

PROBATE

FAQ:

Q: How is the Probate Department being affected by COVID-19?

A: Except for certain ex parte matters, all Probate Department hearings between March 17, 2020, and May 8, 2020, have been or will be rescheduled (“Closure Period”). Notice of continued hearing dates will be provided by the Court. Temporary letters expiring between March 17, 2020, and April 17, 2020, have been extended by order of the Court in each case. Temporary letters expiring thereafter will be addressed at a later time.

For an unknown period of time, the Court Investigators will not engage in any in-person investigations.

To move matters forward during this time, the Probate Department has also adopted a new Emergency Agreement to Waive Notice and Hearing and to Submit the Matters on the Papers. Please review the guidelines after the Questions and Answer section of this document for use of this new procedure.

Q: The new hearing date I was assigned is not going to work. What should I do?

A: Parties may file a declaration requesting a new hearing date with a proposed order. Suggestions as to what dates are acceptable in July and August 2020 are encouraged within the declaration submitted.

Q: What kinds of Probate Department ex partes are being heard during the Closure Period?

A: Temporary guardianships, temporary conservatorships and special administration petitions are being heard ex parte. *In-person Probate Department ex parte appearances are not anticipated during the Closure Period.*

All ex partes will be assigned an ex parte hearing date for notice purposes. Notice of Hearing or a declaration of diligent search should be provided as required by law for each type of probate ex parte listed above.

Although a hearing date will be assigned, each matter will be determined on the papers and no hearing will be held, unless otherwise ordered. If the Court determines a hearing is needed, the Court will provide notice to the moving party of a *telephonic* hearing date and time. If a telephonic hearing is scheduled, in addition to the notice originally provided under the law for the original ex parte date, a moving party must provide notice of the telephonic hearing as required by California Rules of Court, rules 3.1203 and 3.1204.

Q: My matter has been continued, do I have to give new Notice of Hearing? What about new publication on a Petition to Probate?

A: During the Closure Period, matters continued by the Court will need to be re-noticed by the petitioner/moving party as required by law. This includes Notice of Hearings any other required notice, other than publication.

During the Closure Period *only*, if publication under Probate Code section 8120 et seq. was perfected for the original hearing date scheduled during the Closure Period (or a subsequent continuance date during the Closure Period), new publication will **NOT** be required unless otherwise deemed necessary by the Court.

Q: How quickly will my probate filings be processed?

A: The Court is currently operating with very limited staff for health and safety reasons. Most Probate Department filings will be processed as soon as possible. Emergency documents, as determined by the Court, will be given priority for processing.

Q: How can I contact the Court regarding probate matters?

A: Generally, please [click here](#) for information about e-file, court dates and the drop box. Contact by telephone is reserved for critical or essential court business only. Also, at this time, emails to the Probate Department email at probate@slo.courts.ca.gov is reserved for critical or essential probate business only.

Q: Is there anything I can do to have my matter considered sooner?

A: Yes! The Court will consider Probate Department matters on the papers, subject to the procedures below.

General Process for Emergency Agreement to Waive Notice and Hearing and to Submit Matters on the Papers (“Emergency Agreement”) ([Form E-1P](#))

1. File documents to clear all Probate Notes posted for the matter, if any are already posted. Notes may be posted for the first time or updated following receipt of the Emergency Agreement. If this occurs, the new or updated Probate Notes will need to be cleared by filing appropriate documents, before an updated Emergency Agreement is filed.
2. E-file an Emergency Agreement to Waive Notice and Hearing and to Submit Matters on the Papers ([Form E-1P](#)). Depending on the nature of the petition/application, the request must comply with the requirements listed in the following chart.
3. The Court will review the matter and may: (1) Issue an order on the merits and vacate the current scheduled hearing date; or (2) Confirm the current hearing date; or (3) Reschedule the matter for a future hearing date.
4. If, after filing your Emergency Agreement, your matter is confirmed for a current hearing date or rescheduled, this means the Court has determined your matter should NOT be determined on the papers as currently presented and a hearing is needed. If either occurs one of the two following options are available:
 - a. If new or updated Probate Notes are posted, you may address the Probate Notes and reapply using a new or Amended Emergency Agreement. If there are material changes to your Petition/Application, new signatures may be required.

- b. If no updated Probate Notes exist, your matter is not eligible for re-application and you must wait for the hearing date confirmed/rescheduled for resolution.
5. Any interested person (as defined by Probate Code section 48) whose identity was not known or disclosed at the time of filing the Emergency Agreement, who does not sign the Emergency Agreement, may file a written objection to the Petition/Application no later than 60 days following the Court’s order, and the Court will set the matter for hearing on reconsideration of the order.

