alternatively, a judge, upon request, may authorize a participant (an attorney, party, or witness) to appear virtually while other participants appear in person, so long as it is consistent with due process and fundamental fairness. A participant who requests to appear virtually for an otherwise in-person proceeding shall have no grounds to object to other participants appearing in person.

Any party asking to appear virtually when the matter has been scheduled in person must present a motion to the Court, asking permission with notice to the other side. All questions should be directed to the Registry first, by calling (413) 748-7758.

C. Virtual Proceedings:

The following matters shall be held virtually and on a staggered schedule:

1. Uncontested adoptions, unless the assigned judge determines that the matter should be heard in person;
2. Uncontested divorces;
3. Rogers reviews;
4. Best efforts § 29B annual reviews – DCF custody;
5. Any action involving child support only, except for contempt actions;
6. Case Management/Status conferences; and
7. Discovery motions.

All virtual hearings are scheduled for specific time slots and that information will be contained in the notice mailed from the Court, or in the Notice of Hearing prepared by the litigant or attorney.

Changes to staggered scheduling for virtual matters in Hampden Probate and Family Court will be updated as available.

All questions should be directed to the Registry first, by calling (413) 748-7758.

Matters that are generally handled administratively (e.g., marriage without delay; joint modification); uncontested/assented to motions (e.g., appointment of GAL; continue date of hearing; file marriage certificate late); and uncontested/routine allowables in probate actions (e.g., informal petition; transfer of guardianship or conservatorship from another state; accounts; appointment of GAL; license to sell; alternative service; waiver of sureties; motion to file death certificate late) will continue to be handled administratively. If such a matter is not handled administratively, a virtual hearing will be scheduled.

In the absence of exceptional circumstances, as determined by the judge conducting the hearing, no party or attorney for a party may be physically present in the courtroom for a scheduled virtual hearing.

However, in cases with one or more self-represented litigants, judges shall consider the possibility that self-represented litigants may have limited access to the technology needed or limited experience with such technology and either assist the self-represented litigant or offer the option to appear in person.

A judge may also consider matters through an administrative review process and determine motions in accordance with Rule 78.

Please see Section F below for a list of matters which may be considered administratively.

All calls for information should first be made to the Registry by calling (413) 748-7758.

D. Protocol in the event of a court closure by the Trial Court:

1. All new 209A requests shall go to the on-call District Court judge.
2. The Registry of Probate will offer telephone phone number (857-972-3205) for all emergency calls. The Registry number is on the front door of the courthouse and with the local Police Department. The number shall be published on www.mass.gov/courts.
3. All paperwork shall be sent to the mailbox: hampdenprobate@jud.state.ma.us This email address shall be available on the Registry call in line, on the front door of the courthouse and with the local Police Department. The address shall be published on www.mass.gov/courts
4. Each day there shall be one assigned judge and Assistant Judicial Case Manager to handle emergencies. This may change day to day. The assignments shall be made by the First Justice in the division.

5. The on-call Assistant Judicial Case Manager shall answer all emergency calls on the emergency number.
6. The Assistant Judicial Case Manager shall screen the emergency and request necessary paperwork to be forwarded to the general email address for the court above.
Paperwork may, in exigent circumstances, also be submitted by text and mailed in later or filled out by court staff, if necessary.
7. The Assistant Judicial Case Manager shall request Criminal Offender Record Information/Court Activity Record Information, if necessary. This request shall be submitted to the closest Probate and Family Court which is open and operational. At this time the request shall go to Hampshire.
8. The paperwork, Court Activity Record Information and the litigant's phone number shall be forwarded to the on-call judge.
9. The on-call judge shall, using the emergency phone, or an anonymous number, shall contact the litigant and record the hearing using a portable recorder, zoom capabilities or their phone, if necessary*. An open and operational Probate and Family Court may assist in recording with For The Record, if necessary. Under no circumstances shall the private contact information of a judge or Assistant Judicial Case Manager be provided to a litigant or attorney.
10. All litigants shall be sworn.
11. Any orders issued shall be prepared by the Assistant Judicial Case Manager on call, electronically signed, a typed signature for a judge may suffice, mailed or emailed, and docketed when signed by the issuing judge.
12. The recorded hearing shall be played back to For The Record when practicable.

