

IN THE SOUTHERN UTE TRIBAL COURT
ON THE SOUTHERN UTE INDIAN RESERVATION

ADMINISTRATIVE ORDER 2020-02

ADMINISTRATIVE ORDER IN RESPONSE TO THE COVID-19 OUTBREAK

WHEREAS, the emergence of the COVID-19 virus has created a public health emergency, the Southern Ute Tribal Court shall take all measures reasonably necessary to protect the health of Tribal elders, Southern Ute Tribal membership, Southern Ute community, litigants, and court staff from the COVID-19 virus.

WHEREAS, the Chief Judge of the Southern Ute Tribal Court possesses the inherent authority to establish such standards and procedures by administrative order.

NOW, THEREFORE, IT IS ORDERED THAT:

Effective Monday, May 11, 2020, and continuing until further notice and order of the court, the Southern Ute Tribal Court shall hear cases that directly affect public safety or are mandated to be heard pursuant to the Southern Ute Tribal Code. Such cases include:

1. Petitions for protection orders;
2. First appearance advisements for incarcerated persons and the setting of bail;
3. Revocation hearings involving an incarcerated defendant;
4. Proceedings necessary to protect the rights of criminal defendants, pursuant to the Indian Civil Rights Act and the Southern Ute Tribal Code;
5. Detention hearings for juvenile delinquency cases;
6. Dependency and neglect cases, as required by the Southern Ute Tribal Code;
7. Involuntary commitment hearings;
8. At-risk adult or juvenile hearings, if emergency;
9. Emergency custody matters or other domestic issues requiring immediate attention;
10. Other proceedings deemed necessary by a Southern Ute Tribal Court judge to protect the health, safety, or welfare of an individual or members of the community.

The Court shall also hear a limited number of hearings and trials, which may not be deemed to fit into one of the above-listed categories; however, those non-essential hearings shall be conducted completely by telephone, Webex, Zoom, or other electronic methods. An in-person appearance shall only be permitted by specific discretion of the presiding judge.

All persons entering the Tribal Court Justice Center shall abide by the Southern Ute Indian Tribe's directives requiring social distancing of at least 6 feet. Masks or facial coverings must be worn, as required by the Southern Ute Indian Tribe. All

visitors to the Tribal Court must complete a required health screening before entry. Anyone entering the Tribal Court must follow directions provided as they concern COVID-19 precautions.

The clerk's office, probation services, and family court support office shall operate on minimal staffing. The attorneys and public are encouraged to communicate with the court via email or telephone to avoid any unnecessary appearances at the Southern Ute Tribal Court. The court's hours of operation shall be on Monday through Thursday, from 8:00 a.m. to 5:00 p.m. (closed for lunch from noon to 1:00 p.m.). The Court shall be available for emergencies on Fridays and the public may speak to a Court Clerk from 8:00 a.m. to 5:00 p.m. on Fridays (closed for lunch from 12:00 p.m. to 1:00 p.m.).

The clerk of the court shall keep updated information on the telephone answering service (970.563.0240). The hours of operation may change as conditions require and if in the interest of the Southern Ute Tribe and its employees. Notice of the court's hours of operation shall be posted on the door at the entrance to the Southern Ute Tribal Court and on its telephone answering system.

Alternatives to Physical Appearance in Court

For all civil trial matters, the practice shall be that all attorneys, lay advocates, parties, and witnesses testify by Webex, Zoom, or telephone. Upon request of a party, the presiding judge may allow in-person testimony.

For all criminal cases, the judges shall establish procedures to maximize the ability of criminal defendants to appear by Webex, Zoom, or telephone where constitutionally and legally permissible.

Where applicable, defense attorneys need not obtain the signature of a defendant, where instead the attorney may sign and represent the wishes and understanding of a client. This is to allow for the safety of defense attorneys to communicate with their clients by telephone and file pleadings on their clients' behalf.

The Court finds that for those identified as part of a vulnerable or at-risk population by the Center for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other cases, the COVID-19 crisis may constitute a "material change in circumstances" and "new information" allowing for the amendment of a previous bail order or providing different conditions of release, but the finding of changed circumstances is left to the sound discretion of the presiding judge.

Parties may present agreed orders for release of in-custody defendants, which should be presented to the court without the need of a hearing.

If a hearing is required for a vulnerable or at-risk person, the court shall schedule a hearing, which shall be expedited with due consideration of the rights of witnesses and victims to participate in a safe environment.

The courts will utilize Webex, Zoom or telephonic hearings for any scheduled criminal hearings, unless impossible. For all critical stages and hearings, courts shall provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney. Webex, Zoom, or Telephonic hearings must be recorded and preserved for the record.

For civil protection orders, the Court finds “good cause” to extend an initial temporary protection order beyond the 14 days within which to hold the permanent protection order, pursuant to the SUT §2-2-103(5). The Court shall further allow for service on the Defendant by way of mail, rather than personal service. This provision does not relieve the prosecution of proving a knowing violation of such an order. Good cause exists to extend any temporary ex parte orders beyond the initial period until a hearing can be held in a safe environment for the plaintiff, defendant and witnesses.

The presiding judges will allow the prosecutor and defense counsel to stipulate that when nothing of substance will occur at a scheduled hearing, then the defense attorney may appear in court or telephonically in lieu of the defendant’s appearance without prior court order.

If, upon motion in a criminal case, a criminal defendant who has a compromised immune system or is over the age of 55, the court shall attempt to continue the defendant’s case to later date to minimize health risks.

Notice to the Public

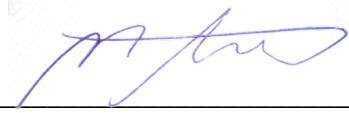
The clerk of the court shall post the following notice at the entrance of the Justice Building and other locations in the courthouse:

The Southern Ute Tribal Court provides essential services to the public and we will endeavor to maintain operations to the fullest extent possible, while protecting the Southern Ute Tribal community, employees, and litigants. We understand there is concern about the COVID-19 virus and so we are requiring that you PLEASE NOT COME TO THE COURTHOUSE, PROBATION, OR FAMILY COURT SUPPORT OFFICE if: (1) you have been diagnosed with COVID-19 and you have not received a subsequent test confirming you are currently virus-free; (2) you have been in direct contact with someone who has been diagnosed with COVID-19 within the past fourteen days; (3) you are experiencing a fever, cough, shortness of breath, or any other respiratory illness symptom. If any of these three criteria apply please call the clerk’s office at 970.563.0240 to reschedule your court date or request to appear by telephone if you are not represented by an attorney, or contact your attorney to file a request for a continuance or a telephone appearance. If you are a witness in a case, please contact the attorney or party issuing the subpoena to explain the circumstances and discuss the available options. If you are summoned to report for jury duty, please call the court to request an excuse. Please call the probation department or family court support office to reschedule any appointment if any of the three listed criteria apply to you.

Until further notice, the court will permit and require (as directed by the Southern Ute Tribe) persons to wear surgical masks and gloves in court. It is also permissible to bring small plastic containers of hand sanitizer into court and its probation and family court support offices. Please remit any criminal or traffic payments using the Tribal Court’s online payment system found at www.citepayusa.com.

This administrative order shall remain in effect until further order of the Court.

DONE AND SIGNED THIS SIXTH DAY OF MAY, 2020.



M. SCOTT MOORE
CHIEF JUDGE, SOUTHERN UTE TRIBE