

**TRIAL COURT OF MASSACHUSETTS
HOUSING COURT DEPARTMENT**

**STANDING ORDER 5-20: FURTHER MODIFICATIONS TO HOUSING COURT
OPERATIONS DUE TO THE CORONAVIRUS (COVID-19) OUTBREAK**

In light of (1) Chapter 65 of the Acts of 2020, effective April 20, 2020¹ (the “Eviction Moratorium Legislation”); and (2) the Supreme Judicial Court’s “Second Updated Order Regarding Court Operations” effective June 1, 2020 (“SJC Order”), the Chief Justice of the Housing Court, pursuant to his statutory authority under G.L. c. 211B, § 10 and G.L. c. 185C, § 8A, hereby amends Standing Order 5-20, which shall be effective June 1, 2020. Where appropriate, this Order is intended to be consistent with the Eviction Moratorium Legislation and the SJC Order. This Order is subject to be modified or rescinded at any time, as necessary to address the fluctuating circumstances arising from the coronavirus pandemic.

1. Court business generally. Except as set forth in this Order, all Housing Court divisions will remain open to conduct court business, but courthouses will be closed to the general public except where entry is required to address an emergency matter 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. Unless directed otherwise by the Chief Justice of the Housing Court and the Housing Court’s Deputy Court Administrator, the Clerk-Magistrate, First Justice, and Chief Housing Specialist of each division shall determine each division’s minimum staffing needs, respectively, while giving due consideration to social distancing guidelines and the recommendations by the Center for Disease Control (CDC) and from state health officials. Where possible, the Clerk-Magistrate and First Justice of each division shall limit court operations to the respective division’s main location(s).²

2. Restrictions on “non-essential eviction” cases; permissible filings; tolling. Until such time as the Eviction Moratorium Legislation expires, the Housing Court shall not accept and docket any filing(s), decisions, orders, and other documents in “non-essential eviction” (summary process) matters,³ including such filings, decisions, orders, and other documents

¹ See <https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter65>. See also H.B. 4647 at <https://malegislature.gov/Bills/191/H4647>.

² For example, in the Western, Central, Eastern, and Metro South Divisions, each division’s main location is as follows: Springfield, Worcester, Boston, and Brockton, respectively. In the Northeast Division, main locations include Salem and Lawrence. In the Southeast Division, main locations include Fall River and New Bedford. For further details or questions regarding a division’s location or contact information, call the Trial Court’s Help Line at 833-91COURT or visit https://www.mass.gov/orgs/housing-court/locations?_page=1.

³ In pertinent part, a “non-essential eviction” is defined in the Eviction Moratorium Legislation as “an eviction: (i) for non-payment of rent; (ii) resulting from a foreclosure; (iii) for no fault or no cause; or (iv) for cause that does not involve or include allegations of: (a) criminal activity that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public; or (b) lease violations that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public . . .

that are not expressly prohibited by the Eviction Moratorium Legislation. The following filings in summary process cases, however, shall be accepted and allowed by the court: (1) motions to continue;⁴ (2) motions to vacate a default judgment entered since March 1, 2020; (3) motions to vacate a dismissal for failure to appear entered since March 1, 2020; and (4) motions to stay an execution. In addition, the court shall accept and, where necessary, docket the following filings in summary process cases: (1) a notice of appearance; (2) original summonses and complaints in previously electronically-filed cases; (3) a notice of voluntary dismissal; (4) a satisfaction of judgment; and (5) original executions. As set forth in the Eviction Moratorium Legislation, “a deadline or time period for action by a party to a non-essential eviction . . ., whether such deadline or time period was established before or after [April 20, 2020], including, but not limited to, a date to answer a complaint, appeal a judgment or levy upon an execution for possession or a money judgment, shall be tolled” until such time as the Eviction Moratorium Legislation expires.

