

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

ADMINISTRATIVE ORDER 2021-02

MODIFIED ADMINISTRATIVE ORDER IN RESPONSE TO THE COVID-19  
OUTBREAK

WHEREAS, the COVID-19 virus has created a public health emergency, and 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 Southern Ute Tribe, the State of Colorado, and the Southern Ute Indian community have worked to minimize the risk of all people in the face of COVID-19. Virtually every segment of the Southern Ute Indian Tribe has been impacted by this virus. The Southern Ute Tribal Court is not insulated from the impact of this virus and it has necessarily adjusted its operations to provide essential court services, while striking a balance between fulfilling our responsibilities and promoting public safety. While it has not always been easy, the Tribal Court has successfully accomplished much of its essential work under these trying circumstances.

WHEREAS, the Southern Ute Indian Tribe has carefully crafted plans to safely reopen its operations. The Southern Ute Indian Tribe recently approved less restrictive mandates of protection when it moved to Phase 2, Level 1, within its Safer-at-Home orders.

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, June 28, 2021, and continuing until further notice and order of the Court, the Southern Ute Tribal Court shall continue to hear all matters. However, most cases shall be heard remotely, unless the presiding judge allows for an in-person appearance.

Modified Operations of the Court

All employees and people entering the Tribal Court shall follow the Southern Ute Indian Tribe's mandate to wear an appropriate face covering, maintain social distancing, and refrain from entering the Tribal Court if exhibiting COVID-19 symptoms. Pursuant to the Southern Ute Indian Tribe's mandates, face coverings shall not be required inside the Tribal Court buildings for persons who are vaccinated. Proof of vaccination will be required prior to entry of the courtrooms or a face covering must be worn. Witnesses may be allowed to testify without face coverings when the witness provides proof of vaccination or when the courtroom is equipped with plexiglass shields.

All Tribal Court employees shall adhere to the Southern Ute Tribal policies and requirements as set forth by the Incident Management Team and the Southern Ute Tribal government.

All Tribal Court services shall be available by telephone and email from Monday through Friday from 8:00 a.m. to 5:00 p.m. Attorneys and the public are encouraged to communicate with the Court via email, remote technology and telephone to avoid any unnecessary appearances at the Southern Ute Tribal Court.

The Tribal Court Clerk's window shall be open for in-person business only Mondays through Fridays between the hours of 8:00 a.m. and 12:00 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 Indian 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, on its telephone answering system, and on the Tribe's website: <https://www.southernute-nsn.gov/tribal-court/>

The Probation Office shall also be available by telephone during normal business hours. The window at the probation office shall be open to the public Mondays through Thursdays between the hours of 8:00 a.m. and 12:00 p.m.

The Office of Family Court Support shall provide services both in-person and remotely, depending upon safety concerns and urgency of the situation.

### Alternatives to Physical Appearance in Court

For all civil trial matters, the standard practice shall be that all parties and witnesses testify by remote technology (Zoom/Webex/telephone). Upon request of a party, the judge may allow in-person testimony. If in-person testimony or appearances are required, then the Court may set the cases for a future date when such appearances may be hosted in a safe manner.

Emergency hearings or hearings required to be heard by law shall be held, but courtroom appearances shall be minimized to the extent possible. Requests for in-person hearings must be submitted in advance such that the Court can make necessary arrangements.

For all criminal cases, the judges shall establish procedures to maximize the ability of criminal defendants to appear remotely where constitutionally and legally permissible.

Hearings for all defendants who are not incarcerated shall be heard remotely. If a defendant requires to be present for a hearing, the defendant must file the request for consideration. The defendant and plaintiff shall be responsible for the arrangements to allow for each party's witnesses to appear remotely and for evidence to be admitted using remote technology.

Jury trials shall be permissible beginning in Phase 3 of the Southern Ute Tribe's COVID-19 plans. Pursuant to the Southern Ute Indian Tribal Code, the Court finds the delay of criminal trials beyond the 90-day speedy trial period to be "necessary",

when a remote hearing is deemed insufficient. Bench trials may be in-person or remote, depending upon the needs of the parties and the judge's final determination on the safety of such a hearing.

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 persons 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.

Beginning in Phase 3 of the Southern Ute Indian Tribe's COVID-19 phased reopening orders, the Tribal Court will begin to hear arraignments in-person, as well as other criminal proceedings when deemed appropriate by the presiding judge. Civil traffic, wildlife, and other infractions shall continue to be heard remotely, unless written permission to appear in-person is granted by the presiding judge.

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 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 symptoms indicating you may have COVID-19. If any of these three criteria apply please call the Court 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. 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 Tribal Court will require either proof of an approved COVID-19 vaccination or a face covering / mask must be worn in the Southern Ute Tribal courtroom. Please remit any criminal or traffic payments using the Tribal Court's online payment system found at [www.citepayusa.com](http://www.citepayusa.com), if possible.

This administrative order may be modified as conditions warrant.

DONE AND SIGNED THIS 28th DAY OF June, 2021.

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M. SCOTT MOORE  
CHIEF JUDGE, SOUTHERN UTE TRIBE