*Google voice also allows a recording feature, if a recorder is not available.

All Phone calls should be made to the phone number provided immediately above or an email may be sent to the email provided immediately above.

E. Contact Information:

Emergency phone number	(413) 735-6043
Emergency email address	hampdenprobate@jud.state.ma.us
Registry phone number	(413) 748-7758
Probation contact	Staff Probation Officer (413) 748-7797
Assistant Judicial Case Manager	Kristina Bordieri, Esq., (413) 748-7786, for Judge Hyland
Assistant Judicial Case Manager	Jocelyn Axelson, Esq., (413) 748-7749, for Judge Doyle
Assistant Judicial Case Manager	Kelly Zawistowski, Esq., (413) 748-7784, Judge Wyner
Assistant Judicial Case Manager	Melissa Campana, Esq., (413) 735-6054, for Judge Randle
Assistant Judicial Case Manager	Any AJCM above for the Courtroom #2 list (formerly Judge Sandman's list)
Sessions clerk	Patricia Silk, (413) 748-7772 for Judge Doyle
Sessions clerk	Patricia Guay, (413) 748-7785 for Judge Sandman Session
Sessions clerk	Carmen Zamorski, (413) 748-7782 for Judge Hyland
Sessions clerk	Julian Suarez, (413) 748-7762 for Judge Wyner
Sessions Clerk	Carmen Monroy, (413) 735-6031 for Judge Randle

Sessions Clerk	Sheree Biggs, (413) 748-7781
Judicial Secretary	Chanda Miller, (413) 748-7988

F. Additional Information:

The Hampden County Bar Association operates a Lawyer of the Day Program, either in-person at the Hampden County Bar Association or virtually through videoconference or telephone. The dates of operation change monthly so please contact the Hampden County Bar Association at (413) 732-4648 for information regarding the current hours of operation and contact information.

All court visitors to the Probate and Family Court must wear a mask at all times.

It is recommended that only the party to the case come to the court and that all friends, family, and children remain home whenever possible, for the safety of everyone.

Litigants are encouraged to accomplish your business as quickly as possible, as the number of people allowed in the building at one time is limited.

Please bring your own pen and hand sanitizer and other materials you may need relative to the case and any other protective equipment you wish to have, such as gloves.

HAMPDEN DIVISION
PROBATE AND FAMILY COURT DEPARTMENT

3rd AMENDED PROTOCOL FOR ADMINISTRATIVE ALLOWANCE OF CERTAIN MATTERS

In an ongoing effort to reduce the congestion and waiting time in the Hampden Division of the Probate and Family Court Department, and in order to reduce or eliminate multiple appearances by parties and counsel and to improve the levels of efficiency in the Court, the protocol implemented effective April 15, 2009 and as amended effective December 2, 2010 and August 14, 2018, is replaced with this protocol. The following protocol will commence on November 17, 2020:

I. Form of the Pleading:

(a) The words **"FOR ADMINISTRATIVE CONSIDERATION BY JUDGE _____(insert name of judge assigned)"** shall appear clearly *in the case caption*. If these words do not appear in the case caption, the motion is unlikely to be reviewed by an A/JCM.

(b) The judge's decision can be found on the Attorney Portal or at masscourts.org.

II. Additional Required Documents:

In all cases in which there is a requirement for the filing of certain documents (i.e., Child Support Guidelines worksheet, Findings and Determination for Child Support and Post Secondary Education form, DOR application), the documents *must* be included in the submission or the matter will not be acted upon administratively. See Section 4 below (and if a Petition to Modify/Change a Judgment/Order is being filed, Rule 412 of the Supplemental Rules of the Probate and Family Court) for more specific information.

III. Department of Revenue:

In all domestic cases where DOR has a statutory interest, including Health Insurance, the Department of Revenue *must* indicate and sign off that there is an agreement or that the Department of Revenue has no interest in the matter.

