

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

OE-144

In Re: COVID-19 (Coronavirus) Pandemic

ORDER LIMITING IN-PERSON APPEARANCES IN STATE COURTHOUSES TO
EMERGENCY MATTERS THAT CANNOT BE RESOLVED THROUGH A
VIDEOCONFERENCE OR TELEPHONIC HEARING

In light of emerging developments and public health concerns regarding the COVID-19 (coronavirus) pandemic and the actions ordered by the Governor, the Supreme Judicial Court, pursuant to its superintendence authority, issues the following ORDER to protect the public health by reducing the risk of exposure to the virus and slowing the spread of the disease. Except with respect to trials currently underway, this Order is intended to supplement and not replace the Orders the Supreme Judicial Court issued on March 13, 2020.

1. Effective March 18, 2020 and continuing until at least April 6, 2020, the only in-person proceedings that shall be held in Massachusetts state courthouses will be 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. This Order does not affect any court's consideration of matters that can be resolved without in-person proceedings through communication by telephone, videoconferencing, email, or other comparable means.

2. Trial Court clerk's offices shall remain open to accept pleadings and other documents in emergency matters, and applications made pursuant to paragraphs 6 and 8 of this Order. The offices of the Clerk of the Appeals Court and the Clerks of the Supreme Judicial Court for the County of Suffolk and for the Commonwealth shall remain open, but shall accept filings in person only in emergency matters that cannot be filed electronically.

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

4. 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.

5. Except as provided herein, 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, 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. Where a jury trial has commenced prior to the effective date of this Order, a mistrial shall be declared based on the manifest necessity arising from the pandemic.

6. Upon a showing of exceptional circumstances, a party who has had a trial or evidentiary hearing postponed by this Order may apply for an exception from this Order by motion directed to the trial court. No exception shall be granted except with the approval of the judge and the Chief Justice of the court department. Where a party seeks a jury trial, no exception shall be granted without consultation with the jury commissioner.

7. The continuances occasioned by this 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.

8. Where a trial or evidentiary hearing is postponed as a result of this Order, the parties may apply for a conference with the court to address matters arising from the postponement, which shall be conducted by telephone or videoconference. 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. All statutes of limitations are tolled from the date of this Order through April 21, 2020. Unless otherwise ordered by the applicable court, all deadlines set forth in statutes or court rules, standing orders, or guidelines that would otherwise expire before April 21, 2020, are extended to that date.

10. All orders that were issued prior to this Order after an adversarial hearing (or the opportunity for an adversarial hearing) that are due to expire prior to April 21, 2020, shall remain in effect until the matter is rescheduled and heard.

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

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: March 17, 2020