

## **Updates and changes to Massachusetts rules of Civil Procedure and Standing Orders, in response to COVID-19 crisis, effective April 1, 2020, with special focus on Probate and Family Courts**

Due to the risks of personal contact to litigants, and Court staff, and the Governor's State of Emergency Order, the Courts in Massachusetts have issued changes to Court Rules, and have issued new requirements, called Standing Orders, as well as emergency temporary court closures. The changes impact access to the Courts, as well as how to proceed with a Court action. We would like to provide this summary overview for guidance. A caveat: The Courts continue to monitor the evolving risks from COVID 19, and are issuing new Standing Orders, daily updates on Court closures and other Orders accordingly. For the current, daily status of Court announcements, go to <https://www.mass.gov/info-details/daily-court-updates-march-31-2020>

For the current status of Supreme Judicial Court orders, go to <https://www.mass.gov/guides/court-system-response-to-covid-19#-supreme-judicial-court-orders->

In particular, The Supreme Judicial Court issued an Order concerning email service under Rule 5(b), effective March 30, 2020 <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-concerning-email-service-in-cases-under>.

This Order allows for and sets out requirements for email filing and serving of documents, as well as electronic signatures on affidavits.

Generally speaking, the Courts are closed for physical access for all but emergencies. On April 1, 2020, the Supreme Judicial Court issued a new Order effective April 6, 2020, superseding a March 13, 2020 Order regarding limiting in-person appearances in State Courthouses to emergency cases, see <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-regarding-court-operations-under-the>

Some Courts are completely closed for cleaning; for the daily updates, go to <https://www.mass.gov/info-details/temporary-court-closures-due-to-covid-19>

### **Probate and Family Court**

For the current Rules and Orders from the Probate and Family Court, go to <https://www.mass.gov/guides/court-system-response-to-covid-19#-probate-and-family-court->

The Probate and Family Court issued Standing Order 2-20, effective March 18, 2020 <https://www.mass.gov/probate-and-family-court-rules/probate-and-family-court-standing-order-2-20-court-operations-under>. This Order delays any new hearings until at least May 1, 2020, limits current hearings to emergencies, by telephone or videoconferencing and defines emergency cases in Section E as:

Emergency situations not addressed below or in Section B above will be considered on a case-by-case basis. If a person arrives at the courthouse with a matter they deem an emergency, that matter shall be brought to a Judicial Case Manager, an Assistant Judicial Case Manager, Assistant Register, Magistrate, or other designated staff member to determine whether the matter is an emergency or whether the person can be helped in another way.

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) if the child will turn 21 prior to May 1, 2020;
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.

Section F Extension of Orders, states in part:

1. Treatment plan orders that expire between March 18, 2020 and May 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.
2. Temporary orders of appointment in guardianship and conservator cases that expire between March 18, 2020 and May 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.

The Probate and Family Court issued Standing Order 3-20, effective March 24, 2020, which supersedes any part of Standing Order 2-20 which may be in conflict and is meant to provide guidance for interpretation of Order 2020: <https://www.mass.gov/probate-and-family-court-rules/probate-and-family-court-standing-order-3-20-guardian-ad-litem>

Suffolk Probate and Family Court issued an Order further clarifying Standing Order 2-20 for Suffolk Probate and Family Court, [https://bostonbar.org/docs/default-document-library/probate-and-family-court-order.pdf?sfvrsn=54cf9ea0\\_2](https://bostonbar.org/docs/default-document-library/probate-and-family-court-order.pdf?sfvrsn=54cf9ea0_2). This Order states that there will be no in- person hearing on any matter that does not qualify as an emergency under Standing Order 2-20, until April 6, 2020 at the earliest.

