

# Probate and Family Court FAQs Related to COVID-19

Frequently asked questions about the Probate & Family Court related to coronavirus (COVID-19). Last updated July 13, 2020.

## General FAQs

### 1. Is the Probate and Family Court open for business?

Yes, all divisions of the Probate and Family Court continue to be open to conduct court business. As it has been doing, the Probate and Family Court will conduct most business **virtually**. “**Virtually**” means by phone or videoconference.

To get information about your local division of the Probate and Family Court, you can look at the Probate and Family Court section on the [Court System COVID-19 page](#).

### 2. Are courthouses open to the public?

Beginning on July 13, 2020, courthouses will gradually start to be open to the public. To enter the courthouse, you must be: attending in-person court proceedings; 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 enter the courthouse, you will have to go through screening procedures and wear a mask. For more information about this, you can review [the Supreme Judicial Court’s order](#). If you must go to a courthouse, you should bring a mask with you.

### 3. Will all court business be done in person starting on July 13, 2020?

No, the Probate and Family Court will continue to conduct most business **virtually**. Each division of the Probate and Family Court has information on the Trial Court website. To get information about your local division, you can look at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#).

### 4. Are there any cases/actions that will be heard in person starting on July 13, 2020?

On July 13, 2020, the Probate and Family Court may begin hearing **trials and evidentiary hearings** in person. “**Trials and evidentiary hearings**” are any proceedings that involve witnesses giving testimony under oath before a judge and, in some cases, presenting documentary evidence.

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. If a division is able to conduct additional

in-person proceedings, that information will be found at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#).

## 5. How will restraining orders be heard?

Proceedings pursuant to G. L. c. 209A (abuse prevention orders) will be conducted **virtually** unless otherwise ordered by the court. The hearings will be done by videoconference, unless it is not practicable to do so, then the hearing may be conducted by telephone.

An in-person hearing may be allowed by a judge if requested by one or more of the parties, or if the judge orders the hearing to be in person. For more information about this, you can review [the Probate and Family Court's Standing Order 2-20, effective July 1, 2020](#).

## 6. How do I know how my matter should be filed?

If you have one of the cases specifically listed in this section, you can file your matter by: email, mail, in person, eFiling, if eFiling is available for that matter, or utilizing the MassAccess filing procedure where available.

- a. Restraining Orders Pursuant to G. L. c. 209A/Orders to Vacate Pursuant to G. L. c. 208, § 34B
- b. 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
- c. Petitions seeking appointment of a temporary guardian or conservator
- d. Petitions pursuant to G. L. c. 19A, § 7 and G. L. c. 19C, § 20 – protective services
- e. Health Care Proxy actions
- f. Petitions/Motions for Appointment of Special Personal Representative
- g. Petitions for marriage without delay
- h. Complaints for Dependency (SIJS) and any related motions
- i. All requests for injunctive relief – “Injunctive relief” is a court order for the defendant to stop a specified act or behavior. In the Probate and Family Court, there are temporary restraining orders (TROs), preliminary injunctions, and permanent injunctions
- j. Motions for temporary orders where exceptional/exigent circumstances have been demonstrated; and
- k. Contempt actions where exceptional/exigent circumstances have been demonstrated.

If your case/action is not listed above, you may file by: mail, in person, eFiling, if eFiling is available for that matter, or utilizing the MassAccess filing procedure where available. The only exception is that a Court Service Center staff member or a volunteer attorney through a Lawyer for the Day program can file a matter by email for a self-represented litigant.

## 7. How do I find out what cases can be eFiled?

The following cases can be eFiled currently: estates and administration, divorces under G. L. c. 208, § 1B and guardianship of incapacitated persons. Additional cases may be added. You can find more information about eFiling at: [Learn about eFiling in the Trial Court](#).

## 8. What do I do if I have a question about parenting time? What if my parenting time is supervised and I have questions?

Chief Justice Casey has written an open letter that you can find at: [Open letter regarding co-parenting during COVID-19 from Chief Justice John D. Casey](#). Parenting orders are still in effect during this pandemic. If you have supervised parenting at a center, and the center is closed, depending on your circumstances, you may need to file a motion or other action with the Court. To get information about your local division of the Probate and Family Court, you can look at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#). When you contact your local division, be prepared to provide your name and the other party's name, as well as your docket number, if you have one.

