

Operating Procedure for the Hampshire 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 insure everyone's safety we encourage court users, to the greatest extent possible, to take advantage of available alternative means of interacting with court staff, rather than by your physical presence at the courthouse. Entering the courthouse building should be considered an option of last resort. For example, consider these choices:

1. VIRTUAL REGISTRY

Beginning on July 13, 2020, court staff will be able to answer your questions and provide information virtually, through Hampshire's Virtual Registry. If you have a question about an existing case, or if you are seeking information on how to file a new case, it is strongly recommended that you utilize the virtual Registry. To participate in the Virtual Registry go to:

www.zoomgov.com/my/hampshirepf

2. SCHEDULE AN APPOINTMENT

If you must speak with Registry staff in person, it is strongly recommended that you make an appointment. To schedule an appointment, send an e-mail to hampshireprobate@jud.state.ma.us with "Appointment" in the subject line. Your e-mail should include the date(s) and time(s) that work best for you and a very brief description (just a few words, like 'child support,' 'adoption,' or 'probate estate') of the subject matter. If your question concerns an active case, please provide the court docket number. If you don't know the docket number, go to masscourts.org for a case index.

3. DOCUMENT COPIES

Rather than come to the courthouse in person, we strongly recommend that you email your request for copies of court documents to hampshireprobate@jud.state.ma.us. Registry representatives will copy the requested documents from the file and either mail or email the documents to you. Court fees for copies may be made by check, money order, or paid by credit card charge to be made by court cashier over the phone.

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.

The Hampshire Division will conduct most scheduled matters, including motions, reviews, pre-trial conferences, and status conferences, as well as joint petitions and agreements for temporary orders and judgment, and some trials and evidentiary hearings, telephonically or by Zoom. Court staff will schedule each hearing and contact attorneys and litigants prior to the scheduled Court events to notify them of when their case will be heard and the instructions for participating in the hearing. All pleadings, including financial statements, must be filed at least 48 hours prior to the hearing. If all documents have not been submitted prior to the hearing, the matter may be continued to another date.

The telephonic or Zoom hearings will be recorded and the parties will be sworn. The Court expects that attorneys will arrange for their clients' remote participation.

Attorneys and litigants who have a question about when a case can and will be heard remotely (by telephone or Zoom) should contact the Court at 413-586-8500.

If a case remains on the Court calendar and the attorney or litigant is unable to participate, he or she should seek the assent of opposing counsel or the other litigant and submit by email an assented-to Motion to Continue with a new date obtained from the Registry. If he or she is unable to obtain assent to continuing the matter, the attorney or litigant may submit a Motion to Continue with a supporting affidavit setting forth the reasons why a continuance is needed.

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.

Documents may be personally delivered to the court and left on the table located at the courthouse vestibule area located inside the first set of automated doors. Security officers will either notify Registry staff that the documents have been delivered and are available for pickup, or will hand deliver the documents to Registry staff.

Also located in the vestibule area are many of the court's most requested forms. Additionally, if you call the Registry (413-586-8500) or send us an email (hampshireprobate@jud.state.ma.us) identifying the specific forms that you are in need of, we will have the forms on the table in the vestibule area and available for pickup.

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

1. Emergency Contact Information:

Registry phone number: 413-586-8500

Court email address: hampshireprobate@jud.state.ma.us

SafePlan Advocate phone number: 413-266-9968

2. Emergency contact information (the telephone number of the Registry (413-586-8500), the telephone number for the SafePlan advocate (413-266-9968), and the court email address, hampshireprobate@jud.state.ma.us) will be posted on the Courthouse doors. Registry staff will access Registry messages and emails regularly.

3. In emergency matters, the Registry will contact the JCM/AJCM. Whenever possible, the Registry will work with the attorney or litigant to complete the appropriate paperwork online and email it to the Court. If a self-represented person is unable to fill out the paperwork online, the litigant will be asked to

describe the situation and relief sought in an email. If the litigant does not have email, the Registry will ask the person to state what the issue is, the relief sought, and how urgent it is, and transmit this information to the JCM/AJCM.

