

District Court Standing Order 7-20
Court Operations Under the Exigent Circumstances
Created by COVID-19 (coronavirus)

In light of public health concerns regarding the COVID-19 (coronavirus) pandemic, I hereby ORDER, pursuant to my authority as set forth in G.L. c. 211B, § 10, G.L. c. 218, §§ 38 & 43A, and G.L. c. 220, § 5 and, consistent with the Supreme Judicial Court Third Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (“SJC Third Updated Order”), that District Court Standing Order 6-20 promulgated on June 1, 2020, is hereby rescinded and superseded upon the effective date of this Standing Order.

I. Gradual Resumption of In-Person Matters in District Court Courthouses

Beginning on July 13, 2020, the District Court will begin, in two initial phases, to conduct in-person proceedings in matters that either can be handled more effectively or efficiently in-person, or cannot be handled virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system) because a virtual proceeding is not practicable or would be inconsistent with the protection of constitutional rights.

The first phase shall begin on July 13, 2020. On that date, entry into a courthouse will be limited to personnel who work in the courthouse and persons who are present for one or more of the following purposes: attending in-person court proceedings as set forth in § IV of this Order; conducting in-person business with a clerk’s office; meeting with a probation officer or staff person. During this first phase, all matters set forth in § V of this Order shall continue to be conducted virtually as set forth in that Section.

Pursuant to the SJC Third Updated Order, ¶ 6, on July 13, 2020, all District Court clerk’s offices will physically reopen to the public to conduct court business. To continue to limit the number of persons entering courthouses, clerks’ offices will still endeavor to conduct business virtually to the extent possible. Clerks’ offices may provide a drop-box in a secure and accessible location at the courthouse for the benefit of those persons who wish to hand-deliver pleadings or other documents for filing. Each Clerk-Magistrate is authorized to require the physical presence of additional staff as may be necessary to address the additional business contemplated by this Order, provided that any such increase in staff presence will be conducted in accordance with health and safety protocols established by the Trial Court.

The second phase will begin on August 10, 2020, at which point in-person proceedings will be further expanded. Prior to August 10, 2020, a superseding District Court standing order shall issue and identify those events that shall held in-person at that time.

II. Limiting In-Person Court Appearances for Non-Critical Criminal Court Events

Consistent with Mass. R. Crim. P. 18, a criminal defendant who is represented by counsel shall not be required to appear at non-critical court events, including pretrial conference hearings and compliance and election dates, where no change of plea is anticipated unless ordered to attend by the court.

III. Collection of Contact Information

The Clerk-Magistrate may collect contact information, including mobile phone number(s) and email address(es), as the court deems necessary from any party or witness to a case in order to facilitate scheduling of and participation in virtual hearings or to facilitate case processing. To protect privacy and address security concerns, the contact information shall be confidential to the extent practicable.

IV. In-Person Proceedings

A. Proceedings that shall be Conducted In-Person

Consistent with the SJC Third Updated Order, on July 13, 2020, persons shall be permitted to physically enter District Court courthouses for the following events and in the following circumstances:

- hearings on petitions for commitment pursuant to G.L. c. 123, § 35;
- hearings on petitions for commitment pursuant to G.L. c. 123, § 12(e);
- warrant removals;
- arraignments (for those both in custody and not in custody) and any proceeding that may arise during the arraignment or as a direct result of the arraignment including bail revocation, dangerousness hearings pursuant to G.L. c. 276, § 58A, probation detention hearings, competency evaluations pursuant to G.L. c. 123, § 15, and disposition of a case;
- probable cause hearings where evidence will be taken.

B. Proceedings that may be Conducted In-Person

Consistent with the SJC Third Updated Order, on July 13, 2020, judges, in consultation with the Clerk-Magistrate, may, in their discretion, schedule in-person hearings in the following circumstances:

- upon motion or request, bench trials in criminal cases in which persons are in custody, evidentiary motions to suppress for persons in custody, and tenders of plea or admissions for persons in custody;
- upon motion or request, probation violation hearings.

C. Procedure for Conducting In-Person Hearings

Court personnel, attorneys, parties, witnesses, and other necessary persons as determined by the first justice can be physically present in a courtroom for in-person proceedings. The first justice shall also determine the method by which members of the public, including the “news media” as defined in Supreme Judicial Court Rule 1:19(2), may access the proceeding, which may include allowing them to sit in the courtroom, provided there is sufficient space for them to maintain appropriate physical distance. Where an in-person hearing is scheduled, a judge, upon request, may authorize a participant (an attorney, party, or witness) to appear virtually while

other participants appear in-person, so long as it is consistent with the protection of constitutional rights. A participant who requests to appear virtually for an otherwise in-person proceeding shall have no grounds to object to other participants appearing in-person.