Note: If a matter does not fall within any of the guidelines below, then that matter will be heard on (1) the date currently scheduled by the Court or (2) the next available date (for matters not yet scheduled).

All consents must be obtained from interested persons (as defined above) and filed with the Court with the Emergency Agreement. Declarations of due diligence may be filed in place of signed consents/waivers, but also need to be filed with the Emergency Agreement.

If a matter is contested, then the matter will be heard on the next available date or as currently scheduled.

Decedent’s Estates	
Petitions for Probate (DE-111)	Only applicable for matters currently scheduled during the Closure Period. Publication must have occurred for a hearing date scheduled and either already passed or is about to pass. The Emergency Agreement will not be reviewed until the hearing date cited in the filed publication has passed.
Spousal Property Petitions (DE-221)	
Petitions to Determine Succession (DE-310)	
Petitions for Final Distribution	
Status Reports of Administration (Prob. Code, §12201.)	

Trusts	
	<p>If the parties reach any stipulation concerning any requested relief, please file said stipulation and proposed order along with the Emergency Agreement.</p> <p>*See instructions for Special Needs Trust accountings below (Only for trusts subject to California Rules of Court, rule 7.903.)</p>

Probate Conservatorships	
Temporary (non-LPS) Conservatorship Appointments (GC-111)	<p>If the proposed conservatee is represented, court-appointed counsel must sign the Emergency Agreement.</p> <p>If the proposed conservatee is not represented by court-appointed counsel or said counsel does not sign, the Emergency Agreement may not be used and the ex parte matter will be heard as described above in the frequently asked questions.</p>
General (non-LPS) Conservatorship Appointments (GC-310)	<p>The full Court Investigator Report must have been completed in the matter unless otherwise ordered by the Court.</p> <p>In addition to the above:</p> <ul style="list-style-type: none"> • If the proposed conservatee is represented, court-appointed counsel must sign the Emergency Agreement. • If the proposed conservatee is not represented by court-appointed counsel or said counsel does not sign, the Emergency Agreement may not be used.
Conservatorship/ Court Supervised Special Needs Trusts Accountings (Cal. Rule of Court, rule 7.903).	<p>The formal Court Account Review must have been completed or prior Probate Notes with a full review must have been posted.</p> <p>In addition to the above:</p> <ul style="list-style-type: none"> • If the proposed conservatee/ beneficiary is represented, court-appointed counsel must sign the Emergency Agreement. • If the proposed conservatee is not represented by court-appointed counsel or counsel does sign, the Emergency Agreement may not be used.

Guardianships	
Temporary Guardianship Appointments (GC-110)	<p>All living parents and the minor, if over 12, must sign the Emergency Agreement or a declaration of diligent search must be provided.</p> <p>If all signatures cannot be obtained, the Emergency Agreement may not be used and the ex parte matter will be heard as described above in the frequently asked questions.</p>
General Guardianship Appointments (GC-210)	<p>The full Court Investigator Report must have been completed in the matter unless otherwise ordered by the Court.</p> <p>In addition to the above:</p> <ul style="list-style-type: none"> • All living parents, any proposed ward over 12 and relatives in the second degree must sign the Emergency Agreement, or a declaration of diligent search must be provided. • If all signatures cannot be obtained or the declarations of diligent search are not provided, the Emergency Agreement may not be used. <p>If no temporary guardianship is in effect, and one is needed, parties must file a petition for temporary guardianship for the Court to consider as described in the frequently asked questions above.</p>
Fixing Residence Outside of California (GC-085)	<p>Signatures of all parties who would be due notice under Probate Code section 2352, subdivision (c) must be on the Emergency Agreement.</p> <p>Declarations of diligent search are also acceptable.</p> <p>No parental visitation orders may in effect.</p>
Visitation	<p>The Guardian and Petitioner must sign the Emergency Agreement.</p> <p>Mediation is not available from Family Court Services at this time.</p>
Termination	<p>Guardians, parents, and parties that fall under Probate Code section 1601 must sign the Emergency Agreement.</p> <p>Declarations of diligent search are also acceptable.</p>

Guardianship Accountings	<p>The formal Court Account Review must have been completed or prior Probate Notes with a full review must have been posted.</p> <p>In addition:</p> <ul style="list-style-type: none">• The Emergency Agreement must be signed by all parties due notice under Probate Code section 1460. Declarations of diligent search are also acceptable.• If all signatures cannot be obtained or declarations of diligent search are not provided, the Emergency Agreement may not be used and notice must be provided as required by law.
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