

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SUFFOLK, ss.

OE-144

In Re: COVID-19 (Coronavirus) Pandemic

UPDATED ORDER REGARDING COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY THE COVID-19 (CORONAVIRUS) PANDEMIC

To safeguard the health and safety of the public and court personnel during the COVID-19 (coronavirus) pandemic while continuing to conduct court business, the Supreme Judicial Court, pursuant to its superintendence and rule making authority, issues the following ORDER:

1. Prior orders. Effective May 4, 2020, this order shall repeal and replace the Order Regarding Court Operations Under The Exigent Circumstances Created By The COVID-19 (Coronavirus) Pandemic issued by the court on April 1, 2020.
2. In-person emergency matters. Until at least June 1, 2020, all the courts of the Commonwealth will be open to conduct court 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 Appeals Court and each of the Trial Court departments have issued standing orders or guidelines, specifying what constitutes an emergency matter in that particular court, and have posted all such orders and guidelines on the "Court System Response to COVID-19" webpage (<https://www.mass.gov/guides/court-system-response-to-covid-19>) (COVID-19 webpage) (see paragraph 15 below). The Chief Justice of a Trial Court department, after consultation with the Chief Justice of the Trial Court, may order that a court division or location conduct all business virtually and/or may transfer all in-person emergency matters to specified courts within the department.
3. Virtual non-emergency matters. a. Trial Court departments. Trial Court departments shall identify categories of non-emergency matters that they will attempt to address virtually, in whole or in part, where it is practicable to do so in view of skeletal court staffing, technological constraints, and the need to prioritize emergency matters, and where doing so is consistent with the protection of constitutional rights. Each Trial Court department shall provide clear guidance to the public and members of the bar regarding the categories of non-emergency matters that it will attempt to address virtually by posting periodic notices to the COVID-19 webpage (see paragraph 15 below).

b. SJC and Appeals Court. The Supreme Judicial Court and Appeals Court will continue to conduct oral arguments virtually in non-emergency matters.

4. Clerks', Registers', and Recorder's Offices. All court clerks', registers', and recorder's offices shall continue to conduct court business in all emergency matters and in non-emergency matters designated by their respective court department, including accepting the filing of pleadings and other documents, scheduling and facilitating hearings, and issuing orders. In addition, these offices shall continue to answer questions from attorneys, litigants, and the general public. All such business will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished virtually.

5. Who can enter courthouses for an emergency in-person proceeding. Entry into a courthouse for the purpose of an emergency in-person proceeding shall continue to be limited to attorneys, parties, witnesses, and other necessary persons as determined by the judge presiding over the proceeding, plus no more than three members of the "news media" as defined in Supreme Judicial Court Rule 1:19(2).

Further, in cases where a trial court judge has ordered electronic monitoring in the form of either GPS or remote alcohol monitoring or in cases where, pursuant to an earlier court order, previously installed electronic monitoring equipment requires maintenance or removal, all installations, maintenance, or removals of such equipment may occur in the courthouse to ensure security and access to personal protective equipment by probation personnel.

6. Jury and Bench Trials. All jury trials, in both criminal and civil cases, scheduled to commence in Massachusetts state courts between March 13, 2020, and July 1, 2020, are hereby continued to a date no earlier than July 1, 2020. All bench trials, in both criminal and civil cases, scheduled to commence in Massachusetts state courts between March 13, 2020, and June 1, 2020, are hereby continued to a date no earlier than June 1, 2020, unless they may be conducted virtually by agreement of the parties and of the court.

7. Application for exception. Upon a showing of exceptional circumstances, a party who had a trial or evidentiary hearing postponed as a result of this Order or the Prior SJC Orders¹ may apply for an exception from said order(s) by motion directed to the court where the trial or evidentiary hearing was to occur. No exception shall be granted except with the approval of the judge and the Chief Justice of the applicable Trial Court department and in no event shall a jury empanelment or jury trial occur during this time period due to the inherent risk involved in doing so.

