



State of the Court under Covid-19

May 27, 2020



SJC Order of May 26, 2020 effective June 1, 2020

Replaces order of May 4, 2020

The Courts are OPEN (virtually); All the Courts of the Commonwealth will continue to be open to conduct emergency and non-emergency business in both civil and criminal cases;

Court buildings will remain physically closed to the general public;

All Court business will be conducted virtually (by telephone, videoconference, email, or comparable means, or through the electronic filing system until *at least July 1*;

Exceptions will continue to be made for emergency matters which can not be conducted virtually.



When will the Courthouses be open to the Public?

The Trial Court Departments are increasingly addressing non-emergency matters that can be handled remotely.

Supreme Judicial Court Chief Justice Ralph Gants stated Courthouses will only be open to the public once there are protocols in place that will allow court users and court personnel to feel safe and be safe.

Even when courthouses are open to the public:

Openings will happen in stages;

The first matters to be addressed will be those that could not be handled virtually.



Jury Trials & Bench Trials

Civil and Criminal Jury Trials are postponed to no earlier than September 8, 2020;

Civil Bench Trials are postponed to at least July 1 unless the Judge determines the bench trial can be conducted virtually;

Criminal Bench Trials are postponed to at least July 1 unless the Judge AND the parties agree the trial can be conducted virtually;



District Court Emergency Matters

District Court Standing Order 5-20 - relative to CIVIL actions only

- emergency abuse prevention (c. 209A);
- emergency harassment prevention orders (c. 258E);
- emergency extreme risk protection orders;
- evaluations and hearings on petitions for commitment for substance abuse disorders, G.L. c. 123, § 35;
- Mental health matters brought pursuant to G.L. c. 123
- other matters deemed an emergency by a judge or Clerk-Magistrate



District Court Non-Emergency Matters under Covid-19

District Court Standing Order 5-20 Effective May 4, 2020

- upon motion or request, pre-trial criminal matters for persons in custody, including tenders of pleas and admissions;

This Order does not prevent any court's consideration, at the discretion of a judge or clerk-magistrate, of other non-emergency matters that can be resolved virtually by videoconference, telephonic conference call, or other similar means.

SJC's most recent order of May 26, 2020 (eff. June 1, 2020) directs Trial Court departments to identify any additional categories of non-emergency matters that it will attempt to address. It also directs departments to provide guidance to the public on how filings can be accomplished.



Procedures to Contact District Court or Obtain Information about Your Case

1. Go to Courthouse Locator to find telephone numbers and email addresses for your local court. <https://www.mass.gov/courthouse-locator> or to find just emails go to <https://www.mass.gov/guides/court-department-email>
 - a. Email Court first with pleadings if possible.; If your case is an emergency, put “EMERGENCY” in the subject line.
 - b. Call Clerk’s office;
 - c. You may deliver documents to the security at the front of the Courthouse if it is safe to do so;
 - d. U.S. Mail is also an option.
2. Trial Court Helpline - Has been operating since April 2, 2020; Phone number is (833) 91COURT. (833) 912-6878;
3. To find out information about your case, log on to www.masscourts.org; Relative to district courts, this site contains civil, small claims, summary process & supplementary process.



Probate and Family Court Emergency Matters

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



Probate and Family Court Emergency Cases Cont'd

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 – In the Probate and Family Court, there are temporary restraining orders (TROs), preliminary injunctions, and permanent injunctions.



Probate and Family Court Emergency Cases Cont'd 2

a. Motions for temporary orders where **exceptional/exigent circumstances** have been demonstrated

b. Contempt actions where **exceptional/exigent circumstances** have been demonstrated

c. Department of Children and Families (DCF) has **sua sponte** custody that expires between March 18, 2020 and June 1, 2020, the order will be **administratively extended** for 45 days from the exp. date. A party to the case may, **for good cause shown**, ask to be heard earlier by showing **exigent circumstances**. The request may be decided **on the pleadings**.



Probate and Family Court Emergency Cases Cont'd 3

d. Treatment plan orders (ie. antipsychotic medicine) that expire between March 18, 2020 and June 1, 2020 will be **admin. extended** for 60 days from the exp. date. A party may, for good cause shown, ask to be heard earlier by showing **exigent circumstances**. The request may be decided **on the pleadings**.

e. Temporary orders of appointment in guardianship and conservator cases that expire between March 18, 2020 and June 1, 2020 will be **admin. extended** for 60 days from the exp. date. A party may, for good cause shown, ask to be heard earlier by showing **exigent circumstances**. The request may be decided **on the pleadings**.



Probate and Family Court Emergency Cases Cont'd 4

f. If your trial or evidentiary hearing is postponed by Standing Order 2-20, as amended, you can file a motion asking for your case to be heard. You will have to show exceptional/exigent circumstances. The motion will be heard on the pleadings or virtually by telephone or videoconference. No exception shall be granted except with the approval of the assigned judge and the Chief Justice of the Probate and Family Court. Standing Order 2-20, as amended, can be found at: [Probate and Family Court Standing Order 2-20: Court operations under the exigent circumstances created by COVID-19.](#)



Probate and Family Court Non-Emergency Matters under Covid-19

Chief Justice John Casey - May 19, 2020 said Probate and Family Court will hear non-emergencies that can be handled *virtually*.