The following matters may be presented for administrative consideration by the individual calendar Judge or A/JCM. The Court may deny any such request or require the parties to appear before the Court (either in person or telephonically):

1. **ASSENTED TO/JOINT MOTIONS**. If granting a requested extension or expansion affects any existing court date, a request to continue that court date shall also be included as part of the motion.

   a. For discovery, including extensions of discovery deadlines
   b. To amend (but not to insert the name of a co-defendant in a divorce action)
   c. For entry of a QDRO, DRO
   d. To discharge lis pendens
   e. For unredacted DCF records where DCF has taken no position; a signed statement from DCF legal shall be attached, an email is acceptable.
   f. For leave to file late answer and/or counterclaim
   g. To waive attendance at parent ed classes because of a demonstrated language barrier or unavailability of a party only
   h. To extend time for filing report of Guardian *ad Litem*
   i. To expand number of authorized hours for Guardian *ad Litem*
   j. To appoint Guardian *ad Litem*, **in private pay cases only**, with completed Guardian *ad Litem* appointment form including cost allocation between the parties. If there is insufficient time for the Guardian *ad Litem* to file the report before a scheduled pre-trial conference date, an assented to Motion to Continue that date shall also be filed.
   k. To expand scope of Guardian *ad Litem* investigation/authority
   l. To consolidate or track cases together
   m. To waive presence of one party at hearing

   This is not meant to be an exhaustive list, but rather a sampling of the types of motions/matters that may be handled administratively.

   Counsel may look at the Attorney Portal and parties may look at the masscourts.org website to determine whether the request for a continuance was granted.

2. **CONTINUANCES.**

   ANY ASSENTED TO/JOINT MOTION TO CONTINUE MUST BE RECEIVED IN THE REGISTRY OF PROBATE AND TIME STAMPED NO LATER THAN THREE (3) BUSINESS DAYS BEFORE THE SCHEDULED EVENT (not including the day of the scheduled event). If a motion is not timely filed and no one appears at the scheduled hearing, the Court may dismiss the pending matter(s) or take other appropriate action.

   The Motion shall include a "not before" date, the requested month(s) for the next date and unavailable (or "bad dates") for counsel and parties.

   a. To continue uncontested cases
   b. To continue contempt hearings
   c. To continue status and/or review hearings
   d. To continue case management conferences (if no joint case management memorandum can be filed)
   e. To continue pre-trial conference (discovery deadlines will not be extended

automatically. The motion must make this request separately if it is desired)

MOTIONS TO CONTINUE A TRIAL – these must be presented (generally)

This is not meant to be an exhaustive list, but rather a sampling of the types of motions/matters that may be handled administratively.

(1) If more than one event is scheduled on a single day, and the parties want to move everything to a new date, the motion must address each event.
(2) Counsel may look at the Attorney Portal and parties may look at the masscourts.org website to determine whether the request for a continuance was granted.

3. OTHER NOT ASSENTED TO MOTIONS. The following motions may be presented for administrative consideration without an assent.

a. For alternative service
b. For special process server
c. For leave to file a necessary document (i.e., marriage certificate or medical certificate) late
d. To compel attendance or to waive attendance at parent ed classes because of a demonstrated language barrier or unavailability of a party only.
e. To waive appointment of a Guardian *ad Litem* so long as there is compliance with Probate Rule XVI A
f. To return original documents (birth, marriage or death certificates)
g. To appear by telephone
h. For habeas corpus/video habeas corpus

This is not meant to be an exhaustive list, but rather a sampling of the types of motions/matters that may be handled administratively.

Counsel may look at the Attorney Portal and parties may look at the masscourts.org website to determine whether the request for a continuance was granted.

