

Update on the Middlesex Probate & Family Court Operations

UPDATED PROTOCOL FOR EMERGENCY AND NON-EMERGENCY MATTERS

DATED APRIL 11, 2020

The Middlesex Probate and Family Court is open to hear emergency cases in accordance with Probate and Family Court Standing Order 2-20, but the courthouse is closed to the public. Emergency matters will be conducted virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system) without the physical presence of the parties, counsel, or other members of the public. No in-person matters shall be conducted unless the First Justice determines that virtual resolution of the matter is not practicable or would be inconsistent with the protection of constitutional rights. Entry into a courthouse will be permitted only to those persons necessary to resolve such matters. We continue to seek to balance several priorities: access to the Court by the citizens of Middlesex County, the health and safety of all those who enter, and the logistical and procedural limitations and challenges due to a reduced workforce and the use of off-site and remote technology by the judicial and registry staff. The Registry is open to receive pleadings and other filings by first class mail and by E-filing ([www.efilema.com](http://www.efilema.com)) on non-emergency matters, which will be filed and scheduled in the normal course or as specifically designated below. The Registry and the Court are staffed to receive, review, and, as appropriate, schedule and hear emergency matters. Although we are operating with limited staff, court phones are operational and employee emails are being monitored, however a designated phone line has been established to handle any emergency filing and emergency hearing situations. The phone number is 617-768-5906. Additionally, a designated email address has been established to handle non-emergency inquiries that are not being resolved through other provisions in this protocol. That email is [middlesexprobate@jud.state.ma.us](mailto:middlesexprobate@jud.state.ma.us). The following is updated information relative to these operations and shall act as a supplement to or a replacement of certain items in the protocols issued on March 20, 2020 and are effective until further protocols are published.

1. IF YOU SEEK AN EMERGENCY HEARING BECAUSE YOU HAVE AN EMERGENCY PURSUANT TO STANDING ORDER 2-20, SECTION B AND SECTION E(1)-(8)

The matters delineated above have been deemed emergencies AND *shall* receive a hearing upon the completed filing of the required pleadings and documents, unless notice is required. If you have an emergency which falls within this section, please call the designated COVID-19 emergency phone number 617 768-5906 to speak with the registry representative on duty who will receive the nature of the emergency and direct you on the procedure to file the pleadings

[i.e., pleadings required, other documents required, method of transmittal]. We will be accepting filings for these matters by electronic mail to a designated COVID-19 emergency e-mail address which will be provided to you by the registry representative. When the registry has received all required documents, completed and conforming, the registry representative will file, scan, docket, and transmit them to the emergency judge of the day. No physical file is provided to the courtroom. The emergency judge will utilize the documents that you have provided to the Court and MassCourts to review the case. The emergency judge's clerk/AJCM will then contact you to conduct an emergency telephonic hearing.

2. IF YOU SEEK AN EMERGENCY HEARING BECAUSE YOU HAVE AN EMERGENCY PURSUANT TO STANDING ORDER 2-20, SECTION C(3), SECTION E(9)-(10) AND F(1), (2) and (3) OR YOU THINK YOU HAVE AN EMERGENCY THAT IS NOT SPECIFICALLY LISTED IN STANDING ORDER 2-20

You should call the designated COVID-19 emergency phone number 617 768-5906 to speak with the registry representative on duty for information on how to proceed in accordance with Standing Order 2-20. You may be asked to explain how your situation is exceptional/exigent. Again, no physical file is provided to the courtroom. The emergency judge will utilize the documents that you have provided to the Court and MassCourts to review the case and assess the emergency. After the emergency judge reviews the motion and affidavit, the emergency judge's clerk/AJCM will contact you to inform you as to the Court's determination whether an emergency telephonic hearing will be conducted or when an in-person hearing is warranted. If a hearing is scheduled, it will most likely be telephonic.

For more information on pending SIJS cases see Section 4 below.

