

Probate and Family Court
Frequently Asked Questions

April 2, 2020

General FAQs

1. Which matters are considered emergency matters that I am allowed to file and be heard unless I need to give notice?

If you have one of these cases, you will be allowed to file your case and be heard, unless the Court tells you that you need to give notice before a hearing can be held. You do not have to show the Court that you have an emergency – these cases have already been determined to be an emergency.

- a. 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
- 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) if the child will turn 21 prior to May 1, 2020
- i. All requests for injunctive relief

2. Which matters may be considered an emergency matter if I can show exceptional/exigent circumstances? What are exceptional/exigent circumstances?

If you have one of the cases listed below, you will be allowed to file your case, **and, if you can show the Court that you have exceptional/exigent circumstances**, you will be heard unless the Court tells you that you need to give notice before a hearing can be held. You may be asked to write a statement explaining your emergency. “Exceptional/exigent circumstances” mean that the matter is serious and immediate, and that significant harm may occur if the case cannot be filed and heard. The Court may tell you that you need to give someone notice before a hearing can be held.

- a. Motions for temporary orders where exceptional/exigent circumstances have been demonstrated
- b. Contempt actions where exceptional/exigent circumstances have been demonstrated
- c. If the Department of Children and Families (DCF) has custody of child(ren) under an sua sponte order pursuant to G. L. c. 119A, § 23 (a) (3) that expires between March 18, 2020 and May 1, 2020, the order will be administratively extended for 45 days from the expiration 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.
- d. Treatment plan orders (for example, antipsychotic medicine) 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, 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 May 1, 2020 will be administratively extended for 60 days from the expiration 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.
- f. Upon a showing of exceptional/exigent circumstances, a party whose trial or evidentiary hearing is postponed by Standing Order 2-20 may seek an exception from Standing Order 2-20 by motion which shall be heard on the pleadings or telephonically. No exception shall be granted except with the approval of the assigned judge and the Chief Justice of the Probate and Family Court.

3. What do I do if I think I have an emergency and I cannot find it listed above?

If you think you have an emergency, and it is not listed above, you will need to speak to someone from the Court. You will have to show the Court that you have exceptional/exigent circumstances. You may be asked to write a statement explaining your emergency. If it is determined that you do not have an emergency, you can file your matter by mail, email, or e-filing, if it is available for that matter.

4. What do I do if I have an emergency matter?

If you have an emergency matter, you should:

- a. look for up-to-date information at:
<https://www.mass.gov/guides/court-system-response-to-covid-19>
- b. call your local division of the Probate and Family Court to ask for help
- c. prepare as much paperwork in advance as possible by finding forms at:
<https://www.mass.gov/guides/probate-and-family-court-forms>
- d. be prepared to explain why your situation is an emergency, if necessary

5. How do I file an emergency matter?

Paperwork for emergencies can be turned in at the courthouse in-person, as long as it is safe to do so, and may also be emailed. Guardianship of adult cases can be e-filed. You should check <https://www.mass.gov/doc/filing-methods-for-emergency-actions-as-defined-by-probate-and-family-court-standing-order-2-20/download> for up-to-date information about how emergency matters can be filed.

6. How do I file a matter that is not an emergency matter?

Matters that are not an emergency can be mailed, emailed, or e-filed, if e-filing is available for that matter. Filings will be docketed, but no event shall be scheduled before May 1, 2020. Contact information for each court can be found at: <https://www.mass.gov/doc/filing-methods-for-emergency-actions-as-defined-by-probate-and-family-court-standing-order-2-20/download>.

7. What do I do if I have a question about parenting time? What if my parenting time is supervised and I have questions?

Chief Justice Casey has written an open letter that you can find at: <https://www.mass.gov/news/open-letter-regarding-co-parenting-during-covid-19-from-chief-justice-john-d-casey>. Parenting orders are still in effect during this pandemic. If you think you have an emergency matter relating to parenting time, please read the information in Section 2

above. If you have supervised parenting at a center, and the center is closed, you may have an emergency matter.

8. What do I do if I think my child support order should be changed because I have lost my job?

If you think you have an emergency situation, please read the information in Section 2 and Section 3 above. It may be appropriate for you to file a Complaint for Modification and a Motion for Temporary Orders. If it is determined that you do not have an emergency that needs to be heard, you can still file a Complaint for Modification and a Motion for Temporary Orders.

9. What do I do if I am unable to reach anyone in the Register's office by telephone?

The Trial Court will be operating a Help Line where you can get information from 8:30 – 4:30, Monday through Friday. The number is 833-91COURT. You can also email the Court directly. Contact information for each court can be found at: <https://www.mass.gov/doc/filing-methods-for-emergency-actions-as-defined-by-probate-and-family-court-standing-order-2-20/download>.

10. What do I do if my local Probate and Family Court is temporarily closed by the Executive Office of the Trial Court due to COVID 19?

- a. If you need to find out if your local court is temporarily closed, you can find information at: <https://www.mass.gov/info-details/temporary-court-closures-due-to-covid-19>.
- b. Even if your local court is temporarily closed, there are procedures in place for emergency cases to be processed.
- c. We are in the process of creating a list of emergency phone numbers for each division. When it is finalized, it will be at: <https://www.mass.gov/guides/court-system-response-to-covid-19>.
- d. If your local Probate and Family Court is closed, and you are looking for a restraining order, you could reach out to a SAFEPLAN program. Information is available at: <https://www.mass.gov/service-details/safeplan-program>. The District Court also has jurisdiction over restraining orders.

11. I have questions about how my case is being handled, what should I do?

You have options. You can:

- a. review the Trial Court's website regarding COVID 19 at: <https://www.mass.gov/guides/court-system-response-to-covid-19>. The Probate and Family Court has a section of that page with links to other information
- b. reach out to your local court
- c. call the Help Line 833-91COURT