



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
**DEPARTMENT ON DISABILITY SERVICES**

**MEMORANDUM**

**TO:** Residential and Day Providers

**FROM:** Mark D. Back *Mark D. Back* Neha Patel *Neha Patel*  
General Counsel Deputy General Counsel

**SUBJECT:** Impact on Guardianship Proceedings of the D.C. Superior Court's Response to Public Health Emergency Related to COVID-19

**DATE:** March 25, 2020

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In response to the declared Public Health Emergency related to coronavirus (COVID-19), the D.C. Superior Court has issued a number of Orders to address how court proceedings will be handled in the upcoming months. The attached March 18, 2020 order provides guidance about all types of court hearings and the Court's operating status on the whole. However, the Probate Division issued more specific guidance (attached) on March 19, 2020. These two orders state that the Court will be extending deadlines for filings and for hearings to be set, with the intention of continuing all scheduled non-priority hearings to dates past May 15, 2020.

In the Probate Division, where guardianship, conservatorship, trust and estate matters are handled, only emergency Probate matters will be handled with immediacy.

Specifically:

- Requests for 21-day emergency guardianship (which requires a showing of a sudden, acute, and unanticipated medical crisis) and emergency Petitions Post Appointment (involving a health and safety issue, including end-of-life issues) will be decided by a judge on the paperwork filed. A hearing will only be set if requested by the parties involved and would be heard by Judge-in-Chambers.
- Provisional 6-month guardianships will be decided on the paperwork filed.
- All other types of Probate matters, including non-emergency guardianships and Auditor-Master hearings, will be scheduled for hearing after May 15, 2020. Any issue that can be decided
- All reviews of guardianship by the Guardianship Assistance Program are being suspended to protect the safety of the people supported and the social worker reviewers. Accordingly, the Court will not require capacity assessments to be filed by the guardians at this time, so that vulnerable people in the community can stay home rather than go out to have assessments completed.
- In addition, guardians have been told that visitation with their wards is suspended until at least May 15, 2020, and that they should remain in contact by telephone or video conference instead.





- Any filings made to the Court should be either mailed in or dropped off to a designated box. Probate Division staff will not have direct contact with the public at this time. We are providing you this information in case there are questions from family members or family member guardians who need to make a filing at the Probate Division (guardianship reports, petitions post appointment, requests to resign or remove a guardian).
  - Mailing address and location of business-hours drop-box: Probate Division, 515 5<sup>th</sup> Street NW, 3<sup>rd</sup> Floor, Washington D.C. 20001
  - After-hours/nighttime drop box: lobby of Moultrie Courthouse, 500 Indiana Avenue NW, Washington D.C. 20001

After discussion with the Court about how filings will be handled, we are adapting our guardianship filing process to ensure the safety of the people we support, provider staff, DDS staff, Court staff and the overall community. Guardianship process changes include:

- During this public health emergency, the Probate Court is not requiring documents to be notarized as long as a statement is made regarding the truth of the information provided. This means we can use declarations (with the “under penalty of perjury” language) instead of affidavits for all pieces of our guardianship packages.
  - Templates for the declarations will be posted on the DDS’s website: [www.dds.dc.gov](http://www.dds.dc.gov)
  - We would ask that you minimize the risk to the people we support and to yourselves by checking whether the clinicians completing the medical and psychological declarations can either (1) physically sign and then scan their declaration to the provider or service coordinator, or (2) electronically sign and then scan their declaration to the provider or service coordinator.
- Service Coordinators will still gather (electronically) the pieces of the package from the provider/clinician and DDS records, and then will complete their own declaration as well. Once all the pieces are obtained, service coordinators will submit them with a routing form to Winslow Woodland by email for his review.

If a person you support needs a guardian or if there is an issue that needs to be addressed through a petition post-appointment (*i.e.* increased authority or removal), you should continue to work with the assigned Service Coordinator to prepare an appropriate guardianship package as detailed above and our office will work to ensure quick filing. As noted above, there is no guarantee about how quickly decisions will be made by the Court on any matters except the emergency 21-day guardianships.

