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Massachusetts Attorney Jason V. Owens reviews sweeping new rules for MA court operations during the Coronavirus pandemic.

UPDATE: 5/15/20: For the most up to date information on how Massachusetts Probate & Family Courts are responding to the coronavirus crisis, please check out our [most recent blog, which includes updates](#).



Yesterday, we blogged about [the impact of coronavirus-related court closures](#) on divorce and custody hearings across the United States. Today, we are pleased to inform you that the Massachusetts Trial Court has announced an aggressive coronavirus action plan that seems destined to serve as a model for court systems and other essential government agencies across the United States in the weeks ahead.

On Sunday, March 15, 2020, the Massachusetts Trial Court Department [announced](#) a series of sweeping measures intended to avoid

court closures and maintain court operations during the coronavirus pandemic. The Trial Court's announcement represents the kind of comprehensive planning that has been sorely lacking in other areas of local, state and federal governments. Massachusetts residents will need to show patience as courts bring a series of complicated new programs online, but the Trial Court plan ambitiously threads the needle between protecting the public from exposure to Covid-19 while keeping courts "open for business" in the challenging time ahead.

Massachusetts Trial Court Releases System-wide and Court-Specific Covid-19 Rules

Chief Justice of the Trial Court Paula Carey announced the creation of a new [website to organize the court system's Covid-19 response](#), which includes links to court-system wide policies and procedures including:

- [Trial Court Plan to Reduce Numbers at MA Courts](#)
- [SJC Order Regarding Empaneling of Jurors](#)
- [SJC Order Regarding Persons Entering Courtrooms](#)

The [website](#) also includes links to Standing Orders providing detailed rules applying to each Court system within Massachusetts:

- [Probate and Family Court Standing Order 1-20: Court operations under the exigent circumstances created by COVID-19](#)
- [Juvenile Court Standing Order 1-20: Court operations under the exigent circumstances created by COVID-19 \(coronavirus\)](#)
- [District Court Standing Order 1-20: Court operations under the exigent circumstances created by COVID-19 \(coronavirus\)](#)
- [Superior Court Standing Order 2-20: Operations during the public health emergency arising from the coronavirus \(COVID-19\) pandemic](#)
- [Housing Court Standing Order 1-20: Temporary modifications to court operations arising from the coronavirus \(COVID-19\) outbreak](#)
- [Land Court Standing Order 2-20: Emergency measures in response to coronavirus outbreak](#)
- [Boston Municipal Court Standing Order 1-20: Court operations under the exigent circumstances created by COVID-19](#)

Major Plans for Telephone and Videoconferences Court Hearings

The Trial Court's [summary plan](#) for maintaining operations during the pandemic states as follows:

At this time, all courts remain open for regular business, and many previously scheduled court related events will be held as scheduled, albeit by alternative means such as videoconferencing and telephone, consistent with constitutional rights.

Massachusetts Probate and Family Courts, in particular, will be emphasizing the use of telephone and video conferencing, according to the new [Standing Order 1-20](#), which is effective on Wednesday, March 18, 2020. Indeed, the very first rule change announced under the standing order reads as follows:

Whenever practical and possible, the Court shall conduct hearings by telephone or videoconference rather than having people appear in person or rescheduling event dates.

No platform or method for conducting electronic hearings has announced at this time, but with court systems across the country scrambling to provide remote access, the legal community is hopeful that public-private partnerships between government and the technology industry will result in the creation of standardized platform for electronic hearings nationwide.

Massachusetts Probate and Family Courts: Motions and Other Hearings Go Electronic

Motions and status conferences affecting divorce, child custody and other cases will immediately transition to electronic hearings as follows:

*Motions, case management conferences, and status conferences that **are already scheduled** between March 18, 2020 and May 1, 2020 will be heard by telephone or videoconference.*

Judges will decide the format for holding Pre-Trial Conferences on a case by case basis. Trials already in progress will continue in person for the time being, but all trials that have not yet begun will be continued past May 1, 2020. (Conducting trials electronically poses unique challenges that will likely require more complex solutions than a simple video conferencing interface. For example, judges and attorneys would likely need a document management system to use and review voluminous documentary exhibits. Designing such a system to work in conjunction with a video conferencing system will take time.)

Exigent Circumstances Required to Schedule New Motions, Modifications

In the Probate & Family Court, all Complaints for Modification seeking a reduction or increase or decrease in child support or alimony will be automatically continued past May 1, 2020, with parties permitted to seek a sooner hearing “upon a demonstration of exigent circumstances.” For motions not yet filed, it appears the Court will require a showing of “exigent circumstances” before a matter will be scheduled for hearing.

The Court will hear new “motions for temporary orders relative to custody and/or support where exigent circumstances have been demonstrated.” What will qualify as an emergency and/or exigent circumstances may be impacted by the court system’s finite resources in the coming weeks, as the system undertakes the massive task of bringing large scale video conferencing and other operations online. As the Court expands, streamlines and fully rolls out these complex new systems, non-emergency matters should resume being scheduled. For the time being, litigants will need to be patient, and attorneys will need to work hard to support the new system as it comes online.

