



MARICOPA COUNTY SUPERIOR COURT: PROBATE DEPARTMENT

Modified Probate Department Operations during COVID-19 Pandemic

On March 18, 2020, Arizona Chief Justice Robert Brutinel issued Administrative Order No. 2020-48 ("AO 2020-48"). Among other things, AO 2020-48 requires that, to help reduce the risk associated with the COVID-19 public health emergency, all in-person court proceedings be avoided to the greatest extent possible consistent with core constitutional rights. On March 19, 2020, Presiding Judge Joseph C. Welty issued Administrative Order No. 2020-043 ("AO 2020-043") for the Superior Court of Arizona for Maricopa County (the "Maricopa County Superior Court"). Among other things, AO 2020-043 limits physical access to all court buildings of the Maricopa Superior Court. On March 30, 2020, Governor Douglas A. Ducey issued Executive Order 2020-18, which orders that, effective at 5:00 p.m. on March 31, 2020, and through April 30, 2020, all individuals in the State of Arizona limit their time away from their place of residence or property, subject to certain limited exceptions.

On April 16, 2020, Chief Justice Brutinel issued Administrative Order No. 2020-67 ("AO 2020-67"). Among other things, AO 2020-67 clarifies that, for purposes of Rule 17, Arizona Rules of Probate Procedure, a person may "attend" an initial hearing on a petition by telephone, videoconferencing, or other available audio or audiovisual technology by following the directions provided by the judicial division assigned to the case or set forth in the Notice of Hearing on that petition. In addition, AO 2020-67 authorizes the Superior Court in each county to modify the second sentence of the second paragraph of the Required Warning language set forth in Rule 16(b), Arizona Rules of Probate Procedure, to provide instructions for telephonic or video appearance at an initial hearing on a petition. Pursuant to that authority, on April 20, 2020, Andrew G. Klein, Presiding Judge of the Probate and Mental Health Department, issued Maricopa County Administrative Order No. 2020-061 ("AO 2020-061"), which modifies the second sentence of the second paragraph of the Required Warning language set forth in Rule 16(b), Arizona Rules of Probate Procedure, to read as follows:

However, if you oppose any of the relief requested in the petition that accompanies this notice, you must file with the court a written response at least 7 calendar days before the hearing date, or you or your attorney must contact the division assigned to the case at the time of hearing using the following instructions: Call (602) 372-0270.

Consistent with the foregoing, the Probate & Mental Health Department of the Superior Court of Arizona for Maricopa County (the "Department") is taking the following actions with respect to all probate (Title 14 and Title 36, Chapter 32) cases:




- 1 **During the entire month of April 2020**, all probate matters will be heard in the Downtown Court Facility. Such proceedings will occur on the Fifth Floor of the East Court Building, 101 W. Jefferson, Phoenix, Arizona 85003. On April 1, proceedings will be conducted in courtroom 512. On April 2, proceedings will be conducted in courtroom 513. On April 3, proceedings will be conducted in courtroom 511. Starting on April 6 and until further notice, proceedings will be conducted in courtroom 513.
- 2 **Effective April 1, 2020**, only one judicial officer per day will be available to consider any probate matters that are filed in April 2020.
- 3 **All pending hearings, status conferences, settlement conferences**, and similar court events scheduled in the month of April 2020 are hereby vacated. Such matters will be reset in the future. The only exceptions are for pending hearings relating to the appointment of a temporary guardian and/or conservator for an adult, which will proceed as scheduled and hearings that pertain to a request for the appointment of the Maricopa County Public Fiduciary as a guardian (or as a guardian and conservator).
- 4 **The only probate matters** that regularly will be set for hearing in April 2020 are emergency matters, including (but not necessarily limited to) petitions requesting the appointment of a guardian and/or a conservator for an adult; petitions to determine the validity of, or to enforce, a health care directive; and petitions relating to the disposition of a decedent's body. For a petition to be set for hearing in April 2020, the petition must demonstrate, either in the petition or a separate motion, sufficient facts to establish why the matter(s) raised in the petition must be addressed prior to May 1, 2020.
- 5 **The Court will continue to consider petitions for the appointment of a temporary guardian and/or temporary conservator** on an ex parte (without advance notice to interested persons) basis as authorized in A.R.S. §§ 14-5310 and -5401.01. Persons filing such petitions are reminded that the court may grant such relief only if the petition or affidavit accompanying the petition clearly demonstrates that immediately and irreparable injury, loss, or damage will result before the proposed ward or protected person, or that person's attorney, can be heard in opposition to the petition.
- 6 **As of April 21, 2020, minor conservatorships hearings** (whether to establish a conservatorship for a minor, approve the settlement of a minor's personal injury claim, or terminate the conservatorship) that had been set in April 2020 but were vacated due to the COVID-19 pandemic will be set on an ad hoc basis as time on the assigned Judicial Officer's calendar allows. In particular, each Judicial Officer's staff will be contacting the petitioner (or, if the petitioner is represented, the petitioner's lawyer) to see whether the petitioner and all other interested persons entitled to notice of the hearing are available at that time (or a very short time in the future) for a telephonic hearing. For the hearing to proceed, all interested persons entitled to notice will need to appear telephonically for the hearing and will need to waive the standard 14 calendars days advance notice required by A.R.S. section 14-5405. In most cases, the 3 interested persons entitled to notice will be limited to the minor's parents and, if the minor is 14 years of age or older, the minor.