Please remember that hospitals and clinicians can and should still provide emergency medical care under D.C. Official Code § 21-2212(c)’s “two professional rule” and that guardianship is still our last resort to providing supports for people in need of decision-making assistance. Supported decision-makers, durable powers of attorney, and D.C. Official Code §21-2210’s medical substitute decision-makers still have the same ability to provide assistance as they



always have and should be considered prior to beginning the guardianship process.

If you have specific questions about a pending proceeding or prospective decision-making need, you should reach out directly to:

- Deputy General Counsel Neha Patel at [neha.patel@dc.gov](mailto:neha.patel@dc.gov) or (202) 679-3142
- Assistant General Counsel Emily Harris at [emily.harris@dc.gov](mailto:emily.harris@dc.gov) or (202) 258-5513
- The assigned Service Coordinator for the person.

For more information on the District's response to COVID-19, please visit [coronavirus.dc.gov](https://coronavirus.dc.gov).

MDB/NP

Attachments as stated (12 pages)

cc: Habilitation Panel Attorneys  
General Guardians, Limited Medical Guardians and other Substitute Decision-Makers

# **SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

## **ORDER**

**(Amended 3/18/20)**

By order issued on March 18, 2020, the Joint Committee of Judicial Administration authorized the Chief Judge to issue orders extending the period during which deadlines are tolled or extended for all statutory and rules-based time limits in the D.C. Code, and the Superior Court Rules, during the current judicial emergency and consistent with the best interest of the administration of justice.

By Order of the Chief Judge, the District of Columbia Superior Court is adjusting its operations to address concerns regarding the Coronavirus (COVID19). The court will make additional adjustments as circumstances warrant.

To the extent that a case type has not been identified below, all non-priority matters scheduled before May 15, 2020, will be rescheduled and new dates set; emergency matters will be heard as scheduled by the court and as set forth below.

It is ordered that no attorney or persons should enter the courthouse with symptoms of COV19.

See <https://www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html>

Any party may seek relief from these changes by filing a motion with the appropriate court.

### **Filings:**

All Divisions and the Family Court will be open for filing of pleadings, motions and new cases with limited staff. Electronic filing will continue.

The following procedures are in effect through May 15, 2020:

### **Tolling and Extending Filing Deadlines:**

Unless otherwise ordered by the court, all deadlines and time limits in statutes, court rules, and standing orders that would otherwise expire before May 15, 2020 including statutes of limitations, are tolled during the period of the current emergency. Such deadlines and time limits may be further extended or modified as circumstances change.

### **Court Operations:**

The court will hear only the following matters:

- Felony presentments and misdemeanor arraignments other than citation arraignments;
- Juvenile initial hearings and petitions for writ of habeas corpus;
- Initial hearings and requests of removal in neglect and abuse matters; and
- Emergency matters only.

The following courtrooms will hear matters:

- C-10: Criminal Arraignments and Presentments
- JM-15: Family Court Emergencies, Neglect Initial Hearings, and Juvenile Initial Hearings
- 115: Criminal Division and Domestic Violence Emergencies - other than TPOs emergencies which will be heard via Web Ex, see below
- 516: Civil and Probate and Tax Division Emergencies (Judge in Chambers)

All other matters are continued, parties need not appear and the court will notify parties of new date.

**Additional Matters:**

- All jury trials in progress shall proceed as scheduled.
- The court will still rule on motions and matters that can be decided without a hearing in all Divisions.
- Parties may file, and the court will rule on, applications for waivers of filing fees and other costs.
- The court will accept court-ordered payments by individuals; only payments for criminal matters, except bond payments, can be made electronically. In addition, any obligation of any tenant under a protective order to make payments into the court registry is suspended during the period of the emergency. Tenants should make these payments instead directly to landlords, and a landlord's acceptance of a direct payment will not prejudice the landlord's ability to prosecute the action. If a landlord seeks sanctions for violation of a protective order after the public health emergency ends, the court will consider, in addition to other relevant circumstances, exigent circumstances relating to the public health emergency.
- All evictions of tenants and foreclosed homeowners on or before May 15, 2020 are stayed.
- Extradition matters shall proceed as scheduled.
- Indictments returned by the grand jury shall be received as presented; all matters concerning appearance before the grand jury will be considered as presented.
- Pretrial and Probation show cause hearings and motions to review bond or release conditions may proceed and be heard by the Criminal Division Emergency Judge where appropriate.

