

Superior Court Standing Order 4-20

Superior Court Operations During the Coronavirus (COVID-19) Pandemic

Applicable to All Courts

Because of ongoing public health concerns created by the Coronavirus (COVID-19) pandemic, and pursuant to the Supreme Judicial Court's order dated April 1, 2020, effective April 6, 2020 (SJC–April 6 Order), the Superior Court issues this standing order to maintain court operations while continuing to reduce the number of people coming to Superior Court courthouses. This standing order is effective April 6, 2020, and will remain in effect until further order of the Court. This standing order rescinds and supersedes Standing Order 3-20, dated March 17, 2020.

I. Courthouses open for in-person emergency matters only

- A. Until at least May 4, 2020, the Superior Court will be open to conduct court business, but courthouses will be closed to the general public except where entry is required to address an emergency matter 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.
- B. In-person emergency matters in Superior Court are:
 1. proceedings under G. L. c. 112, § 12S (“Mary Moe” petitions). These proceedings may be conducted by telephone or other means on request of counsel for the minor if a judge determines that such method is necessary in the circumstances.
 2. any other matter which a judge, after consultation with the Clerk, the parties, Security, and Probation if applicable, determines requires an in-person proceeding because it cannot be resolved virtually because it is not practicable or would be inconsistent with the protection of constitutional rights.
- C. In-person appearances are limited to the following persons, provided they are not prohibited from entering the courthouse by the Supreme Judicial Court's Order Regarding Access To State Courthouses & Court Facilities, as amended effective April 6, 2020:
 1. attorneys
 2. parties
 3. witnesses
 4. other necessary persons as determined by the judge presiding over the proceeding
 5. no more than three members of the “news media,” as defined in Supreme Judicial Court Rule 1:19(2), though no such member may attend a Mary Moe hearing.
- D. For emergency matters, the following essential personnel will be assigned:
 1. a judge, assigned by the Regional Administrative Justice
 2. a Clerk or an assistant clerk, assigned by the Clerk
 3. a court officer, assigned by the Chief Court Officer or designee

4. a probation officer or associate probation officer, if necessary.

E. Anyone seeking to arrange an in-person hearing should call the relevant Clerk's Office. See telephone numbers provided in the addendum.

F. If a judge determines that a proceeding must be conducted in person, and the courthouse where the Superior Court sits in the County in which the matter is pending is closed because of actual or suspected infection of courthouse personnel, the Regional Administrative Justice (RAJ), in consultation with the Clerk and with the relevant RAJ of another county or region or First Justice of another Trial Court department, may make arrangements to conduct the hearing in another courthouse.

II. Time-sensitive matters, for which a videoconference or telephonic hearing shall be held, unless otherwise provided here or ordered by the Court

A. The following time-sensitive Superior Court matters presumptively shall be held by videoconference or telephonically, subject to additional provisions made here, or unless a judge, after consultation with the Clerk, the parties, Security, and Probation (if necessary), finds that the matter cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights. Any in-person hearing ordered under this Part III shall be limited to persons identified in Part I(C) above.

1. bail reviews

2. bail determinations following arrest or surrender pursuant to a warrant

3. wiretap warrants

4. dangerousness hearings under G. L. c. 276, § 58A

i. Any order of detention under § 58A after a hearing by videoconference or telephone shall be without prejudice to the defendant's right to an in-person hearing to be held when the current health emergency is over

5. probable cause hearings for sexual dangerousness under G. L. c. 123A, § 12

i. Any finding of probable cause made after a hearing by videoconference or telephone shall be without prejudice to the respondent's right to an in-person hearing to be held when the current health emergency is over

6. hearings on returns in matters under G. L. c. 209A or G. L. 258E

i. Following any ex parte order, the ten-day hearing shall be conducted by telephone, subject to further hearing in person when the current health emergency is over

7. actions concerning compelled isolation or quarantine

8. requests for temporary restraining orders.

III. Clerks' Offices

A. All Superior Court Clerks' Offices shall continue to conduct court business, that is, to accept the filing of pleadings and other documents in emergency matters; to schedule and facilitate hearings in emergency matters; to issue orders in emergency matters; to answer questions

from attorneys, litigants, and the general public; and to conduct other necessary business of the court. All such business will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished virtually.

- B. Clerks' office personnel shall follow the policies and guidance provided by the Department of Human Resources in the Office of Court Management. If illness or exposure to the virus of personnel in any Clerk's office affects availability of personnel to the extent that a Clerk's office lacks sufficient personnel to continue operations, including remote operations, the Clerk and AOSC will consult with other clerks to arrange assistance for the affected office.