## 9. My parenting time has been reduced/eliminated by my child's parent/guardian without a court order. What can I do?

Depending on your circumstances and the status of your case, if you have one already, you could have many options. It may be appropriate for you to file a Complaint for Custody – Support – Parenting Time, a Complaint for Modification and/or a Motion for Temporary Orders, a Complaint for Contempt, or a motion. If you have an attorney, you should talk to your attorney. To get information about your local division of the Probate and Family Court for help, you can look at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#). When you contact your local division, be prepared to provide your name and the other party's name, as well as your docket number, if you have one.

## 10. What do I do if I think my child support order should be changed because I have lost my job?

Depending on your circumstances and the status of your case, if you have one already, it may be appropriate for you to file a Complaint for Modification and/or a Motion for Temporary Orders. If it is determined that you do not have an emergency matter that needs to be heard, you can still file a Complaint for Modification and/or a Motion for Temporary Orders. To get information about your local division of the Probate and Family Court for help, you can look at the Protocols for Court Operation section in the Probate and Family Court section on the [Court System COVID-19 page](#). When you contact your local division, be prepared to provide your name and the other party's name, as well as your docket number, if you have one.

## 11. What do I do if I need to extend an order for a temporary guardianship or treatment plan that expired or will expire on or after July 1?

Pursuant to paragraph 14 and 15 of [the SJC Order effective July 1, 2020](#), there is no further tolling of deadlines unless specifically ordered by the judge presiding over the case. If an order expires on or after July 1, 2020, a motion to extend is necessary. For the extension of antipsychotic treatment plans ("Rogers Orders"), [Probate and Family Court Standing Order 4-11](#) further provides for the administrative allowance of such extensions, if uncontested. For more information about how your motion to extend may be heard and other information about your local division of the Probate and Family Court, you can look at the Probate and Family Court section on the [Court System COVID-19 page](#).

## 12. What do I do if I am unable to reach anyone in the Register's office by telephone?

The Trial Court is operating a Help Line where you can get information from 8:30 – 4:30, Monday through Friday. The number is **833-91COURT**.

You can also contact your local division for help. To get information about your local division of the Probate and Family Court for help, you can look at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#).

The Trial Court website also has information about [virtual registries and other remote court services](#).

## 13. What do I do if my local Probate and Family Court is temporarily closed by the Executive Office of the Trial Court due to COVID 19?

- a. If you need to find out if your local court is temporarily closed, you can find information at [Courthouse closures due to COVID-19](#).
- b. Even if your local court is temporarily closed, there are procedures in place for court operations.
- c. Each division has a protocol for court operations and contact information at the Protocols for Court Operations section in the Probate and Family Court section on the [Court System COVID-19 page](#).
- d. If your local Probate and Family Court is closed, and you are looking for a restraining order, you could reach out to a [SAFEPLAN Program](#). The District Court also has jurisdiction over restraining orders.
- e. Your local court division may have a virtual registry. The Trial Court website has information about [virtual registries and other remote court services](#).

#### 14. I have questions about how my case is being handled. What can I do?

You have options. You can:

- a. Review the [Court System response to COVID-19 page](#). The Probate and Family Court has a section of that page with links to other information.
- b. Contact your local division for help. To get information about your local division of the Probate and Family Court for help, you can look at the Probate and Family Court section on the [Court System COVID-19 page](#).
- c. Call the Help Line **833-91COURT**.

#### 15. I have guardianship of a minor family member. Are there any resources available to help me get services?

Kinship Navigator is a program of the Commonwealth of Massachusetts that assists all kinship caregivers (grandparents and other relatives) with accessing services for themselves and the children they are raising. Kinship Navigator staff act as a point of contact for kinship caregivers statewide and their families. They assist with navigating services and connecting kinship caregivers to community resource. You can find more information about this program at [Kinship Navigator Information](#).

#### 16. Are interpreter services available if I call the Trial Court Help Line at 833-91COURT?

Yes, interpreter services are available for callers with limited English proficiency that call the Trial Court Help Line.

#### 17. Are interpreter services available if I call a Registry of the Probate and Family Court?

Yes, for calls to a Registry, the Court Service Center has a call line for assistance with Spanish and Portuguese.

#### 18. What if I have an emergency hearing scheduled by the Court, will there be an interpreter?

Court Interpreter Services are open Monday-Friday, 8:30-4:30 pm. Court interpreters are available to support courts handling emergency matters in nine languages, including Spanish, Portuguese, Cape Verdean, Haitian Creole, Arabic, Chinese, Khmer, Russian and Vietnamese.

## 19. How can I find information about free or low cost legal help and legal information?

The [Legal Resource Finder website](#) can give you information about free or low cost legal help. You can also get links to legal information and materials that will help you.