8. Application for conference. A party who has had a trial or evidentiary hearing postponed as a result of this Order or the Prior SJC Orders may apply for a conference with the court where the trial or evidentiary hearing was to occur to address matters arising from the

¹ The April 1, 2020 order and the two orders it repealed and replaced, i.e., the March 13 Order Regarding Empanelment Of Juries and the March 17 Order Limiting In-Person Appearances In State Courthouses To Emergency Matters That Cannot Be Resolved Through A Videoconference Or Telephonic Hearing, are collectively referred to as the "Prior SJC Orders."

postponement, which shall be conducted virtually. In criminal cases, where appropriate, a defendant may ask the court for reconsideration of bail or conditions of release. Nothing in this Order addresses the disposition of such requests for reconsideration.

9. Speedy Trial Computations. The continuances occasioned by this Order and the Prior SJC Orders serve the ends of justice and outweigh the best interests of the public and criminal defendants in a speedy trial. Therefore, the time periods of such continuances shall be excluded from speedy trial computations under Mass. R. Crim. P. 36.

10. Grand jury. No new grand jury shall be empaneled prior to July 6, 2020. Grand juries whose terms expire before the July 2020 empanelment of a new grand jury shall be extended until the date of that new empanelment.

11. Statutes of limitation. All statutes of limitation are tolled from March 17, 2020, through May 31, 2020.

12. Deadlines set forth in statutes or court rules, standing orders, or guidelines. Unless otherwise ordered by the applicable court, all deadlines set forth in statutes or court rules, standing orders, tracking orders, or guidelines that expired or will expire between March 16, 2020, and June 1, 2020, are tolled until June 1, 2020, and the new deadline in each instance is calculated as follows: determine how many days remained after March 16, 2020, until the original deadline, and that same number of days will remain as of June 1, 2020, until the new deadline. For example, if a rule set a thirty (30) day deadline and twelve (12) days remained after March 16 before that deadline was reached, then twelve (12) days will continue to remain as of June 1, before the new deadline is reached (i.e. June 15, because June 13 is a Saturday). If the thirty (30) day period commenced after March 16, then thirty (30) days remain as of June 1 before the new deadline is reached (i.e. July 1).

13. Court-ordered deadlines in particular cases. Unless otherwise specifically ordered by the applicable court, all deadlines established by a court in a particular case on or before March 16, 2020, that expire between March 16, 2020, and June 1, 2020, are tolled until June 1, 2020. To calculate the new deadline, see the guidance in paragraph 12. Probation termination dates are not tolled by this provision.

14. Expiring injunctions and similar orders. Unless otherwise ordered by the applicable court, all orders in a particular case that were issued prior to March 17, 2020, after an adversarial hearing (or the opportunity for an adversarial hearing), that enjoined or otherwise restrained or prohibited a party from taking some act or engaging in some conduct until a date between March 16, 2020, and June 1, 2020, shall remain in effect until the matter is rescheduled and heard.

15. Publication of COVID-19 orders. All orders, standing orders, guidelines, and notices under paragraph 3 issued by any court department or appellate court in response to the pandemic, as well as all amendments, modifications, and supplements thereto, or the equivalent, shall be posted upon issuance on the judiciary's COVID-19 webpage. Links to each document may be found on that webpage.

16. The Court may issue further Orders regarding this matter as necessary to address the circumstances arising from this pandemic.

This Order is effective May 4, 2020, and shall remain in effect until further order of the court.

RALPH D. GANTS)
) Chief Justice
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BARBARA A. LENK)
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FRANK M. GAZIANO) Justices
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DAVID A. LOWY)
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KIMBERLY S. BUDD)
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ELSPETH B. CYPHER)
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SCOTT L. KAFKER)

Entered: April 27, 2020
Effective: May 4, 2020

Repealed May 26, 2020