3. “Essential” eviction cases; affidavit required; governing rules and law. All plaintiffs, whether represented or self-represented, who file an eviction action permitted under the Eviction Moratorium Legislation (“essential eviction action”) shall in each respective case file along with the entry package an “Affidavit for Cause,” promulgated by the Housing Court and available on the Trial Court’s website. Consistent with Housing Court Standing Order 1-20, all attorneys shall eFile any essential eviction actions. Upon the filing and the court’s acceptance of an essential eviction action, the court shall send written notice of the time and method of the trial to all parties. All essential eviction actions shall be governed by the applicable statutes, rules, and other laws governing summary process. An execution that issues in an essential eviction action is enforceable and may be used for its intended purposes by a constable or sheriff. In issuing an execution in an essential eviction action, the court may note on such an execution that it (1) is enforceable pursuant to a judicial determination in an essential eviction action; and (2) may be used for its intended purposes.
4. Cases filed for “cause” before the Eviction Moratorium Legislation. In a summary process (eviction) case that was filed for “cause” prior to the effective date of the Eviction Moratorium Legislation, a plaintiff(s) may (a) seek to advance the case for trial; or (b) seek post-judgment relief, where a trial has been held or after an agreement for judgment had been filed, provided that the plaintiff (1) files in the respective case an appropriate motion; and (2) files an “Affidavit for Cause,” as identified in paragraph three (3). The court shall schedule a trial or motion hearing on the merits if the court is satisfied, based upon the judge’s review of the motion and affidavit without hearing, that there is a likelihood that at the trial or motion hearing the plaintiff will be able to establish that the conduct or behavior giving rise to the original filing of the “cause” summary process action is ongoing and falls within the type of case allowed to be heard or acted upon under the Eviction Moratorium Legislation.
5. Cases may be advanced, scheduled, and conducted virtually; divisions to continue addressing emergency matters. Until further order, each Clerk-Magistrate, in consultation with the respective First Justice, may advance, schedule, and conduct proceedings, by

⁴ In such an instance, the court shall not schedule the matter to a date certain until the Eviction Moratorium Legislation expires.

virtual means only, in any case type except a non-essential eviction action, as defined by the Eviction Moratorium Legislation. In addition, all divisions of the Housing Court shall continue addressing emergency matters, including applications for injunctive relief (asking the court to order someone to do or not do something, *e.g.*, start paying utilities or stop damaging property); temporary restraining orders where a complaint involves a lockout, condemnation, no heat, no water, and/or no utilities; a stay of a levy on an execution (*e.g.*, a court order stopping a landlord or constable from physically removing an occupant from a property); where access is required to address an emergency (*e.g.*, burst water pipe, gas fumes, etc.); and other matters to be determined at the discretion of the Clerk-Magistrate and First Justice of each division.

6. Assistance and services of housing specialists available virtually. In all civil case types, as well as in essential eviction actions, parties may seek the assistance of a housing specialist by contacting the appropriate division's Housing Specialist Department.⁵ Agreements and stipulations shall be reviewed by the court and shall comply with the Eviction Moratorium Legislation and any other applicable laws or regulations. Except in a non-essential eviction action, nothing in this Order shall prohibit a party from seeking to advance its court event for purposes of attempting to resolve the matter by mediation.
7. Opening speech and site inspections suspended. Until further notice, (1) the opening speech and "the call of the list" conducted during summary process sessions; and (2) site inspections and views conducted by the Housing Specialists Department are suspended.
8. Tolling of deadlines and statutes of limitation in non-eviction cases. Except as set forth in paragraphs two (2) and three (3) of this Order, all statutes of limitations, court-ordered deadlines and deadlines set forth in statutes or court rules, standing orders, or guidelines are tolled as set forth in the SJC Order, unless otherwise specifically ordered by the court. The new deadline in each instance is to be computed as set forth in the SJC Order.

SO ORDERED.

/s/ Timothy F. Sullivan

Timothy F. Sullivan
Chief Justice, Housing Court Department

Date: May 27, 2020

Effective: June 1, 2020

⁵ A listing of the Housing Court's contact information may be found online by visiting https://www.mass.gov/orgs/housing-court/locations?_page=1.