It appears that Judicial Case Managers and other qualified staff will review motions to determine if an emergency or “exigent circumstances” exist prior to scheduling matters for hearing with a judge. How courts organize and roll out this process may vary from county to county.

209A Restraining Orders, Emergency Guardianships, Do Not Resuscitate Orders Remain a Priority

The Probate & Family Court will continue to priority emergency requests, such as [209A restraining orders](#), [guardianships](#) and other emergency matters. Some or all of these matters may be heard by phone or videoconference once an electronic platform has been announced.

Parent Education Class, Lawyer of the Day Programs Suspended

Unsurprisingly, the Probate & Family Court is suspending programs that require public interaction, such as the [Parent Education](#) and Lawyer of the Day programs. We will provide updates if these programs become available electronically in the future.

District Court Changes: 209A Restraining Orders Prioritized, Civil Matters Continued, New Rules for Criminal Matters

[District Court Standing Order 1-20](#) is a densely packed document that includes sweeping new rules, including 60-day continuances for all jury trials, continuances for most criminal matters for which defendants are not incarcerated, and detailed rules modifying the handling of arraignments and bail hearings. It appears that non-jury bench trials will continue as scheduled and the Court will continue to prioritize hearings on 209A restraining orders. It is important for individuals and attorneys with business in the District Court to read the [entire order](#).

Juvenile, Superior, Housing, Land and Boston Municipal Court Changes Announced

Links to new rules affecting Juvenile, Superior, Housing, Land and Boston Municipal Court are included at the top of this blog. Individuals and attorneys with business in these courts should read the entire applicable rule(s).

Trial Court Effort Stands Out Amidst Government Struggle to Contain Coronavirus

It is worth taking a moment to applaud the Massachusetts Trial Court for quickly rolling out a Covid-19 plan that does not simply close courthouses while authorities work on a solution. As government agencies at all level struggle to address the coronavirus, the Trial Court’s plan appears to effectively balance the need to protect the public from transmitting the virus while (a.) maintaining

essential court functions and (b.) creating a framework to resume nearly all regular court business without compromising public safety. It will take time to bring video conferencing and other electronic solutions online, but the Trial Court has set the tone for a successful rollout with its plan.

Coming Soon: Info on Videoconferencing and Electronic Hearings

Our blog will announce new development surrounding video conferencing and electronic hearings as they unfold. Although our focus is generally [domestic relations](#) matters in the Probate & Family Court, we will do our best to provide updates and resources on electronic systems as they come online in other courts.

For those within the Massachusetts court system, please contact us if we can be of any assistance in providing timely information to the public about the Trial Court's evolving coronavirus response efforts.

We will continue to update this and our other [blogs](#) as we learn more. Stay safe out there.

UPDATE (3/17/2020): SJC Enters Limiting In-Person Cases to Emergencies

On Tuesday, March 17, 2020, the Supreme Judicial Court entered its new [Standing Order](#), which limits "in-person appearances in state courthouses that cannot be resolved through a videoconference or telephonic hearing". Each of the seven Trial Court departments, in new standing orders to be issued today, will define emergency matters for their departments:

Each Trial Court department shall issue a new Standing Order consistent with this Order no later than March 17, 2020. In the new Standing Orders, which shall replace or supplement the Standing Orders issued on March 13 or 14, each Trial Court department shall determine what constitutes an emergency matter, recognizing that courts will necessarily be operating with skeletal staffs and that the public safety of court personnel, court users, and the general public is paramount.

The order also provides that "all trials, whether jury or bench, in both criminal and civil cases, scheduled to commence in Massachusetts state courts between the date of this Order and April 17, 2020, are hereby continued to a date no earlier than April 21, 2020", although courts may grant exceptions based on exigent circumstances.

We will update this blog with the new Probate & Family standing order, and provide links to the other courts' standing orders as they become available. Read the [full SJC order here](#).

UPDATE (3/17/2020): Probate & Family Court Releases Revised Standing Order 2-20

The Massachusetts Probate & Family Court has released a revised [Standing Order 2-20](#) that provides:

It is hereby ORDERED, effective March 18, 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 operate subject to the following temporary, emergency conditions. Until at least April 6, 2020, the Probate and Family Court shall remain open for in-person proceedings solely to address emergency matters that cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights. [T]he First Justice and Register of each division shall (1) determine how pleadings will be filed; (2) designate essential staffing levels for specific days and times; (3) conduct hearings by videoconference or telephone; and (4) determine how judicial decisions will be communicated and served.

The standing order provides that that matters will be continued to May 1, 2020 or later, except for the following "emergencies":

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.

The revised standing order represents something of a retreat from the ambitious goal of maintaining most court operations through phone and video conferencing.

It now appears that only matters deemed emergencies will proceed between now and May 1, 2020 in Massachusetts Probate & Family Courts. It appears that each county will dictate how pleadings will be filed.

Notably, new filings - such as Complaints for Modification of support for individuals who are laid off - will continue to be docketed, even if hearings are delayed. Similarly, parties can file Complaints for Contempt, although the matters won't be scheduled unless there is an emergency.

