

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

**SUPERIOR COURT
CRIMINAL BUSINESS**

**GUIDELINES FOR OPERATION OF MIDDLESEX COUNTY
CRIMINAL SESSIONS DURING COVID-19 PANDEMIC**

The following guidelines are intended to implement the Orders issued by the Supreme Judicial Court on March 13, 2020 and March 17, 2020, and Superior Court Standing Order 3-20 (collectively, “the Orders”). These guidelines supersede the Guidelines for Judges and Clerks Regarding Operation of The Middlesex County Criminal and Civil Sessions Through April 21, 2020, issued March 18, 2020, only as it relates to the criminal sessions.¹ These guidelines remain in effect during the COVID-19 pandemic, and until further notice.

1. Motions to Continue

A. The first session clerks in Woburn and Lowell have authority to grant agreed-upon requests to continue any criminal matter, for a period up to four months from the then-scheduled date.

B. Requests to continue that are not agreed upon, shall be served on opposing counsel and filed with the court. Opposition pleadings must be served and filed within twenty-four hours. The court will rule on the motion without a hearing, or schedule a hearing, which shall be by telephone or video, except as otherwise ordered.

C. The clerk of the Woburn motions session, has authority to grant agreed-upon motions to continue any hearing date. Requests that are not agreed upon shall follow the same procedure set forth in paragraph B. above.

¹ The March 18, 2020 Guidelines remain in effect for the civil sessions.

2. Motions to Amend Conditions of Pre-trial Release or Probation

If the motion is agreed-upon, it may be ruled on by a judge without a hearing. Probation, with the assistance of defense counsel, will arrange for the defendant to sign the revised order of probation conditions or pre-trial conditions. If the motion is not agreed upon, the first session clerk will arrange a hearing by telephone or video with counsel and/or probation. If the defendant is in custody, he/she shall participate by video. If the defendant is not in custody, he/she shall participate by telephone.

3 Arraignments

Unless objected to, all arraignments will be continued to a date after April 21.

If the court sustains an objection to the continuance and the defendant is in custody, the arraignment shall proceed with the defendant participating by video, and counsel participating by telephone.

If the court sustains an objection to the continuance and the defendant is not in custody, the defendant and counsel shall participate by telephone.

Any arraignment conducted without the defendant being physically present, shall be without prejudice to the defendant's right to an in-person arraignment after the expiration of these guidelines.

4. Probation Violation Proceedings

Unless objected to, all probation violation proceedings shall be continued to a date after April 21.

If the court sustains an objection to the continuance, and the defendant is stipulating to the violation, with an agreed-upon dispositional recommendation that does not include a period of incarceration, in the discretion of the court, a hearing may proceed with the defendant and counsel participating by telephone or video.

If the court sustains an objection to the continuance, and the dispositional recommendation involves a period of incarceration, and/or the defendant is not stipulating to the alleged violation, and the defendant is in custody, in the discretion of the court, the hearing may proceed by video and telephone.

If the court sustains an objection to the continuance, and the defendant is not in custody, and the recommendation does not include incarceration, in the discretion of the court, the hearing may proceed by video and/or telephone.

If the court sustains an objection to the continuance, and the defendant is not in custody and the recommendation includes a period of incarceration, arrangements conforming to the requirements of the Orders shall be made for the defendant and counsel to be present in court.

5. Section 58A Hearings

If the defendant is in custody, and the anticipated evidence does not include witnesses, the hearing may proceed by video and telephone, with counsel submitting proposed exhibits to the Courtroom 440 clerk in advance.

If the defendant is not in custody and/or the proposed evidence includes witnesses, arrangements conforming to the requirements of the Orders shall be made for the defendant and counsel to be present in court.

Any 58A hearing conducted without the defendant being physically present, shall be without prejudice to the defendant's right to an in-person hearing after the expiration of these guidelines.

6. Electronic Filings

While these guidelines are in effect, the Woburn court will accept for filing signed pleadings submitted by email to Middlesexfirstsession@jud.state.ma.us.

Attorneys should contact the clerk in Lowell about electronic filings in that court

Laurence D. Pierce
Regional Administrative Justices
Middlesex County

DATE: March 23, 2020