

Open Letter to Probate and Family Court staff and Members of the Bar

**By Hon. John D. Casey, Chief Justice of the Probate and Family Court
July 7, 2020**

On July 13, 2020, the Probate and Family Court will enter the next phase of court operations during COVID-19. The courthouse doors will be open, but courthouses will not be like they were in days past. The number of people inside each courthouse will be limited. Anyone seeking to enter into the courthouse will be screened at the doors. Everyone in the courthouse is required to wear a mask. The Trial Court has worked diligently to erect barriers to protect the public and court staff, as well as to display signage to encourage social distancing. We hope that the safety measures you see and experience will be comforting, should you be required to come to a courthouse. You can find more information about safety precautions and screening on the [Court System COVID 19 page](#).

I would like to emphasize that the Probate and Family Court will continue to rely on virtual hearings for the majority of its cases, and will continue to encourage interactions with the Registry to be done virtually. You can find information about [Virtual Registries](#) at this link. Divisions may begin hearing evidentiary hearings and trials in-person beginning on July 13, 2020. If a division plans to schedule additional cases in person, that information will be available in the protocols that you can find in the Probate and Family Section of the [Court System COVID 19 page](#).

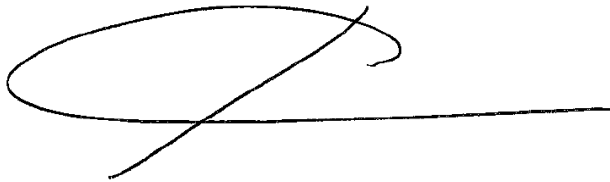
I know that it can be difficult to learn how each division is operating, and that many people would prefer uniformity across all the divisions of the Probate and Family Court. I have tried to balance those interests, with the unique circumstances of each division. It is essential that there be flexibility in court operations. A procedure or system that is effective in one division, may not be as effective in another division. Judges must have discretion in how they manage their caseloads. As we go through these uncertain times, I know that we will all continue to work together with patience and perspective to meet the needs of litigants, attorneys, and court staff and judges.

We are continuing to address the numerous questions that have arisen since the pandemic began. Many self-represented litigants do not have access to the internet. How do we assure that people without the internet have access to our court staff and court hearings? In the past, most of our hearings were held in open courtrooms. How do we now provide public access to our virtual hearings? What weight, if any, should be given to the privacy interests of litigants? How do we enforce the restriction on the recording of virtual hearings by litigants and attorneys, especially when the hearing may include information that is damaging to children and families? If filings return to previous levels, how do we hear the cases with reduced on-site staffing and the limitations on the number of hearings that can be conducted virtually because of the extra time needed for these hearings?

The Probate and Family Court is also evaluating how race and racism impacts every part of our work. We have begun to consider changes to the contempt process to address how it may disproportionately discriminate against self-represented litigants and parents of color. We are examining how we recruit, train, support, educate, and promote our staff. We have recognized the importance of educating and training our judges about race and implicit bias, and then reinforcing that training regularly. There is work to be done to address racial inequities in the Probate and Family Court and the Trial Court, and we are up to the task.

Although we have experienced many challenges, and continue to do so, there are silver linings. With almost unprecedented speed, the Trial Court obtained the technology that is needed for virtual hearings. As a result, we have learned that most cases do not actually require in-person hearings, and that virtual hearings are preferred by most court users because there are fewer issues, if any, relating to transportation/traffic, parking, child care, and time off from work. In addition, legal fees are less expensive for virtual hearings. Another silver lining is the increased capacity to efile and epay. Perhaps the greatest silver lining is the strengthened comradery between and among judges and judicial, Registry, Probation, and Administrative Office staff. So many people are going above and beyond to administer justice during this pandemic; taking work home, working seven days per week, working before and after normal working hours, being available at a moment's notice to help. People are continuously problem solving, thinking creatively, and finding new ways of doing things.

In closing, I would like to share that I am prouder than ever of the Probate and Family Court and our partners. In these turbulent times, we have come together. These months have been challenging on many fronts, but we are already stronger, and in many ways, better than before.

A handwritten signature in black ink, consisting of a large, loopy initial 'J' followed by a horizontal line that extends to the right and then curves slightly upwards at the end.

John D. Casey
Chief Justice
Massachusetts Probate and Family Court