You can also go the [MassLegalHelp website Probate and Family Court related material](#), which provides plain language information about many areas of law.

The Court Service Centers operated by the Trial Court may also be available to help you. You can get information about the [Court Service Centers and their remote assistance](#) here.

## Parent Education FAQs

### 1. In light of COVID 19, what temporary changes have been made to Standing Order 2-16 “Parent Education Program Attendance” which requires certain individuals to complete the mandatory parent education requirement?

- a. In-person classes have been suspended until further notice.
- b. On-line services are available at the [Parent Education Group website](#).
- c. Parents who participate by the on-line services do not need to ask the Court’s permission to do so.
- d. Video-conferencing or remote services are being offered by some of the providers that typically provide in-person classes. Those providers have been granted temporary approval to conduct parent education courses via web video conferencing.
- e. You can find a copy of the temporarily amended standing order at: [Temporary Amendment to Standing Order 2-16 – Parent Education Program Attendance](#).

### 2. What should I do if I have questions about availability?

You should contact approved providers directly regarding scheduling, availability, and registration. The list of approved Parent Education providers can be found at: [Parent education programs](#).

### 3. How can I find out which providers are offering services remotely?

The list of approved providers includes the indication “Remote services available” when the provider has notified the Probate and Family Court of their capacity to do so. The list of approved Parent Education providers can be found at: [Parent education programs](#).

4. If I am required to attend parent education, what will I have to provide the Court to show I have completed the mandatory course?

After completing the interactive program, you will obtain a Certificate of Attendance from the approved provider. You must give this certificate to the Court after completing the program

5. What parent education requirements have not changed?

All provisions of Standing Order 2-16 remain in effect except those pertaining to the expanded availability of remote services.

6. Who can I contact at the Administrative Office of the Probate and Family Court if I have questions about parent education?

You can contact Diane Beswick at: [diane.beswick@jud.state.ma.us](mailto:diane.beswick@jud.state.ma.us).

## **Fiduciary Litigation Session (FLS) FAQs**

1. May a request for reassignment to the FLS still be made?

Yes, the FLS continues to review all requests for reassignment in accordance with Standing Order 3-17.

2. I have a case currently with the FLS, what should I do if I have an emergency matter to be filed in that case?

In the Fiduciary Litigation Session (FLS), the following are considered emergency matters:

- (a) Petitions/Motions seeking the appointment of a Special Personal Representative;
- (b) Requests for a civil temporary restraining order;
- (c) Contested Motions requiring a hearing where there are exceptional/exigent circumstances;
- (d) Contempt actions where there are exceptional/exigent circumstances; and
- (e) Any other matter not addressed above where exceptional/exigent circumstances have been demonstrated.

If you believe you have an emergency matter, you should email the FLS clerk at [flsession@jud.state.ma.us](mailto:flsession@jud.state.ma.us), and include the docket number and name of your case, and a short statement as to the nature of the emergency.

FLS staff will then contact you. If an emergency hearing is to be held, the emergency hearing will be conducted either in person, or by telephone or videoconference.

### 3. How do I file an emergency matter in an FLS case?

While Standing Order 2-20 is in effect, the FLS will consider, on a case-by-case basis, requests to file pleadings and other documents by email. To do so, please email the FLS clerk at [flsession@jud.state.ma.us](mailto:flsession@jud.state.ma.us).

### 4. Who can I contact with questions about the FLS, including filing and fees?

You can contact the FLS clerk at [flsession@jud.state.ma.us](mailto:flsession@jud.state.ma.us) with any questions.

## Probate FAQs

### 1. What does probate mean?

Probate is the legal process that takes place after someone dies (referred to as the decedent) in order to transfer ownership of their property to persons named in the decedent's will or if the decedent did not have a will, to the decedent's heirs at law. Heirs at law are persons entitled by statute (law) to the decedent's property when there is no will or when the will does not dispose of all property.

### 2: When is it necessary to probate the decedent's estate?

Whether an estate will have to be probated depends on how the decedent's property is titled when they die. For example, if the decedent held property in his or her name alone, such as a bank account, probate is necessary.

Typically, you have to probate the decedent's estate if you need to:

- Admit the decedent's will to probate (determine its validity) to transfer assets to the devisees (persons named in the will entitled to inherit)
- Change title (ownership) to real estate or personal property, such as bank accounts, stocks, or bonds that is held in the decedent's name alone or owned with others without any right of survivorship, or if named beneficiaries to an account or policy die before the decedent or if the decedent didn't name any beneficiaries at all
- Get the decedent's medical records

### 3: When is probate not necessary?

Probate may not be necessary if the decedent owned property jointly (with someone else) and ownership transfers automatically by law to the surviving joint owner or owners or when certain property passes to a surviving named beneficiary.