Any respondent who enters a courthouse pursuant to a summons or a warrant of apprehension issued under § 12 or § 35 may be evaluated either in-person in the courthouse or virtually from the courthouse. Where a respondent is hospitalized, all effort shall be made to conduct the proceeding virtually with the respondent participating from the hospital.

All persons who enter a courthouse to attend such a hearing shall abide by that courthouse's protocols governing entry into and presence within the courthouse. Pursuant to the SJC Third Updated Order, courthouse staff may monitor the number of people entering and leaving a courthouse to ensure that the number within the courthouse does not exceed the occupancy limits established to protect public health and permit physical distancing. To limit the number of people in a courthouse at any given time, all departments and offices within a courthouse shall coordinate with each other and schedule proceedings in a staggered fashion throughout the day. If the number of court users entering a courthouse needs to be limited to avoid exceeding occupancy limits, the following court users shall be given priority to enter, in the following order of priority: (i) persons seeking to address emergencies; (ii) persons participating in a scheduled in-person proceeding; (iii) persons with scheduled or otherwise required meetings between probationers and probation staff for purposes of supervision, including but not limited to GPS, DNA, SCRAM, or case supervision matters; (iv) persons having a scheduled appointment within the courthouse; and, then, (v) all others.

Nothing contained in this Section shall prohibit a court from virtually hearing one of the matters identified in this Section where all parties agree to a virtual hearing. No other matters apart from those set forth in this Section shall be conducted in-person unless the regional administrative justice determines that a virtual hearing is not practical or would be inconsistent with the protection of constitutional rights.

V. Matters that shall be Conducted Virtually

The following matters shall be conducted virtually without the physical presence of the parties, counsel, or other members of the public in the courtroom. Only upon a showing of exceptional circumstances may in-person access for one of the events listed in this section be allowed upon approval of the regional administrative justice.

A. Criminal Matters that shall be Conducted Virtually

- pre-trial criminal matters (for persons both in custody and not in custody), including, subject to § IV.B. above, tenders of pleas and admissions;
- emergency motions for review or release of persons in custody, including those subject to District Court Standing Order 4-20;
- motions for funds for social workers and others necessary to put in place release plans for those who are being held pretrial, those who are civilly committed for substance abuse treatment, and those who are serving a committed sentence, as set forth in *Committee for*

Public Counsel Services v. Chief Justice of the Trial Court (No. 2), 484 Mass. 1029 (April 28, 2020);

- probation detention hearings of persons in custody, unless the detention hearing arises during the arraignment or as a direct result of the arraignment, which, in such case, shall be conducted pursuant to § IV.A;
- probation violation hearings of persons, unless a judge orders an in-person hearing pursuant to § IV.B;
- applications for arrest warrants;
- mental health matters in connection with a pending criminal case pursuant to G.L. c. 123, §§ 15 & 16, except for those conducted pursuant to § IV of this Order;
- other criminal matters deemed an emergency by a judge or Clerk-Magistrate, except where the emergency matter cannot be handled virtually because a virtual proceeding is not practicable or would be inconsistent with the protection of constitutional rights.

B. Civil Matters that shall be Conducted Virtually

- abuse prevention orders pursuant to G.L. c. 209A;
- harassment prevention orders pursuant to G.L. c. 258E;
- extreme risk protection orders pursuant to G.L. c. 140, §§ 131R-131Y;
- all mental health matters brought pursuant to G.L. c. 123, except for a petition pursuant to G.L. c. 123, § 12(e) or § 35, which, in such case, shall be conducted pursuant to § IV;
- motions to remove or modify wage attachments and payment orders;
- motions to stay executions on a judgment of possession of a residential or small business premises unit as set forth in the moratorium on evictions and foreclosures signed into law by the Governor of the Commonwealth on April 20, 2020, St. 2020, c. 65;
- motions for temporary restraining orders pursuant to G.L. c. 186, § 14;
- pre-trial events in civil actions, including case management conferences and the hearing of dispositive motions.
- each regional administrative justice shall identify judges in their region who will be assigned and available to provide virtual settlement conferences for any regular civil cases, where litigants wish to do so. To the extent that a judge provides such alternative dispute resolution services, that judge shall not rule on any dispositive motions or conduct the trial in the matter, should such event occur.
- as set forth in § VIII.B., small claims trials are continued until September 8, 2020, unless the parties agree to conduct a trial virtually. Courts shall, however, support the availability of virtual mediation for small claims trials and, for claims for collection of a debt, volunteer lawyers' programs where available.
- other civil matters deemed an emergency by a judge or Clerk-Magistrate.