4. PROCEDURAL MOTIONS, WHERE BOTH PARTIES ARE REPRESENTED, WHICH ARE OBJECTED TO OR NO POSITION IS TAKEN. The procedural motions listed below, to which the opposing party objects and/or takes no position, may be presented for administrative consideration as follows:

a. <u>No position is taken by opposing counsel/opposing party</u>. If opposing counsel or the opposing party states that they do not assent to the motion, but otherwise do not take a position, the Motion may be submitted for administrative consideration if an email or signed statement from opposing counsel/party that states 'no position is taken' is attached to the Motion.

b. <u>Opposing counsel/opposing party objects</u>. If opposing Counsel or the opposing Party objects to the motion, the motion may be submitted for administrative consideration *<u>if</u>*

their written objection is attached to the Motion and represents opposing counsel/party's acknowledgement that the matter will be presented for administrative review without oral argument.

i. Motions to continue (but not to continue a trial – those must be presented in person/virtually)
ii. Motions to amend
iii. Motions for leave to file a late answer and/or counterclaim
iv. Motions for unredacted DCF records (where DCF legal is given notice *and* has signed the motion or a statement that DCF takes no position).

5. **MOTIONS TO WITHDRAW.** Motions for leave to withdraw as counsel may be submitted for administrative consideration under the following conditions:
   a. The motion is assented to and/or no position is taken by opposing counsel/opposing party
   b. Counsel's disappearance is attached to the motion.
   c. A Notice of Appearance for the litigant is attached (the Notice of Appearance <u>must</u> include the litigant's address, phone number and email address).
   d. An Affidavit, signed under the penalties of perjury by the litigant whose counsel is withdrawing, which states the following:
      i. Their name and address.
      ii. That the litigant agrees to counsel's request for leave to withdraw.
      iii. That they understand that if the motion for leave to withdraw is allowed, they will be self-represented from that date on and will no longer have the assistance of counsel.
      iv. That they understand they will be responsible for following all orders of the court, knowing the procedural requirements and complying with the rules and practices of the court, as if they were represented by counsel.

6. **AGREEMENTS FOR TEMPORARY ORDERS OR JUDGMENT OF MODIFICATION**

   a. The parties shall file with the court a Motion for Temporary Orders on Agreement of the Parties or a Motion to Approve Agreement of the Parties for Judgment of Modification and:

      1. An agreement setting forth the agreed upon Temporary Orders or modification(s), which must be notarized. If a child's primary residence or custody is being modified, the agreement must specifically state whether any terms in a prior judgment or order related to child support, health, dental, vision or life insurance coverage are also modified, or if they remain in effect. If child support is being modified and the parties deviate from the guidelines amount, the agreement must include specific facts that justify departure from the guidelines, and if the parties' agreement terminates child support upon the age of 18, the agreement must acknowledge that G.L. c. 208, §28, or G.L. c. 209C, §9 is not applicable;

2. Complete and accurate financial statements signed by each party and counsel, if any, pursuant to Supplemental Probate and Family Court Rule 401, with supporting documentation (attach W-2 and 1099 forms from prior year), if financial issues are being modified;

3. Complete and accurate Child Support Guidelines Worksheet, if child support or medical, dental or vision insurance is being modified;

4. A written assent from the Department of Revenue Child Support Enforcement Division as the IV-D agency when a party, and/or a dependent child, is a current recipient of public assistance or owes a past-due child support debt assigned to the Commonwealth, and any term relating to child support or medical insurance is being modified;

5. A Findings and Determination for Child Support and Post Secondary Education form, if child support is being modified and the parties deviate from the guidelines amount;

6. Any other assent or document required by statute or court rule;

7. If custody is being modified, or the parenting plan is being significantly modified and/or if the agreement allows one party to remove the child(ren) from the Commonwealth of Massachusetts, the parties shall complete and file a yellow tickler to have their CORI/CARI run for the judge's review; and

8. A proposed Judgment or Temporary Order incorporating the parties' Agreement.

a. In the event that the court believes a hearing is necessary or helpful to a disposition of the matter, the court will set the time and date of the hearing and will notify the parties within twenty-one (21) days of receipt of the Motion for Temporary Orders on Agreement of the Parties or a Motion to Approve Agreement of the Parties for Judgment of Modification.

7. **PETITIONS FOR SPECIAL ADMINISTRATION** (with assents of all interested parties and appropriate bond provisions). The matter shall be treated as a "present" and submitted to a judge for signature.