

**Probate and Family Court
Standing Order 2 – 20, as amended May 4, 2020
Court Operations Under the Exigent Circumstances Created by COVID-19**

Due to the extreme risk of person to person transmission caused by the 2019 novel Coronavirus “COVID-19”, which has been declared a pandemic by the World Health Organization and which has occasioned the declaration of a State of Emergency in the Commonwealth of Massachusetts, Executive Order No. 591: Declaration of a State of Emergency to Respond to COVID-19, and a National Emergency by the President of the United States, and Supreme Judicial Court Order OE-144, I hereby invoke the authority granted to me by G. L. c. 211B, § 10 to promulgate this Standing Order to protect the public health by reducing the risk of exposure to the virus and slowing the spread of the disease.

To maintain consistency among the Divisions of the Probate and Family Court, this Standing Order shall supersede any administrative or scheduling protocols previously instituted by any Division of the Probate and Family Court in response to the COVID-19 virus, as well as Standing Order 1 – 20, Standing Order 2 – 20, and Standing Order 2 – 20, as amended April 6, 2020.

It is hereby ORDERED, effective May 4, 2020, that between the normal business hours of 8:30 a.m. and 4:30 p.m. the divisions of the Probate and Family Court shall operate subject to the following temporary, emergency conditions.

Until at least June 1, 2020, the Probate and Family Court will be open to conduct business, but courthouses will continue to be closed to the general public, except where entry is required to address emergency matters that cannot be resolved virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system), because it is not practicable or would be inconsistent with the protection of constitutional rights.

The Registry shall continue to conduct court business in all emergency matters and in non-emergency matters as designated herein, including accepting the filing of pleadings and other documents, scheduling and facilitating hearings, issuing orders, answering questions from attorneys, litigants, and the general public, and conducting other necessary business of the respective court. All such business will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished electronically/virtually.

Emergency matters are included in Section B, Section C (2), Section E, and Section G (1), (2), and (3) of this Standing Order. Apart from the exception stated in Section C (1), entry into the courthouse for the purpose of emergency in-person proceedings shall be limited to attorneys, parties, witnesses, and other necessary persons as determined by the assigned judge, plus not more than three members of the “news media” as defined in Supreme Judicial Court Rule 1:19(2).

Non-emergency matters that the Probate and Family Court will attempt to address virtually, in whole or in part, where it is practicable, are included in Section F of this Standing Order.

A. Telephonic/Videoconference/Virtual Hearings

Whenever practical and possible, the Court shall conduct hearings by telephone or videoconference rather than having people appear in person or rescheduling event dates. The Probate and Family Court may also consider matters through an administrative review process and determine motions in accordance with Rule 78.

B. Restraining Orders Pursuant to G. L. c. 209A/Orders to Vacate Pursuant to G. L. c. 208, § 34B

1. All restraining order requests and requests for orders to vacate are deemed emergency matters and their initial return dates, including return dates when notice has not been accomplished, shall be heard by telephone or videoconference.
2. All emergency protection orders (G. L. c. 209A; G. L. c. 208, § 34B) issued at a hearing after notice prior to the issuance of this Standing Order and that are due to expire on or after March 16, 2020 shall remain in effect until the matter is rescheduled and heard by the Probate and Family Court.
3. Any protection orders (G. L. c. 209A; G. L. c. 208, § 34B) issued at a hearing after notice during the pendency of this Standing Order which were not heard in person may be issued only until such date at which the court can schedule an in-person hearing.

C. Trial and Evidentiary Hearings

1. Trials scheduled to begin between March 13, 2020 and June 1, 2020 are continued to a date no earlier than June 1, 2020, unless the trial may be conducted virtually by agreement of the parties and of the court. Where a trial has commenced, the determination whether the trial shall proceed, and how, is left to the sound discretion of the trial judge, in consultation with the Chief Justice of the Probate and Family Court.
2. Upon a showing of exceptional/exigent circumstances, a party whose trial or evidentiary hearing is postponed by this Standing Order may seek an exception from this Standing Order by motion which shall be heard on the pleadings or telephonically. No exception shall be granted except with the approval of the assigned judge and the Chief Justice of the Probate and Family Court.
3. Where a trial or any evidentiary hearing is postponed as a result of this Standing Order, the parties may seek a conference with the court to address matters arising from the postponement, which shall be conducted virtually.