IV. Trials, hearings, and other court activities

- A. Jury and bench trials continued. As provided in SJC–April 6 Order, par. 6, all trials, whether jury or bench, in both criminal and civil cases, scheduled to commence between March 13, 2020, and May 1, 2020, are hereby continued to a date no earlier than May 4, 2020, unless the trial is a bench trial in a civil matter and may be conducted otherwise than in-person by agreement of the parties and of the court. Pursuant to SJC–April 6 Order, par. 9, time periods of continuances occasioned by any of the SJC's Orders, effective March 13 or 17, or April 6, shall be excluded from speedy trial computations under Mass. R. Crim. P. 36.
- B. Applying for exception to postponement of trial or evidentiary hearing. As provided in SJC–April 6 Order, par. 7, upon a showing of exceptional circumstances, a party who has a trial or evidentiary hearing postponed as a result of any of the SJC's Orders, effective March 13 or 17, or April 6, may apply for an exception from the postponement by motion directed to the Superior Court. No exception shall be granted except with the approval of the judge and the Chief Justice of the Superior Court, 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.
- C. Applying for conference to address postponed trial or evidentiary hearing. As provided in SJC–April 6 Order, par. 8, a party who has had a trial or evidentiary hearing postponed as a result of any of the SJC's Orders, effective March 13 or 17, or April 6, may apply for a conference with the judge to address matters arising from the postponement, which shall be conducted virtually. Such conferences may be conducted by the session judge, by the Regional Administrative Justice (RAJ) or designee, or by the Clerk or assistant clerk with the approval of the session judge or RAJ. Persons in custody shall not be transported for such conferences.
- D. Bail or conditions of release. As provided in SJC–April 6 Order, par. 8, a criminal defendant whose trial is postponed as a result of any of the SJC's Orders, effective March 13 or 17, or April 6, may seek reconsideration of bail or conditions of release. Hearings on such requests may be conducted by videoconference or telephone where feasible. Persons in custody shall not be transported for such hearings.
- E. Grand juries. As provided in SJC–April 6 Order, par. 10, no new grand jury shall be empaneled until 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. The prosecutor may call in a sitting grand jury only with the approval of the RAJ.

- F. Statutes of limitation. As provided in SJC–April 6 Order, par. 11, all statutes of limitation are tolled from March 17, 2020, through May 3, 2020.
- G. Tolling of deadlines set by statute, court rule, standing order, or guideline. As provided in SJC–April 6 Order, par. 12, unless otherwise ordered by a judge, 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 May 4, 2020, are tolled until May 4, 2020. 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 May 4, 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 May 4, before the new deadline is reached (i.e., May 18, because May 16 is a Saturday). If the thirty (30) day period commenced after March 16, then thirty (30) days remain as of May 4 before the new deadline is reached (i.e., June 3).
- H. Tolling of court-ordered deadlines in particular cases. As provided in SJC–April 6 Order, par. 13, unless otherwise specifically ordered by the Court, all deadlines established by the Court in a particular case on or before March 16, 2020 that expire between March 16 and May 4, 2020, are tolled until May 4, 2020. To calculate the new deadline, see the guidance in paragraph G above. Expiring probation termination dates are not tolled by this provision.
- I. Expiring injunctions and similar orders. As provided in SJC–April 6 Order, par. 14, unless otherwise ordered by the Court, all orders in particular cases that were issued before 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 May 4, 2020, shall remain in effect until the matter is rescheduled and heard.
- J. Video and telephone equipment. Each RAJ shall advise Deputy Court Administrator (DCA) Elaina Quinn regarding any deficiency in equipment necessary to conduct proceedings by video or telephone. DCA Quinn shall work with the appropriate personnel in the Office of Court Management to address any such deficiency as promptly as possible.
- K. Administrative Office of the Superior Court (AOSC). The AOSC shall remain open with skeleton staff and through remote operations. AOSC staff shall follow the policies and guidance provided by the Department of Human Resources in the Office of Court Management. The AOSC will remain open for accepting returns of wiretap warrants.

So Ordered,

/s/ Judith Fabricant

Judith Fabricant
Chief Justice of the Superior Court

Adopted: April 1, 2020

Effective: April 6, 2020

Addendum to Superior Court Standing Order 4-20

Barnstable County Superior Court	(508) 375-6684	
Berkshire County Superior Court	(413) 442-9190	
Bristol County Superior Court	(508) 491-3300 (508) 996-2051 (508) 823-6588	Fall River New Bedford Taunton
Dukes County Superior Court	(508) 627-4668	
Essex County Superior Court	(978) 825-4800 (978) 242-1900 (978) 462-4474	Salem Lawrence Newburyport
Franklin County Superior Court	(413) 775-7400	
Hampden County Superior Court	(413) 735-6016	
Hampshire County Superior Court	(413) 584-5810	
Middlesex County Superior Court	(781) 939-2700 (978) 656-7800	Woburn Lowell
Nantucket County Superior Court	(508) 228-2559	
Norfolk County Superior Court	(781) 326-1600	
Plymouth County Superior Court	(508) 747-8400 (508) 583-8250	Plymouth Brockton
Suffolk Civil Superior Court	(617) 788-8175	
Suffolk Criminal Superior Court	(617) 788-8160	
Worcester County Superior Court	(508) 831-2000	