For example, jointly held property where there is a right of survivorship (where the surviving joint owner is automatically entitled to the property) passes directly to the surviving joint owner or owners by law without the need for probate.

Likewise, proceeds from a life insurance policy or a retirement account that names a surviving beneficiary passes directly to the named person without the need for probate. Property that's held in a trust created by the decedent also may not need to be probated.

4: My father had a joint bank account at XYZ Bank with me when he died. Do I have to probate his estate to have access to this money?

No. If the bank account has a right of survivorship, upon the death of one of the owners, the survivor is the presumed owner of the money. Most joint accounts have just two account owners, in which case the surviving account owner receives 100% of the funds in the account.

When one person on a joint bank account dies, the surviving account owner(s) should present a certified copy of the decedent's death certificate to the bank as soon as possible. This allows the bank to retitle the account in the survivors' name and avoids issues with accessing the account in the future. Or, the bank may require a surviving account owner to withdraw the funds from this account and open a new, single-name account.

**Practice Tip:** Always check with the bank first to determine what they require when one account owner of a joint bank account dies.

5: My mother resided in Massachusetts and had a bank account valued at \$20,000 at XYZ Bank in her name alone. She had no real estate. Is there a simplified probate procedure available to access these funds?

Yes. Voluntary administration is a simplified probate procedure for an estate with minimal assets and no real estate.

In cases where the decedent is a Massachusetts resident and the estate has property that is subject to probate, but those assets consist entirely of personal property valued at no more than \$25,000 (excluding one car of any value), an interested party, such as a spouse or other close family member, can initiate this process known as "voluntary administration" once thirty days have passed from the decedent's date of death. Voluntary administration can be used whether the decedent left a will or died without a will.

Upon the filing of certain required documents such as a Voluntary Administration Statement form (MPC 170), a certified copy of decedent's death certificate, the original will (if any), and the payment of a \$115 filing fee, the court will issue a copy of the Voluntary Administration Statement. Thereafter, the filer becomes the "voluntary personal

representative” and may gather assets, pay debts, and distribute the probate property in accordance with the law.

Note that a voluntary personal representative has no authority to pursue or continue any litigation. If this authority is necessary, a personal representative must be appointed by the court in either an informal or a formal proceeding.

Forms, checklists and instructions for a voluntary administration are available on the Probate and Family Court website at: [How to file a voluntary administration](#).

**Practice Tip:** Always check with the bank first to determine what they require when an account owner dies.

6: My spouse had a small bank account valued at \$8,000 at XYZ bank in her name alone. Do I need a voluntary administration to get access to this money?

Maybe. Under Massachusetts law (G. L. c. 167D, § 12; G. L. c. 171, § 42), if the value of deposits standing in the name of the decedent **does not exceed \$10,000** and there has been no demand for payment by an appointed personal representative of the estate, payment may be made **in the discretion of the bank or the credit union**, after 30 days from the date of death of the account owner, to the surviving spouse or next of kin upon the presentation of a copy of the death certificate and the surrender of the deposit book or other instrument evidencing the deposit.

**Practice Tip:** Always check with the bank first to determine what they require when an account owner dies. The bank or credit union may require an attested copy (certification by the register of probate) of a voluntary administration statement prior to release of any funds.

7: My spouse died owning a car in his name alone. He had no other assets and no will. Do I have to probate his estate to transfer the car to my name?

No. Under Massachusetts law (G. L. c. 90D, § 15A), a motor vehicle titled in the decedent's name alone is treated as joint property with the right of survivorship, and ownership of the vehicle passes to the surviving spouse by operation of law.

To learn more about transferring the certificate of title of a vehicle following the death of the owner, go to the Registry of Motor Vehicles website at: [Learn about transferring the certificate of title of a vehicle following the death of the owner](#).

8: My father died owning a car in his name alone. He had no other assets and no will. Do I have to probate his estate to transfer the car to my name?

Yes. In Massachusetts, only a surviving spouse is exempt from the requirement to probate the decedent's estate to transfer ownership of a motor vehicle.

To learn more about transferring the certificate of title of a vehicle following the death of the owner, go to the Registry of Motor Vehicles website at: [Learn about transferring the certificate of title of a vehicle following the death of the owner.](#)