As of May 11, 2020, the Probate and Family Court has attempted to gradually hear all case types/events, excluding trials and evidentiary hearings, virtually, in whole or in part, where it is practicable to do so.

Matters that are not an emergency can be mailed, emailed, or eFiled, if eFiling is available for that matter.

Additional categories of non-emergency matters to be identified with directions on how to file.



Procedures to Contact Probate & Family Court

Same General Procedures as the District Court - Email, Calls, Trial Court Help Line;

In addition:

www.masscourts.org has information regarding certain types of Probate & Family cases.

Virtual Registry: Essex, Barnstable and Middlesex. The Register's Office has a live Zoom link which is available from 8:00 am to 4:30 pm. Essex Probate and Family Court Registry link can be found at <https://www.mass.gov/locations/essex-probate-and-family-court>

On the Virtual Registry, you can exchange documents (which do not require a filing fee or fee waiver.) Face to face with live person. Any pleadings which require a filing fee or request a fee waiver must be submitted via the P&F email addresses and payment arrangements will be made.



Court Forms

Court forms generally can be found at: <https://www.mass.gov/topics/court-forms>

Fillable and Savable Court forms for Abuse Prevention Orders - 209A & Harassment Order - 258E can be found at:

<https://www.mass.gov/lists/restraining-order-abuse-prevention-and-harassment-prevention-court-forms>

Call the Court to determine if there are additional forms specific to that court. For example, if children are involved P&F requires an Affidavit Disclosing Care & Custody and a P&F cover sheet. Hint: Try free Adobe Acrobat Reader DC and “Fill & Sign” feature for any forms which are not fillable already. Remember to save the document on a desktop before emailing. Save each time you make changes.



Substitute for Wet Signatures

Effective as of April SJC authorized use of “electronic signatures” by attorneys and self-represented litigants.

1. Scan of handwritten signature; or
2. /s/ John Smith

If you are submitting an affidavit signed under the penalties and pains of perjury and are unable to obtain a scanned signature or original signature of the person making the affidavit, you may still submit it electronically with the /s/ signature but must still take steps to secure the original signature as soon as practicable.



Service of Pleadings

Supreme Judicial Court's (SJC) order regarding electronic service. Pursuant to the SJC's Order, attorneys of record must

provide an email address in a pending case, and service under Mass. R. Civ. P 5(b) may be accomplished through email.

Self-represented parties may not be served via email without their written consent, which may be through email.



Language Access Issues

If a court user need interpreter services, notify the Court Clerk's office as soon as possible, preferably by email with a follow up phone call with relevant case information, hearing date if you have it and language needed.



Witnesses/Documents

WITNESSES

If a court user would like to call witnesses, alert the Clerk or Register's office as soon as possible before the hearing date. Call and/or email the names of the witnesses you'd like to testify and get instructions on how the witness can call in for a telephonic hearing.

DOCUMENTS

If a court user would like to submit a document (screenhots, pictures), alert the Clerk or Register's office as soon as possible before the hearing date. Email scans or pictures or drop off at the Court if safe to do so.



What to do if Court User lacks reliable communication devices.

If the Court user lacks reliable communication devices such as telephone or does not have a computer or printer, he/she should make this known to the Court as soon as possible.

The guiding orders dictate that there are exceptions to the requirement of virtual court hearings if approved by the Court.



Resources

- Court Service Centers (CSCs) - located in
 - Boston
 - Brockton
 - Greenfield
 - Lawrence
 - Lowell
 - Springfield
 - Worcester

CSCs are operating remotely. Court users make contact with the District Court Clerk's Offices or the Probate and Family Court Registry and the litigant will be referred to CSC.

- Lawyer for the Day Programs - referred through the Register's Office of Probate and Family Court. At least for Essex County, the Registry will have a Zoom chat break out room with a Lawyer for the Day available.
- Law Libraries - Continue Chat resource available online.
- Legal Services



To date - Pleading Preparation and Virtual Hearings...

Court user contacts the police, court or DV agency. The court user is often referred to an agency, such as the Lawrence Court Service Center for assistance. CSC assists in the preparation of the emergency pleading and emails it to the Court and to the court user if he/she has email.

Court contacts the Court User and provides them with an 800 number, access code and a specific date/time to call.

Court user is connected with the Courtroom Clerk and Judge.

Abuse Prevention Orders and Harassment Orders, if granted, are for ten days at the initial ex parte (meaning, without notice to the Defendant) hearing.

After the initial hearing, the Defendant will be given notice if the order is granted and there will be a second hearing where both parties will “call in” (at least for now) in the same manner. At the second hearing, orders can be granted for up to a year in District Court. Probate & Family Court orders will remain temporary until such time as the court can schedule an in-person hearing.



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