3. SCHEDULING HEARINGS ON PENDING MATTERS

Each judge is accepting and reviewing requests for telephonic hearings on non-emergency matters. If you wish to have a telephonic hearing on a motion, contempt, pretrial, status conference or review hearing that is already scheduled, please contact the judicial representative (AJCM/Sessions Clerk) for the judge assigned to your case by email (See below). If you do not receive a timely acknowledgement of your email, use the court-designated email address [middlesexprobate@jud.state.ma.us](mailto:middlesexprobate@jud.state.ma.us) to follow up on the initial inquiry. Please note that it is at the discretion of each judge whether the matter will be given a telephonic hearing, and the conditions for same, including, for example, the

filing of a short memorandum, financial statements, and an affidavit waiving an in-person hearing.

Further, each judge is reviewing their daily session lists on an ongoing basis to determine which cases should be continued and which cases could benefit from a telephonic hearing. You may receive notices of reassignment in the mail, or, you may be contacted to have your case submit to a telephonic hearing. If you receive a rescheduling order and wish to have a telephonic hearing prior to the hearing date, please follow the procedure in the preceding paragraph. All scheduling decisions are at the discretion of the assigned judge. Please note that any case that had been scheduled and reserved a motion time through the scheduling desk, but had not filed a hard copy of the motion, will be removed from the list and will not be rescheduled by the Court. Counsel or the moving party can file and reschedule the motion for a future date through the scheduling department.

We have also set up a second telephonic session for non-emergency matters to allow Judges to conduct more telephonic hearings, including, if necessary, remotely.

#### 4. SUBMISSION ON THE PLEADINGS

Again, all non-emergency pleadings should be submitted through regular mail or E-filing, ([www.efilema.com](http://www.efilema.com)), if permitted.

All submissions should be made to the Registry for proper initiation, filing and submission to the appropriate judge.

To the extent we are able, we are handling uncontested matters, submitted jointly, and with an affidavit waiving an in-person hearing administratively (without any hearing).

If a stipulation for Temporary Orders on a Motion or Contempt, or an Agreement for Judgment on a 1B Divorce, Complaint for Modification or a Contempt is filed, the Temporary Order or Judgment will be forwarded to the assigned judge for review. If all necessary papers are in order and the following are submitted:

1. A stipulation for Temporary Order or Agreement for Judgment signed by both Parties and counsel of record and updated financial statements, if the matter involves a financial matter;
2. For all unrepresented parties, an Affidavit that the party:
  - a. acknowledges they understand the issues presented;

- b. understands and agrees with all terms of the stipulation or agreement;
- c. understands that counsel represents the other Party only;
- d. understands they are waiving their right to an in-person hearing as to this matter only; and,
- e. if applicable, has submitted an accurate financial statement and has reviewed the opposing party's financial statement and believes it to be true and accurate.

Upon receipt and review, the judge will enter an order/judgment administratively, or contact you to inform you that a hearing is required.

All matters that are permitted by law or standing order to be allowed administratively (for example, an Informal Probate Petition), will be reviewed, approved or denied by a magistrate and any subsequent letters, copies or notices will issue as is customary.

#### 5. SPECIAL IMMIGRATION JUVENILE STATUS CASES

All Special Immigration Juvenile Status cases which have hearings scheduled are being reviewed and if the child is turning 21 years old in the immediate future, those matters are being allowed administratively, if all of the pleadings are in order, and if not, a telephonic hearing or expedited hearing is being scheduled.

#### 6. ADOPTION CASES

The Registry is contacting all adoption cases scheduled for hearings since March 16, 2020 and will be working with the parties and/or counsel to determine when a hearing can be held. Parties may request, in writing, that an adoption be allowed administratively. An in-court ceremony to commemorate the adoption may be scheduled for a later date.

#### 7. SUSPENSION OF DRUG SCREENS

The Probation Department has suspended drug screens through the Court. Each judge has received a list of all cases from Probation with such screens and each judge is each reviewing the cases where drug screens were ordered to determine on an individual basis what action needs to be taken.

#### 8. SERVICE OF PROCESS/MOTIONS FOR ALTERNATE SERVICE

If you believe you will be unable in the current circumstances to effectuate service in the traditional manner, you *must* file a Motion for Alternate Service that provides for and requests a specific alternate method of service which is

reasonably calculated to notify the other parties (text, email, social media, overnight mail or other) and which meets due process requirements. These motions may be emailed to the session clerk for each judge for allowance. Please note that only motions will be acted on; emails requesting this relief will not be brought to the judge until a signed motion is provided.