- Any existing Temporary Protection Order and Civil Protection Order will remain in effect and will be extended through May 15, 2020 or to the next assigned court date.
- Requests for Temporary Protection Orders will be available through the Emergency Temporary Protection Order (ETPO) Process. During this emergency operating Court status, the ETPO process will be accessible at any time of the day for situations involving immediate danger. If you are in immediate danger and call the police (911) or the DC Safe Critical Response Team (800) 407-5048, you will be routed to the ETPO process to determine if you qualify for an Emergency Temporary Protection Order.
- Emergency Filings in Civil Protection Order cases can be made through [www.probono.net/dccourts](http://www.probono.net/dccourts). You can complete and submit the forms electronically. Once you complete and submit the form, please contact the Clerk's Office to proceed with the filing by phone at (202) 879-0157 or by email at [domesticviolencemanagement@dcsc.gov](mailto:domesticviolencemanagement@dcsc.gov). You can also access the Domestic Violence Division forms on the DC Courts website at <http://www.dccourts.gov/services/forms?title=&combine> and, after completing the form, email it to [domesticviolencemanagement@dcsc.gov](mailto:domesticviolencemanagement@dcsc.gov). If there is a form that is not available on the website, please email [domesticviolencemanagement@dcsc.gov](mailto:domesticviolencemanagement@dcsc.gov) for further assistance.
- The Marriage Bureau will not be issuing marriage licenses at this time. Wedding ceremonies previously scheduled will not go forward. If you wish to reschedule your ceremony, please contact the Marriage Bureau at (202) 879-1212.

## **Probate Division Statement Regarding Court Proceedings and Operations (March 19, 2020)**

To the members of the Probate Division Fiduciary Panel and members of the public:

In compliance with the Chief Judge's Amended Order, dated March 18, 2020, the Probate Division is providing further guidance regarding court proceedings and operations.

### **Probate Division Court Proceedings–**


- **Guardianship (INT/IDD) Cases –**
  - 21-day Emergency Guardian Petitions (D.C. Code § 21-2046(b)) will be ruled upon on the filings by a Probate Judge; if a hearing is requested after an appointment, hearings will be handled by Judge in Chambers;
  - 90-day Health Care Guardian Petitions (D.C. Code § 21-2046(c)) – No hearings before May 15, 2020;
  - Provisional Guardian Petitions (D.C. Code § 21-2046(d)) will be ruled upon on the paperwork by a Probate Judge;
  - Initial Hearings for General Guardian/Conservator – No hearings before May 15, 2020;
  - Trials for General Guardian/Conservator – No trials before May 15, 2020;
  - Petitions Post-Appointment – No hearings before May 15, 2020, unless it involves an emergency health/safety issue (e.g., withholding of life saving medical procedures, D.C. Code § 21-2047.01(3)); if emergency petition post—appointment filed, it will be ruled upon on the filings by a Probate Judge; if a hearing is needed, hearings will be handled by Judge in Chambers;
  - Summary Hearings and Mandatory Review Hearings - No hearings before May 15, 2020.