4. The Registry will forward this email, with or without attached filings, to the JCM/AJCM. If the person does not have email, the Registry will call the JCM/AJCM and explain the situation.
5. The Registry will try to obtain the following information from the litigant:
 - a. The name, phone number, email address, and residential address of the parties;
 - b. The docket number of any open or closed case;
 - c. Whether it is a Hampshire case, and if not, the division in which the case is filed;
 - d. If the case is open, the status of the case, including the date and terms of the last order and the next event;
 - e. Whether there is an active 209A and, if so, the court that issued it and the terms; and
 - f. Whether DCF is involved.
6. The petitioner will be told to mail originals to the Court for later filing and docketing.
7. The JCM/AJCM shall determine if the case is appropriate for dispute intervention with Probation. If not, the matter will be directed to a Judge.
8. If the case is sent to Probation for dispute intervention and Probation is able to resolve the matter with an agreement, and it would be beneficial to have the parties' agreement become an Order, Probation will contact the JCM/AJCM who will contact the Judge, and the agreement will be reported on the record through a telephonic or Zoom hearing. An order will be processed and sent out at such time as the Registry is able to perform those functions again.
9. Also, if necessary for the case, either Probation or the JCM/AJCM will obtain the full name and date of birth of all necessary individuals and will request that Probation find another Probation Office to run a CARI record to be shared with the Judge.
10. If the situation suggests that a 51A may need to be filed, the JCM/AJCM will arrange for Probation to participate during any hearing.
11. Prior to any hearing, all information, including the Petitioner's telephone number, the Respondent's telephone number, DCF contact information, the CARI, and any pleadings/emails shall be forwarded to the Judge.

12. If an immediate hearing is required, it will be conducted telephonically or by Zoom. The JCM/AJCM shall provide the hearing information to the attorneys and litigants and, if applicable, Probation, and DCF. The hearing will be recorded and all participants will be sworn.
13. The JCM/AJCM will assist the Judge with the processing of any resulting order. The order will be saved and distributed as an un-editable PDF, and the typed signature of the Judge will suffice for the entry of the order.
14. At no time will the private contact information for any Justice, JCM/AJCM, or other staff member be disclosed to any litigant, attorney, or other individual.

I. Contact Information

Emergency phone number	413-586-8500
Emergency email address	hampshireprobate@jud.state.ma.us
Registry phone number	413-586-8500
Probation contact	413-586-8503
Judicial Case Manager	Noelle Barrist Stern, noelle.stern@jud.state.ma.us , 413-587-5259
Assistant Judicial Case Manager	Corey M. Carvalho, corey.carvalho@jud.state.ma.us , 413-587-5213

J. Additional Information

Probation: The Probation Department is available to assist attorneys and litigants with dispute intervention telephonically for all pending matters. If parties jointly seek the Probation Department’s assistance, the attorneys or litigants should contact Chief Probation Officer R.J. Waskiewicz or Assistant Chief Probation Officer Jo-Ana Lopez at (413) 586-8503.

“Seek Work” Orders: All seek-work orders remain in effect, but report reviews will be conducted electronically until further order.

Drug and Alcohol Screens: Drug and alcohol screens supervised by Probation are suspended until further order.

Lawyer for the Day: The Lawyer for the Day program is operating via telephone. Individuals seeking assistance should contact the Registry (413-586-8500) for more information.

Mediation/Conciliation: Mediation and conciliation sessions are operating by telephone or Zoom on a limited basis. Individuals seeking assistance should contact the Registry (413-586-8500) for more information.

CHD: CHD Liaison Stephanie Delano, MSW, LCSW is available to counsel families by phone. She may be contacted at sdelano@chd.org.

Family Resolution Specialty Court: The Court is conducting FRSC Court Conferences by Zoom. FRSC's Family Consultants remain available to counsel parents by phone. They can be reached by email at deborah.rothhowe@jud.state.ma.us and patrick.fleming@jud.state.ma.us. FRSC mediators are performing virtual mediations. Please direct all other FRSC questions to Noelle Barrist Stern at noelle.stern@jud.state.ma.us.

Staffing: Until further notice or expiration of this Standing Order, the Court is continually operating at reduced staffing levels to decrease the likelihood that the entire Court would be required to shut down for 14 days if a staff member tests positive for COVID-19. This may impact our ability to schedule, hear, and process cases within our customary timeframes. We ask for your patience as we try to protect the health and safety of the public, the bar, and the staff during these extraordinary times.