C. Matters that may be Conducted Virtually

With the exception of small claims trials, *see* § VI.B. below, this Order does not prevent any court's consideration or hearing, at the discretion of a judge or Clerk-Magistrate, of other criminal or civil matters that can be handled virtually by videoconference, telephonic conference call, or other similar means where it will not require an increase in the number of clerk's office

or Probation staff physically present in the courthouse in order to accomplish such work, and where it is practicable to do so in view of (a) limited court staffing, (b) technological constraints, (c) the need to prioritize emergency or other matters, and (d) legal constraints.

To the extent that any judge or Clerk-Magistrate determines to conduct a hearing in a civil matter pursuant to this § V.C., , including civil motor vehicle infraction appeals, such hearing shall be conducted virtually, only where the parties have the technological capability to participate virtually and, for evidentiary hearings, only where the parties consent to have the hearing conducted virtually.

To the extent that any judge or Clerk-Magistrate determines to conduct show cause hearings pursuant to this § V.C., such hearings shall be conducted by videoconference and only where the parties have the technological capability to participate by videoconference and the accused consents to have the hearing conducted by videoconference.

D. Procedure for Virtual Hearings

Matters set forth in § V may be initiated by calling the telephone number of the court division with jurisdiction over the matter or Trial Court Help Line at 833-91COURT. Filings may also be made by email to the court division's website address: CM[COURT NAME]DC@jud.state.ma.us. Each District Court division shall prominently post on its main doors the Trial Court Help Line telephone number and that division's telephone number with instructions to call that number to initiate a matter set forth in § V, as well as the division's email address. The Trial Court Help Line telephone number and each District Court division's phone number and email address shall also be posted on <https://www.mass.gov/guides/court-system-response-to-covid-19> with instructions that a person seeking to initiate a matter in § V shall call the court division's telephone number.

The Clerk-Magistrate or his or her designee shall answer all telephone calls to their division and review emails to the court division's email address and shall review and act on, as necessary, electronic filings. The Clerk-Magistrate or their designee shall bring a matter in § V to the attention of a judge and coordinate the review and any hearing of any such matter. Clerk-Magistrates or their designee should docket all matters in § V and enter data into the Warrant Management System and should coordinate with a probation officer in order to obtain and provide the transfer of necessary probation information.

All hearings in § V shall take place virtually by videoconference or telephonic conference call with both the Clerk-Magistrate or their designee and the judge on the line. In proceedings pursuant to G.L. c. 209A, G.L. c. 258E, and G.L. c. 140, virtual hearings shall be conducted by videoconference, unless it is not practicable to conduct the hearing by videoconference, in which case the hearing may be conducted by telephone, and an in-person hearing may be permitted by a judge if requested by one or more of the parties, or as ordered by a judge. In determining whether to permit an in-person hearing to occur in proceedings pursuant to G.L. c. 209A, G.L. c. 258E, and G.L. c. 140, the judge should take into consideration all relevant factors, including but not limited to the positions of the parties, case scheduling constraints, building and courtroom occupancy limits, and physical distancing accommodations.

Clerk-Magistrates or their designee should encourage parties to fill out court forms that are available on <https://www.mass.gov/orgs/district-court> and may electronically accept filings to the extent feasible. Hearings should be audio recorded if practicable. If a petition, motion, or application is unable to be filed in advance of a hearing or the hearing is unable to be audio recorded, the judge and the Clerk-Magistrate or their designee shall work together to create a record of the hearing, including recording the matter in MassCourts and filling out necessary forms, so as to memorialize all necessary identifying information, allegations, findings, and rulings. Where feasible, orders should be emailed to the parties; otherwise they shall be mailed to the parties.

Pursuant to the SJC Third Updated Order, where a virtual hearing is scheduled, no one other than court personnel may be physically present in the courtroom during the virtual hearing without the approval of the judge or Clerk-Magistrate conducting the hearing. In the absence of exceptional circumstances, as determined by the judge or Clerk-Magistrate conducting the hearing, no party (or attorney for a party) may be physically present in the courtroom for a scheduled virtual hearing.

Any District Court criminal or civil rule or order that impedes a judge's or Clerk-Magistrate's ability to utilize available technologies to limit in-person contact is suspended for the duration of this Order.

VI. Trials

A. Jury Trials

All jury trials, in both criminal and civil cases, scheduled to commence in the District Court at any time from March 14, 2020, through September 4, 2020, are hereby continued to a date no earlier than September 8, 2020.

