

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

OE-144

In Re: COVID-19 (Coronavirus) Pandemic

ORDER REGARDING COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY THE COVID-19 (CORONAVIRUS) PANDEMIC

In light of the ongoing and urgent public health concerns regarding the COVID-19 (coronavirus) pandemic, the Supreme Judicial Court, pursuant to its superintendence and rule making authority, issues the following ORDER to continue to reduce the number of people coming to Massachusetts State courthouses:

1. Prior orders. Effective April 6, 2020, this order shall repeal and replace the Order Regarding Empanelment Of Juries, issued by the court on March 13, 2020 (March 13 Order), and the Order Limiting In-Person Appearances In State Courthouses To Emergency Matters That Cannot Be Resolved Through A Videoconference Or Telephonic Hearing, issued by the court on March 17, 2020 (March 17 Order).

2. In-person emergency matters only. Until at least May 4, 2020, all the courts of the Commonwealth will be open to conduct court business, but courthouses will be closed to the general public, except where entry is required to address emergency matters that cannot be resolved virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system) because it is not practicable or would be inconsistent with the protection of constitutional rights. The Chief Justice of a Trial Court department, after consultation with the Chief Justice of the Trial Court, may order that a court division or location conduct all business virtually and/or may transfer all in-person emergency matters to specified courts within the department.

3. What constitutes an emergency matter. As directed in the March 17 Order, each of the Trial Court departments has issued a Standing Order, specifying what constitutes an emergency matter in that particular court. Some of the Trial Court departments have since amended, modified, or supplemented their Standing Orders. If necessary, each Trial Court department shall update its respective Standing Order, including any amendments, modifications, and supplements thereto, to be consistent with this Order. All Standing Orders, as well as amendments, modifications, or supplementary orders or the equivalent shall be posted upon issuance on the judiciary's "Court System Response to COVID-19" webpage, which is located at <https://www.mass.gov/guides/court-system-response-to-covid-19>. Links to each order may be found on that webpage.

4. Clerk's and Register's Offices. All court clerks', registers', and recorder's offices shall continue to conduct court business, i.e., to accept the filing of pleadings and other documents in emergency matters, to schedule and facilitate hearings in emergency matters, to issue orders in emergency matters, to answer questions from attorneys, litigants, and the general public, and to conduct other necessary business of the respective court. All such business will be conducted virtually, except when the filing of pleadings and other documents in emergency matters cannot be accomplished virtually.

5. Who can enter courthouses for an emergency in-person proceeding. Entry into a courthouse for the purpose of an emergency in-person proceeding shall continue to be limited to attorneys, parties, witnesses, and other necessary persons as determined by the judge presiding over the proceeding, plus no more than three members of the "news media" as defined in Supreme Judicial Court Rule 1:19(2).

6. Jury and Bench Trials. All trials, whether jury or bench, in both criminal and civil cases, scheduled to commence in Massachusetts state courts between March 13, 2020, and May 1, 2020, are hereby continued to a date no earlier than May 4, 2020, unless the trial is a bench trial in a civil matter and may be conducted otherwise than in-person by agreement of the parties and of the court.

7. Application for exception. Upon a showing of exceptional circumstances, a party who had a trial or evidentiary hearing postponed as a result of this Order, the March 13 Order, and/or the March 17 Order, may apply for an exception from said order(s) by motion directed to the court where the trial or evidentiary hearing was to occur. No exception shall be granted except with the approval of the judge and the Chief Justice of the applicable Trial Court department and in no event shall a jury empanelment or jury trial occur during this time period due to the inherent risk involved in doing so.

8. Application for conference. A party who has had a trial or evidentiary hearing postponed as a result of this Order, the March 13 Order, and/or the March 17 Order, may apply for a conference with the court where the trial or evidentiary hearing was to occur to address matters arising from the postponement, which shall be conducted virtually. In criminal cases, where appropriate, a defendant may ask the court for reconsideration of bail or conditions of release. Nothing in this Order addresses the disposition of such requests for reconsideration.

9. Speedy Trial Computations. The continuances occasioned by this Order, the March 13 Order and/or the March 17 Order, serve the ends of justice and outweigh the best interests of the public and criminal defendants in a speedy trial. Therefore, the time periods of such continuances shall be excluded from speedy trial computations under Mass. R. Crim. P. 36.

10. Grand jury. No new grand jury shall be empaneled until July 6, 2020. Grand juries whose terms expire before the July 2020 empanelment of a new grand jury shall be extended until the date of that new empanelment.

11. Statutes of limitation. All statutes of limitation are tolled from March 17, 2020, through May 3, 2020.

12. Deadlines set forth in statutes or court rules, standing orders, or guidelines. Unless otherwise ordered by the applicable court, all deadlines set forth in statutes or court rules, standing orders, tracking orders, or guidelines that expired or will expire between March 16, 2020, and May 4, 2020, are tolled until May 4, 2020, and the new deadline in each instance is calculated as follows: determine how many days remained after March 16, 2020, until the original deadline, and that same number of days will remain as of May 4, 2020, until the new deadline. For example, if a rule set a thirty (30) day deadline and twelve (12) days remained after March 16 before that deadline was reached, then twelve (12) days will continue to remain as of May 4, before the new deadline is reached (i.e. May 18, because May 16 is a Saturday). If the thirty (30) day period commenced after March 16, then thirty (30) days remain as of May 4 before the new deadline is reached (i.e. June 3).

13. Court-ordered deadlines in particular cases. Unless otherwise specifically ordered by the applicable court, all deadlines established by a court in a particular case on or before March 16, 2020, that expire between March 16, 2020, and May 4, 2020, are tolled until May 4, 2020. To calculate the new deadline, see the guidance in paragraph 12. Probation termination dates are not tolled by this provision.

14. Expiring injunctions and similar orders. Unless otherwise ordered by the applicable court, all orders in a particular case that were issued prior to March 17, 2020, after an adversarial hearing (or the opportunity for an adversarial hearing), that enjoined or otherwise restrained or prohibited a party from taking some act or engaging in some conduct until a date between March 16, 2020, and May 4, 2020, shall remain in effect until the matter is rescheduled and heard.

15. Non-emergency matters. This Order does not affect any court's consideration of non-emergency matters that can be resolved virtually.

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16. The Court may issue further Orders regarding this matter as necessary to address the circumstances arising from this pandemic.

This Order is effective April 6, 2020, and shall remain in effect until further order of the court.

RALPH D. GANTS)
) Chief Justice
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BARBARA A. LENK)
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FRANK M. GAZIANO) Justices
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DAVID A. LOWY)
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KIMBERLY S. BUDD)
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ELSPETH B. CYPHER)
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SCOTT L. KAFKER)

Entered: April 1, 2020