- **Decedent's Estates (ADM), Small Estates (SEB), Foreign Estates (FEP), Trusts (TRP), Probate Litigation (LIT), Guardianship of Minor's Estates (GDN)** – No hearings before May 15, 2020;

### **Probate Division Operations**

- The Probate Clerk's Office will be open with limited staffing.
- The public computers are not available for use until further notice.
- The Self-Help Center is closed until further notice.
- All attorneys must continue to eFile.
- Regarding Guardianship/Conservatorship case filings:
  - *21-day Guardian Petitions* should continue to be filed with the Probate Clerk's Office
  - In *ALL OTHER Guardian/Conservator filings* (INT/IDD cases), the public is *strongly* encouraged to:
    - Mail filings to the Probate Division, 515 5<sup>th</sup> Street, NW, Washington, DC 20001;
    - Deposit filings in the drop box located on the 3<sup>rd</sup> floor of the Probate Division, 515 5<sup>th</sup> Street, NW; or
    - After hours, deposit filings in the Night Deposit Box in the lobby of the Moultrie Building, 500 Indiana Avenue, NW, Washington, DC.
- There will be no in-person review of initial filings in decedent estates (ADM), small estate proceedings (SEB), foreign estate proceedings (FEP), Trusts (TRP), Notice of Revocable Trusts (NRT), Disclaimers (DISCL), Probate Litigation (LIT), Guardianship of Minor's Estates (GDN): or any accounting matters.
- Wills (WIL) should continue to be filed in the Probate Clerk's Office.
- Regarding Decedent's Estates (ADM), Small Estates (SEB), Foreign Estates (FEP), Trusts (TRP), Notice of Revocable Trusts (NRT), Disclaimers (DISCL), Probate Litigation (LIT) Probate Litigation (LIT), Guardianship of Minor's Estates (GDN):
  - Filings should be accompanied with the appropriate filing fee, where applicable (check or money order only, payable to the Register of Wills), and the public *shall* file their filings by one of the three methods:

- Mail filings to the Probate Division, 515 5<sup>th</sup> Street, NW, Washington, DC 20001;
  - Deposit filings in the drop box located on the 3<sup>rd</sup> floor of the Probate Division, 515 5<sup>th</sup> Street, NW; or
  - After hours, deposit filings in the Night Deposit Box in the lobby of the Moultrie Building, 500 Indiana Avenue, NW, Washington, DC.
- Archive Requests are suspended until further notice.
  - Copy Requests may be placed in the drop box or mailed.
  - General probate procedure questions or inquiries may be emailed to [Probateinquiries@dcsc.gov](mailto:Probateinquiries@dcsc.gov) or Livechat (hours have been extended) at [dccourts.gov](http://dccourts.gov) under the Probate Division.
  - Guardianship questions may be emailed to [GuardianshipAssistanceProgram@dcsc.gov](mailto:GuardianshipAssistanceProgram@dcsc.gov).

  
Judge Alfred S. Irving, Jr.  
Presiding Judge, Probate Division

**Medical Declaration/Certification**  
**Regarding Capacity and Need for Emergency/Urgent Medical Care**

I, \_\_\_\_\_, declare and state as follows:

1. I am competent to testify to the matters set forth herein, and testify based on my personal knowledge, education, information and belief.
2. I am a physician employed by the \_\_\_\_\_.  
My specialty is \_\_\_\_\_.
3. I received my medical degree from \_\_\_\_\_ in the  
year \_\_\_\_\_ and completed my residency in \_\_\_\_\_ at  
\_\_\_\_\_ in the year \_\_\_\_\_.
4. \_\_\_\_\_ is a \_\_\_\_\_ year-old (*circle one*) male/female  
whom I examined on \_\_\_\_\_ for the purpose of \_\_\_\_\_.  
I have examined this person within one day or 24 hours of my certification herein.
5. \_\_\_\_\_'s present condition is as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
6. It is my clinical opinion that because of his/her mental condition,  
\_\_\_\_\_ is unable to receive and evaluate information effectively,  
or his/her ability to communicate decisions is impaired to such an extent that he/she lacks  
the capacity to take actions to (*please check appropriate boxes*):
  - ☐ obtain, administer and dispose of real and personal property, intangible  
property, benefits and income; AND/OR
  - ☐ provide health care, food, shelter, clothing, personal hygiene and other care  
without which serious physical injury or illness is more likely than not to occur;  
AND/OR
  - ☐ acquire and maintain those life skills that enable him/her to cope more  
effectively with the demands of his/her life; AND/OR
  - ☐ grant, refuse or withdraw consent to any medical treatment.
7. The recommended treatment or procedure is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
8. This treatment or procedure is recommended and considered necessary because:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