Also refer to order dated March 30, 2020 concerning service in cases under Rule 5(b) of the Massachusetts Rules of Civil Procedure and Probate and Family Court Standing Order 4-20 regarding Rule 5(b) of the Massachusetts Rules of Domestic Relations Procedure.

#### 9. COPIES

All Letters or Appointment and Certified Copies will continue to be processed by regular means. You may call 617-768-5905 for more information on how to make a request.

#### 10. OFF-SITE RECORDS

Records requests from our archive location may still be made. You may email [middlesexfilerequest@jud.state.ma.us](mailto:middlesexfilerequest@jud.state.ma.us). When the folders are received they will be scanned and emailed to you at the address used to make your initial request. Any fees for copies provided in this manner must be paid by permitting a credit card charge to be made by court cashier over the phone.

### **Procedures if the Court is Temporarily Closed by the Executive Office**

If the Court is temporarily closed for any reason during the COVID 19 pandemic, messages can be left on 617-768-5906. This line shall be monitored on an hourly basis during regular business hours during a closure. Messages shall be directed to the appropriate party for a response.

Email inquiries can be forwarded to [middlesexprobate@jud.state.ma.us](mailto:middlesexprobate@jud.state.ma.us).

Emergency Filings can be forwarded to the Court at [middlesexprobate@jud.state.ma.us](mailto:middlesexprobate@jud.state.ma.us) or to the Sessions Clerk/ AJCM working with the Judge to whom the matter is assigned.

**JUDICIAL CONTACT LIST FOR HEARING REQUESTS**

<b>JUDGE</b>	<b>AJCM/Session Clerk</b>	<b>EMAIL ADDRESS</b>
Judge Allen	Colin McKinnon	colin.mckinnon@jud.state.ma.us
Judge Barbar	Joanne O'Donnell	joanne.odonnell@jud.state.ma.us
Judge Burchill	Renee Khan	renee.khan@jud.state.ma.us
Judge Cafazzo	Colin McKinnon	colin.mckinnon@jud.state.ma.us
Judge Gargas	Krishna Butaney	krishna.butaney@jud.state.ma.us
Judge McSweeny	Lisa Casey	lisa.casey@jud.state.ma.us
Judge Monks	Alison McCrone	alison.mccrone@jud.state.ma.us
Judge Tetreau	Renee Khan	renee.khan@jud.state.ma.us

**MIDDLESEX PROBATE AND FAMILY COURT**  
**EMERGENCY PROTOCOLS QUICK REFERENCE GUIDE**

In-person access to the Court is now prohibited under all circumstances unless specifically authorized by the First Justice.

Methods for filing and for hearings:

Emergencies: Call 617-768-5906 for immediate assistance and filing instructions

Non-Emergencies: E-file ([www.efilema.com](http://www.efilema.com)), if permitted or regular mail

General Inquiries: **Call**  
Domestic Relations/Change of Name - 617-768-5950  
Estates/Guardianship/Conservator/Trust - 617-768-5858  
Copy - 617-768-5905  
Adoption/SIJS - 617-768-5919  
**Email**  
[middlesexprobate@jud.state.ma.us](mailto:middlesexprobate@jud.state.ma.us) (Please note this email address is **NOT** for emergencies or filing pleadings as it is monitored by employees working remotely, unless the Court is temporarily closed by the Executive Office).

Storage Requests: **Email**  
[middlesex.filerequest@jud.state.ma.us](mailto:middlesex.filerequest@jud.state.ma.us)

Scheduling: For motions dates after May 4, 2020, call 617-768-5919  
Notice of Hearings/Summonses for non-emergencies will be sent out by mail with dates after May 4, 2020.

Uncontested: **Allowed administratively**  
By magistrate, when permitted by statute or standing order  
By Court, if submitted jointly, with affidavit and all required filings

Pending Cases: Rescheduled by Court, notice received in the mail or check the attorney portal or [www.masscourts.org](http://www.masscourts.org) for updates  
  
For telephonic hearings/video conferences, email a request to the assigned judge's AJCM.  
  
All within discretion of the judge.