D. New Filings

Parties shall file new matters by mail, email, or e-filing where available, unless the filing of pleadings and other documents in emergency matters cannot be accomplished electronically/virtually.

E. Emergency Case Types/Events

Emergency situations not addressed below or in Section B above will be considered on a case-by-case basis.

The below actions/case types have been identified as emergency matters and may be filed and shall be heard, unless the Court requires notice:

1. 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;
2. Petitions seeking appointment of a temporary guardian or conservator;
3. Petitions pursuant to G. L. c. 19A, § 7 and G. L. c. 19C, § 20 – protective services;
4. Health Care Proxy actions;
5. Petitions/Motions for Appointment of Special Personal Representative;
6. Petitions for marriage without delay;
7. Complaints for Dependency (SIJS) and any related motions;
8. All requests for injunctive relief;
9. Motions for temporary orders where exceptional/exigent circumstances have been demonstrated; and
10. Contempt actions where exceptional/exigent circumstances have been demonstrated.

F. Virtual non-emergency matters

Beginning on May 11, 2020, the judges of the Probate and Family Court will attempt to gradually hear all cases types/events, excluding trials and evidentiary hearings, virtually, in whole or in part, where it is practicable to do so. **The volume and type of cases to be heard will be determined by the Register and First Justice, collectively, and will be scheduled based upon 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.

G. Extension of Orders

1. Sua sponte custody orders to the Department of Children and Families pursuant to G. L. c. 119A, § 23 (a) (3) that expire between March 18, 2020 and June 1, 2020 will be administratively extended for 45 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a

demonstration of exigent circumstances. The request may be decided on the pleadings.

2. Treatment plan orders that expire between March 18, 2020 and June 1, 2020 will be administratively extended for 60 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a demonstration of exigent circumstances. The request may be decided on the pleadings.
3. Temporary orders of appointment in guardianship and conservator cases that expire between March 18, 2020 and June 1, 2020 will be administratively extended for 60 days from the expiration date. A party may, for good cause shown, seek to bring the matter forward earlier upon a demonstration of exigent circumstances. The request may be decided on the pleadings.
4. All orders that were issued prior to this Standing Order and after an adversarial hearing (or the opportunity for an adversarial hearing) that are due to expire prior to June 1, 2020, shall remain in effect until the matter is rescheduled and heard.

H. Deadlines set forth in statutes or court rules, standing orders, or guidelines

For deadlines that expired or will expire between March 16, 2020 and June 1, 2020, the tolling of deadlines in Paragraph 12 of Supreme Judicial Court Order OE-144 does not apply to the following deadlines:

1. Findings required by G. L. c. 208, § 1A;
2. Objection period in G. L. c. 208, § 21, so that judgments absolute may enter in divorce cases;
3. Time period to file an answer or any other responsive pleading to a contempt summons;
4. Time period to file an appearance or affidavit of objections pursuant to G. L. c. 190B, § 1-401; and
5. Time period to request a motion for a new trial or to amend findings and/or judgments in Rule 59.

I. This Standing Order does not affect the Probate and Family Court's ability to consider matters that can be resolved without in-person proceedings through communication by telephone, videoconferencing, email, or other comparable means. This Standing Order does not limit the Probate and Family Court's ability to consider matters through an administrative review process or to determine motions in accordance with Rule 78.

J. Programs

1. Parent Education requirements are governed by Temporary Amendment to Standing Order 2-16: Parent Education Program Attendance.

2. Lawyer of the Day programs will not be held until after June 1, 2020, unless done remotely.
3. Any person who was been ordered to perform community service shall not have to perform such community service until after June 1, 2020.

K. Amendment and Extension of Standing Order 2 – 20, as amended May 4, 2020

The Probate and Family Court will amend, allow to expire, or extend this Standing Order no later than June 1, 2020.

May 1, 2020

Dated

/s/ John D. Casey

John D. Casey

Chief Justice

Probate and Family Court