

Probate and Family Court

Guideline on How to Request Relief

Pursuant to Standing Order 2-20, Section H (as amended June 1, 2020)

Deadlines Set Forth in Statutes or Court Rules, Standing Orders, or Guidelines

This guideline is intended to provide assistance to parties on how to request relief pursuant to section H of Standing Order 2-20, as amended June 1, 2020. In light of COVID-19, to facilitate the processing, where possible, of certain cases pending before the Probate and Family Court, section H provides the following:

“For deadlines that expired or will expire at any time from March 17, 2020 through June 1, 2020, the tolling of deadlines in Paragraph 13 of Supreme Judicial Court Order OE-144 effective June 1, 2020 does not apply to the following deadlines:

1. Findings required by G. L. c. 208, § 1A;
2. Objection period in G. L. c. 208, § 21, so that judgments absolute may enter in divorce cases;
3. Time period to file an answer or any other responsive pleading to a contempt summons;
4. Time period to file an appearance or affidavit of objections pursuant to G. L. c. 190B, § 1-401; and
5. Time period to request a motion for a new trial or to amend findings and/or judgments in Rule 59.

A party who relied on Paragraph 12 of the April 1, 2020 Supreme Judicial Court Order OE-144 (effective April 6, 2020) to toll any of the above deadlines that expired between March 16, 2020 and May 4, 2020, may file a motion on or before June 30, 2020 to request relief.”

A. To Request Relief PRIOR to a Final Disposition by the Court

To request relief from the application of section H of Standing Order 2-20, prior to a final disposition by the Court, proceed as follows:

(1) With Assents of All Interested Parties

On or before June 30, 2020, file a motion with the Court to which all interested parties have assented.

(a) The motion should be titled “**Assented to Motion to Request Relief from the Application of Section H of Standing Order 2-20**” and state that all interested parties agree to a request for relief from the application of section H and request that the [Identify the exact deadline in Standing Order 2-20, section H (#1 - #5)], that expired on [Identify the deadline date that expired between March 16, 2020 and May 4, 2020] be tolled until [Identify the length of extension requested].

(b) Such motions will be allowed administratively if the length of the extension requested is reasonable under the circumstances.

(2) Without Assents

On or before June 30, 2020, file a motion and affidavit with the Court.

(a) Motion: The motion should be titled “**Motion to Request Relief from the Application of Section H of Standing Order 2-20**” and shall state that [Name of Party] requests relief from the application of section H and requests that the [Identify the exact deadline in Standing Order 2-20, section H (#1 - #5)], that expired on [Identify the deadline date that expired between March 16, 2020 and May 4, 2020] be tolled until [Identify the length of extension requested].

(b) Affidavit: The affidavit must state the circumstances upon which the request is based.

(c) Notice: The motion and affidavit must be served on all persons interested in accordance with Rule 5 of the Massachusetts Rules of Civil Procedure or the Domestic Relations Procedure Rules.¹

(d) Such motions may be allowed administratively pursuant to Rule 78 of the Massachusetts Rules of Civil Procedure or the Domestic Relations Procedure Rules, if the length of the extension is reasonable under the circumstances, or a virtual hearing will be scheduled by the Court.

B. To Request Relief AFTER a Final Disposition by the Court

To request relief from the application of section H of Standing Order 2-20, after a final disposition by the Court, proceed as follows:

(1) With Assents of All Interested Parties

On or before June 30, 2020, file a motion with the Court to which all other interested parties have assented.

(a) The motion should be titled “**Assented to Motion to Request Relief from the Application of Section H of Standing Order 2-20**” and state that all interested parties agree to a request for relief from the application of section H and request that the [Identify the exact

¹ See also, SJC Order concerning email service under Rule 5(b) of the Mass.R.Civ.P. and Probate and Family Court Standing Order 4-20 concerning email service in cases under Rule 5(b) of the Mass.R.Dom.Rel.P.

deadline in Standing Order 2-20, section H (#1 - #5)], that expired on [Identify the deadline date that expired between March 16, 2020 and May 4, 2020] be tolled until [Identify the length of extension requested] and that [Identify additional relief requested – e.g., that the decree/judgment be vacated, etc.].

(b) Such motions may be allowed administratively if the length of the extension and the additional relief requested are reasonable under the circumstances, or a virtual hearing will be scheduled by the Court.

(2) Without Assents

On or before June 30, 2020, file a motion and affidavit with the Court.

(a) Motion: The motion should be titled “**Motion to Request Relief from the Application of Section H of Standing Order 2-20**” and state that [Name of Party] requests relief from the application of section H and requests that the [Identify the exact deadline in Standing Order 2-20, section H (#1 - #5)], that expired on [Identify the deadline date that expired between March 16, 2020 and May 4, 2020] be tolled until [Identify the length of extension requested] and that [Identify additional relief requested – e.g., that the decree/judgment be vacated, etc.].

(b) Affidavit: The affidavit must state the circumstances upon which the request is based.

(c) Notice: The motion and affidavit must be served on all persons interested in accordance with Rule 5 of the Massachusetts Rules of Civil Procedure or the Domestic Relations Procedure Rules.²

(d) Such motions may be allowed administratively pursuant to Rule 78 of the Massachusetts Rules of Civil Procedure or the Domestic Relations Procedure Rules, if the length of the extension and the additional relief requested are reasonable under the circumstances, or a virtual hearing will be scheduled by the Court.

² See also, SJC Order concerning email service under Rule 5(b) of the Mass.R.Civ.P. and Probate and Family Court Standing Order 4-20 concerning email service in cases under Rule 5(b) of the Mass.R.Dom.Rel.P.