The Probate & Family Court Department is required to amend or extend [Standing Order 2-20](#) on or before May 1, 2020.

UPDATE (3/19/2020): Some Massachusetts Courts Assigning May 2020 Dates for Continued Matters

We have begun receiving notices from Probate & Family Courts rescheduling matters that were continued pursuant to Standing Order 2-20. Several of these matters have been rescheduled to dates in May, 2020. We believe this is a strong sign that Massachusetts Probate & Family Courts will seek to return to some level of usual business by May, at which point we expect to see a major increase in telephone and video hearings.

UPDATE (3/26/2020): Individual Probate & Family Courts in Massachusetts Begin Issuing Orders by County

For county-by-county information on how [your local Probate & Family Court](#) is handling the coronavirus crisis, check out [this blog](#).

More Coronavirus Coverage from Lynch & Owens

The attorneys of Lynch & Owens have been blogging about the impact of the coronavirus on divorce and family law issues, as well as Massachusetts Probate & Family Courts, since the earliest days of the pandemic. Our coverage has been featured in the [New York Times](#) and the [Boston Globe](#). Check out the links below for more Covid-19 coverage from Lynch & Owens.

Coronavirus Impacts on Family Law:

- [Nine Ways to Plan for Divorce During Quarantine \(5/13/20\)](#)
- [Ask Our Attorneys: How has the Coronavirus Impacted Family Law in Massachusetts? \(5/6/20\)](#)
- [Coronavirus News: Enforcing Child Support and Alimony Orders During the Crisis \(4/7/20\)](#)

- [Massive Coronavirus Layoffs Trigger Child Support and Alimony Reductions Across MA and US](#) (3/19/20 with updates)
- [Coronavirus Court Closures: How Covid-19 is Shutting Courts in Divorce and Family Law Cases](#) (3/14/20 with updates)
- [Can Coronavirus Fears Allow Parents to Cancel Court-Ordered Visitation?](#) (3/2/20 with multiple updates)

Massachusetts Probate & Family Court Updates:

- [Coronavirus News: Mass. Probate & Family Courts Release Tidal Wave of New Rules](#) (4/9/20 with multiple updates)
- [Coronavirus News: County-by-County Info for Massachusetts Probate & Family Courts](#) (3/26/20 with multiple updates)
- [Massachusetts Trial Court Announces Comprehensive Response to Coronavirus for MA Courts](#) (3/15/20 with updates)

Mediation and Coronavirus:

- [Mediation is the Best Divorce Option During the Coronavirus Crisis](#) (4/15/20)
- [Court Filings and Covid-19: How to File Agreements in MA Probate & Family Courts During Crisis](#) (4/9/20)
- [Surviving Coronavirus: Video Mediation for Divorce and Family Law Issues](#) (3/19/20)

Other media featuring Lynch & Owens and coronavirus:

- [NY Times: For Divorced Parents, Navigating Coronavirus Is a Balancing Act](#) (3/27/20)
- [Boston Globe: For divorced couples with children, coronavirus creates added challenges](#) (4/10/20)

A Message to Our Readers Outside of Massachusetts

As a Massachusetts law firm, much of the information provided in our blogs is tailored to Massachusetts law and practices. Although portions of this and our other [blogs covering coronavirus-related issues](#) are likely to be broadly applicable outside of Massachusetts, it is important to note that every state has its own specific body of law and domestic relations best practices that can differ from Massachusetts in important ways. The options available to individuals facing domestic relations concerns during the coronavirus outbreak may also be greatly impacted by [local court closures](#) and government restrictions that are

specific to your area, such as state-mandated quarantine and shelter in place orders. Please consult with a legal professional in your state for guidance.

Coronavirus Related Legal Services at Lynch & Owens

Lynch & Owens has adjusted our service delivery model in response to the coronavirus crisis. In addition to providing traditional divorce and family representation, during the outbreak, we are focused on delivering rapid-response legal services (including same-day service) to clients facing emergency financial and child-related issues, as well as assisting self-represented clients with document preparation and filings while the courts are closed for most regular business.

Clients can schedule same-day, 1-hour paid consultations with our attorneys by phone and we are accepting retainers as low as \$750 for additional consultation services. We are also offering same-day video mediation for parents, spouses and former spouses who are seeking to mediate coronavirus-related issues such as visitation, parenting time, and child support and alimony orders impacted by layoffs and unemployment. Our staff and attorneys have full remote access to all our office's resources in the event of mandatory quarantine or shelter-in-place order.

Please see our dedicated [Coronavirus Legal Services page](#) and [Coronavirus Mediation Services page](#) for more about services provided by Lynch & Owens and South Shore Divorce Mediation during the coronavirus crisis.

About the Author: [Jason V. Owens](#) is a Massachusetts divorce lawyer and family law attorney for Lynch & Owens, located in [Hingham](#), Massachusetts and [East Sandwich](#), Massachusetts. He is also a mediator for [South Shore Divorce Mediation](#).

Schedule a consultation with [Jason V. Owens](#) today at [\(781\) 253-2049](tel:7812532049) or send [him an email](#).

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