

Probate and Family Court
Standing Order 2 – 20, as amended June 1, 2020
Court Operations Under the Exigent Circumstances Created by COVID-19

To safeguard the health and safety of the public and court personnel during the COVID-19 pandemic while continuing to increase the business being conducted in the Probate and Family Court, I hereby invoke the authority granted to me by G. L. c. 211B, § 10 to promulgate this Standing Order.

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 pandemic, as well as Standing Order 1 – 20, Standing Order 2 – 20, Standing Order 2 – 20, as amended April 6, 2020, and Standing Order 2 – 20, as amended May 4, 2020.

It is hereby ORDERED, effective June 1, 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 continue to operate subject to the following temporary, emergency conditions.

Until at least July 1, 2020, the Probate and Family Court will be open to conduct emergency and non-emergency court business, and to adjudicate emergency and non-emergency matters identified herein. But courthouses will continue to be closed to the general public and all business will be conducted virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system), except as provided in the next paragraph. Where court personnel are physically present in a courtroom for the purpose of conducting a virtual hearing, no one other than court personnel may be physically present in the courtroom without the approval of the judge conducting the hearing.

In-person proceedings will be conducted only where entry to a courthouse is required to address emergency matters that cannot be resolved virtually because it is not practicable or would be inconsistent with the protection of constitutional rights.

Each Registry shall conduct emergency and non-emergency court business, including accepting the filing of pleadings and other documents, scheduling and facilitating hearings, issuing orders, and answering questions from attorneys, litigants, and the general public. All business will be conducted virtually unless, in an emergency matter, the filing of pleadings and other documents cannot be accomplished virtually.

Emergency matters are included in Section B, Section E, and Section G (1), (2), and (3) of this Standing Order. Apart from the exception stated in Section C (1), 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).

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. Trials and Hearings

1. Trials scheduled to commence at any time from March 14, 2020, through June 30, 2020 are continued to a date no earlier than July 1, 2020, unless in the trial judge's discretion the trial may be conducted virtually. 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. A party who has had a trial or other non-emergency hearing postponed as a result of this Standing Order or the prior versions of Standing Order 2 – 20 may apply for a status or case management 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 virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system).

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

The judges of the Probate and Family Court are continuing to attempt to hear all case 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 on-site and remote 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 expired or will expire between March 18, 2020 and July 1, 2020 will be administratively extended for 150 days from the original 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 expired or will expire between March 18, 2020 and July 1, 2020 will be administratively extended for 180 days from the original 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 expired or will expire between March 18, 2020 and July 1, 2020 will be administratively extended for 180 days from the original 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 July 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 at any time from March 17, 2020, through June 30, 2020, the tolling of deadlines in Paragraph 13 of Supreme Judicial Court Order OE-144 effective June 1, 2020 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.

A party who relied on Paragraph 12 of the April 1, 2020 Supreme Judicial Court Order OE-144 (effective April 6, 2020) to toll any of the above deadlines that expired between March 16, 2020 and May 4, 2020, may file a motion on or before June 30, 2020 to request relief. A guideline on how to request relief can be found at: [Probate and Family Court Guideline on How to Request Relief Pursuant to Standing Order 2-20, Section H \(as amended June 1, 2020\)](#) [Deadlines Set Forth in Statutes or Court Rules, Standing Orders, or Guidelines](#).

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 July 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 July 1, 2020.

K. Amendment and Extension of Standing Order 2 – 20, as amended June 1, 2020

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

May 27, 2020

Dated

/s/ John D. Casey

John D. Casey

Chief Justice

Probate and Family Court