B. Civil Bench Trials

All District Court civil bench trials shall begin to be scheduled for a trial date after July 13, 2020. Civil bench trials shall be conducted by video conference.

C. Criminal Bench Trials

Except for criminal bench trials scheduled for an in-person trial pursuant to § IV.B., all District Court criminal bench trials shall begin to be scheduled for a trial date no earlier than September 8, 2020 and shall be conducted in-person except where the parties and the trial judge agree to conduct the trial virtually, in which case the trial may be scheduled for an immediate date. In any event, priority should be given to scheduling bench trials in criminal cases where the defendant is in custody, with the highest priority given to those defendants who have been in custody the longest.

VII. After Court Hours

After 4:30 p.m., the judicial response system will be activated in the normal course and should be carried out consistent with Trial Court Emergency Order 20-5.

VIII. Additional Orders

A. If a hearing on an emergency protection order (G.L. c. 209A; c. 258E; c. 140) was unable to be conducted in-person by the Court as scheduled after March 18, 2020, that Order shall remain in effect until the matter is rescheduled and heard by the Court (unless an order issues by the Court terminating the order at an earlier date). Any order issued at a hearing after notice, whether by telephone or videoconference, can be issued up to the full statutory period (i.e., up to one year for an initial order after notice, and for any period of time, up to a permanent order, for subsequent orders).

B. All new and existing matters scheduled for a court event between March 18, 2020 and June 30, 2020 that are not among those events that will be scheduled and heard pursuant to §§ IV-VI or this Order shall be CONTINUED to a date no earlier than August 10, 2020 and no less than 60 days, or 30 days for a criminal defendant in custody, from the date of the scheduled event or to a date by agreement of the parties and the respective clerk's office. Counsel or parties may contact the clerk's office by telephone to schedule an event that has been continued as a result of this Order. Small claims trials shall be continued to a date no earlier than September 8, 2020, unless the parties have the technological capability to participate virtually and both sides agree to a virtual hearing.

C. Persons who have been assessed fees, fines, or court costs, including probation supervision fees, in a criminal matter that are due between March 18, 2020 and July 10, 2020 may pay their fee or fine online through the e-pay portal that is accessible at www.masscourts.org. No fees, fines, or costs shall be collected at a courthouse while this Order is in effect. If a person is unable to pay such fee or fine through the e-pay portal, the requirement that such fee or fine be paid during that time frame is deferred until July 1, 2020 and Courts shall extend payment due dates to August 14, 2020. The deferment of such payment shall not operate to extend a person's probation.

D. Persons seeking to post bail should be directed to post bail in accordance with Trial Court Administrative Order 20-6: Temporary alternative procedures for Bail Magistrates and Bail Commissioners setting and taking bail after court hours during the COVID-19 pandemic (<https://www.mass.gov/trial-court-rules/trial-court-emergency-administrative-order-20-6-temporary-alternative-procedures>).

E. Where a judge has ordered a criminal defendant's pretrial release conditioned on monitoring by a global positioning device or SCRAM, consistent with the restrictions mandated by the Supreme Judicial Court's Order concerning the imposition of global positioning system (GPS) monitoring as condition of release or of probation, issued March 23, 2020 (<https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-concerning-the-imposition-of-global>), and the Massachusetts Probation Service Policy issued March 13,

2020, the defendant and persons necessary to install, remove, calibrate, or perform maintenance on such a device are permitted to enter the courthouse.

F. A party who has had a trial or other non-emergency hearing postponed as a result of this Order or prior District Court Standing Order¹ may apply for a conference with the court where the trial or other non-emergency hearing was to occur to address matters arising from the postponement, which shall be conducted virtually.

G. Unless prohibited by law or court order, members of the public may remotely watch a videoconference hearing or listen to a telephone hearing as it is happening. During a virtual court hearing, members of the public are not permitted to speak, interrupt, or otherwise disrupt the hearing and must mute whatever device they are using to watch or listen to the hearing. No person shall take any photographs or other digital images or make any recording or transmission by electronic means of the virtual court hearing without prior authorization from the presiding judge or magistrate in accordance with Supreme Judicial Court Rule 1:19 governing electronic access to the courts.

IX. Scope of this Order

This Order will remain in effect until a subsequent order issues rescinding this Order. Any other deviation from this Order must be sought from the Chief Justice of the District Court.

This Order shall take effect on July 13, 2020.

/s/ Paul C. Dawley

Hon. Paul C. Dawley
Chief Justice of the District Court
Promulgated: June 25, 2020

¹ District Court Standing Orders 2-20, 3-20, 5-20, and 6-20.