9. In my professional opinion, this person requires immediate attention and treatment.  
The recommended treatment is (*please check appropriate box*): ☐ an emergency OR  
☐ urgently necessary because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

10. I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information, knowledge and belief.  
Executed on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Physician's Name (*printed*)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Phone number/Pager number

## Medical Declaration/Certification Regarding Capacity

I, \_\_\_\_\_, declare and state as follows:

1. I am competent to testify to the matters set forth herein, and testify based on my personal knowledge, education, information and belief.
2. I am a physician employed by the \_\_\_\_\_. My specialty is \_\_\_\_\_.
3. I received my medical degree from \_\_\_\_\_ in the year \_\_\_\_\_ and completed my residency in \_\_\_\_\_ at \_\_\_\_\_ in the year \_\_\_\_\_.
4. \_\_\_\_\_ is a \_\_\_\_\_ year-old (*circle one*) male/female whom I examined on \_\_\_\_\_ for the purpose of \_\_\_\_\_.
5. \_\_\_\_\_'s present condition is/diagnoses are as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
6. It is my clinical opinion that because of his/her mental condition as evidenced above, \_\_\_\_\_ is unable to receive and evaluate information effectively, or his/her ability to communicate decisions is impaired to such an extent that he/she lacks the capacity to take actions to: (*please check appropriate boxes*)
  - ☐ obtain, administer and dispose of real and personal property, intangible property, benefits and income AND/OR
  - ☐ provide health care, food, shelter, clothing, personal hygiene and other care without serious physical injury or illness is more likely than not to occur AND/OR
  - ☐ acquire and maintain those life skills that enable him/her to cope more effectively with the demands of his/her life; AND/OR
  - ☐ grant, refuse or withdraw consent to any medical treatment.
7. It is my clinical opinion that \_\_\_\_\_ is unable to make decisions and provide informed consent in the above checked areas, and is unable to provide informed consent regarding medical treatment.
8. I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information, knowledge and belief. Executed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Licensed Physician's Signature

\_\_\_\_\_  
Street Address, City, State and Zip Code

\_\_\_\_\_  
Physician's Name (*printed*)

\_\_\_\_\_  
Phone Number/Pager Number

**Psychological Declaration/Certification Regarding Capacity**  
**(Emergency)**

I, \_\_\_\_\_, declare and state as follows:

1. I am competent to testify to the matters set forth herein, and testify based on my personal knowledge, education, information and belief.
2. I am a licensed clinical psychologist and consult to \_\_\_\_\_.  
I have consulted to \_\_\_\_\_ since \_\_\_\_\_. I received  
my degree in \_\_\_\_\_ from \_\_\_\_\_ in \_\_\_\_\_.
3. I have known \_\_\_\_\_ since \_\_\_\_\_. I have provided services to  
him/her since \_\_\_\_\_. In that regard, I have seen \_\_\_\_\_ on numerous  
occasions, with the most recent psychological assessment completed on \_\_\_\_\_. I have  
also reviewed his/her records and discussed him/her with other interdisciplinary team members.  
Based on my observations, my assessment, my review of the record and my discussion with other  
staff, it is my opinion that his/her cognitive functioning falls within the \_\_\_\_\_ range  
of intellectual disability and adaptive functioning falls within the \_\_\_\_\_ range of  
intellectual disability.
4. \_\_\_\_\_'s most recent psychological assessment is attached and discusses his/her  
present mental health condition and treatment plan.
5. It is my clinical opinion that because of his/her mental condition as evidenced above,  
\_\_\_\_\_ is unable to receive and evaluate information effectively, or his/her  
ability to communicate decisions is impaired to such an extent that he/she lacks the capacity to  
take actions to: *(please check appropriate boxes)*  
☐ obtain, administer, and dispose of real and personal property, intangible property, business  
property, benefits and income; AND/OR  
☐ provide health care, food, shelter, clothing, personal hygiene, and other care without which  
serious physical injury or illness is more likely than not to occur; AND/OR  
☐ acquire and maintain those life skills that enable him/her to cope more effectively with the  
demands of his/her own person and of his/her own environment, and to raise the level of  
his/her physical, intellectual, social, emotional, and economic efficiency or meet all or some  
of essential requirements for his/her therapeutic needs; AND/OR  
☐ grant, refuse or withdraw consent to any medical treatment.
6. It is my clinical opinion that \_\_\_\_\_ is, with proper explanation, at a  
level suitable to his/her functioning *(please check one of the boxes)*:  
☐ ABLE to choose the person he/she desires to make decisions for him/her, and could execute  
a durable power of attorney.  
☐ NOT ABLE to understand and execute a durable power of attorney.
7. I have examined this person within 24 hours or one day of my certification therein.
8. I declare under penalty of perjury that the foregoing statements are true and correct to the best of my  
information, knowledge and belief. Executed on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Licensed Psychologist's Signature