7 **Most non-appearance hearings** (hearings that did not require the petitioner’s attendance) that had been set in April 2020 but were vacated due to the COVID-19 pandemic are being reset to times during the week of May 11, 2020. The exceptions are non-appearance hearings that already have been reset for another date in May, June, or July and hearings for which the assigned Judicial Officer has determined the petitioner should be required to appear. For any non-appearance hearing that is being reset to week of May 11th, the assigned Judicial Officer’s staff will be contacting the petitioner (or, if the petitioner is represented, the petitioner’s lawyer) via email with the date and time of the new hearing and instructions as to how the petitioner (or the petitioner’s lawyer) must give notice of the hearing to interested persons. These instructions will include a specific Notice of Hearing form that must be used. The May 13 and May 15 non-appearance hearings will be conducted from East Court Building, Courtroom 513, and the Notice of Hearing must reflect that location and the telephone number for that courtroom (602-372-0270). If you have any question as to whether a particular non-appearance hearing that had been set in April 2020 but was vacated will be reset for May 13 or May 15, contact the Division assigned to that particular case.

8 **The following apply to hearings that are held in April 2020:**

- a.** **In-person attendance** of persons who are neither lawyers involved in the case, parties, nor witnesses (e.g., family members, significant others, friends, etc.) is prohibited.
- b.** **Parties, their lawyers, and witnesses** wishing to participate telephonically in any type of court proceeding are **not** required to file a motion requesting leave to do so. Instead, such person only needs to contact PB-CRTADMSTR@jbazmc.maricopa.gov **by email** to request instructions on **how** to participate telephonically.
- c.** **In-person appearances and testimony by parties, lawyers, and witnesses** are limited to those instances that are absolutely necessary. For uncontested proceedings, parties, lawyers, and witnesses are expected to participate telephonically rather than in-person. For contested proceedings, lawyers and self-represented parties are encouraged to limit in-person testimony to only those witnesses whose credibility is crucial to the court’s determination of a disputed issue. Although AO 2020-043 provides that “all temporary guardianship/conservatorship hearings will proceed in-person unless otherwise ordered or directed by the court,” all persons participating in such hearings are strongly encouraged to do so telephonically. Questions about a specific case should be addressed **by email** to PB-CRTADMSTR@jbazmc.maricopa.gov.
- d.** **For any case in which in-person attendance occurs**, those in attendance will be required to “social distance” consistent with the Center for Disease Control’s guidelines. Currently, that means the persons attending the court proceeding will be required to remain at least six feet from one another.

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- 9 **Orders to Guardian, Orders to Conservator, Orders to Guardian and Conservator, and Orders to Personal Representative** that have been signed by the fiduciary may be submitted electronically to the assigned Division for the assigned Judicial Officer to sign. Specifically, the fiduciary should sign the order to fiduciary and then scan the order to fiduciary and email it to the assigned Division. The subject line of the email should contain the case name and number and the words “Order to Fiduciary.” If a flatbed scanner is not available, the fiduciary may use an app such as Adobe Scan, which is available for free from the Apple App Store and the Google Play Store.
 - 10 **Fiduciaries, their lawyers, and couriers**, as well as anyone designated by the fiduciary or the fiduciary’s lawyer for such purpose, **may** enter court buildings to obtain certified copies of the order appointing the fiduciary and the fiduciary’s letters of appointment.
 - 11 **If a temporary guardian, temporary conservator, or special administrator’s appointment** is set to expire in April or May 2020, that fiduciary (or the fiduciary’s lawyer) should file a motion requesting that the appointment be extended. The title of the motion should state “Accelerated Ruling Request.” Such motions will be liberally granted. **All efforts should be made to file the motion as a stipulated motion.**
 - 12 **If the release of restricted funds** are needed on an emergency (urgent) basis, a request for the release of restricted funds should be made by motion rather than by petition. The title of the motion should state “Accelerated Ruling Request.” **All efforts should be made to file the motion as a stipulated motion.**
 - 13 **Couriers** may enter court buildings to drop off copies of documents in Division inboxes; however, Division staff will not be providing signature verifications.
 - 14 **The Compliance Calendar** has been suspended. Lawyers and parties should not appear for any Compliance Calendar hearings that already have been set. If a party has not complied with a court order by the time of a scheduled Compliance Hearing, the Court automatically will grant an extension of time for the compliance (and will notify the fiduciary in writing of the new deadline). If by the new deadline the fiduciary still has not complied, the matter will be referred to the Judicial Officer assigned to the case to take whatever action that Judicial Officer deems to be appropriate under the circumstances (e.g., setting a telephonic status conference or a telephonic hearing, suspending the fiduciary’s authority, etc.).
 - 15 **Requests for continuances and extensions of deadlines**, as well as requests for special accommodations for persons who are at a high risk of illness from COVID-19 will be liberally granted.
 - 16 **The Department** is in the process of making videoconferencing available to the parties, their lawyers, and witnesses. When such technology becomes available, instructions will be provided.

- * **The Law Library Resource Center (“LLRC”)** has been restricted to provide services only to individuals seeking protective orders. Thus, persons wanting to obtain the Court’s probate forms must do so electronically by going [here](#).
- * Lawyers and parties are reminded that many of the people our Department serves fall within the high risk group. Thus, you are strongly encouraged to ensure that persons who are the subject of a guardianship and/or conservatorship proceeding are properly served with notice of any hearing so their personal attendance at the hearing for the sole purpose of waiving service can be avoided. If service has not been properly and timely effectuated, please consider asking that the hearing be continued.
- * Each Division has only two incoming/outgoing telephone lines, which means we are able to handle only two calls at a time. For this reason, we ask for your patience and understanding as our staff handle our high volume calendars telephonically with limited telephone service.

Division contact information is as follows:

JUDICIAL OFFICER	JUDICIAL ASSISTANT	DIVISION EMAIL
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