\_\_\_\_\_  
Street Address, City, State and Zip Code

\_\_\_\_\_  
Psychologist's Name *(printed)*

\_\_\_\_\_  
Phone Number/Pager Number

## Psychological Declaration/Certification Regarding Capacity

I, \_\_\_\_\_, declare and state as follows:

1. I am competent to testify to the matters set forth herein, and testify based on my personal knowledge, education, information and belief.
2. I am a licensed clinical psychologist and consult to \_\_\_\_\_.  
I have consulted to \_\_\_\_\_ since \_\_\_\_\_. I received  
my degree in \_\_\_\_\_ from \_\_\_\_\_ in \_\_\_\_\_.
3. I have known \_\_\_\_\_ since \_\_\_\_\_. I have provided services to  
him/her since \_\_\_\_\_. In that regard, I have seen \_\_\_\_\_ on numerous  
occasions, with the most recent psychological assessment completed on \_\_\_\_\_. I have also  
reviewed his/her records and discussed him/her with other interdisciplinary team members.  
Based on my observations, my assessment, my review of the record and my discussion with other  
staff, it is my opinion that his/her cognitive functioning falls within the \_\_\_\_\_ range  
of intellectual disability and adaptive functioning falls within the \_\_\_\_\_ range of  
intellectual disability.
4. \_\_\_\_\_'s most recent psychological assessment is attached and discusses his/her  
present mental health condition and treatment plan.
5. It is my clinical opinion that because of his/her mental condition as evidenced above,  
\_\_\_\_\_ is unable to receive and evaluate information effectively, or his/her  
ability to communicate decisions is impaired to such an extent that he/she lacks the capacity to  
take actions to: *(please check appropriate boxes)*
  - ☐ obtain, administer, and dispose of real and personal property, intangible property,  
business property, benefits and income; AND/OR
  - ☐ provide health care, food, shelter, clothing, personal hygiene, and other care without  
which serious physical injury or illness is more likely than not to occur; AND/OR
  - ☐ acquire and maintain those life skills that enable him/her to cope more effectively  
with the demands of his/her own person and of his/her own environment, and to  
raise the level of his/her physical, intellectual, social, emotional, and economic  
efficiency or meet all or some of essential requirements for his/her therapeutic  
needs; AND/OR
  - ☐ grant, refuse or withdraw consent to any medical treatment.
6. It is my clinical opinion that, \_\_\_\_\_ is, with proper explanation at a  
level suitable to his/her functioning *(please check one of the boxes)*:
  - ☐ ABLE to choose the person he/she desires to make decisions for him/her,  
and could execute a durable power of attorney.
  - ☐ NOT ABLE to understand and execute a durable power of attorney.
7. I declare under penalty of perjury that the foregoing statements are true and correct to the best of my  
information, knowledge and belief. Executed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Licensed Psychologist's Signature

\_\_\_\_\_  
Street Address, City, State and Zip Code

\_\_\_\_\_  
Psychologist's Name *(printed)*

\_\_\_\_\_  
Phone Number/Pager Number