

IN THE UTAH SUPREME COURT and UTAH JUDICIAL COUNCIL

Administrative Order for Court Operations During Pandemic

ADMINISTRATIVE ORDER June 24, 2022

Beginning on March 13, 2020 the Chief Justice, on behalf of the Judicial Council and the Supreme Court, issued a series of Administrative Orders for Court Operations During the Pandemic (Administrative Order) to respond to the recommendations of the Centers for Disease Control (CDC), the Utah Department of Health, and local health experts for avoiding the spread of COVID-19 and its variants. The Judiciary continues to be in the unique position of having authority to compel individuals to attend court proceedings in person. Throughout the pandemic the judiciary has consistently focused on the safety of patrons and court personnel. The Judiciary will continue that focus while also recognizing the benefits associated with vaccination and the continuing modifications to the CDC recommendations.

Each Administrative Order has superseded the previous Administrative Order. The last Administrative Order dated April 11, 2022 suspended the September 17, 2021 Administrative Order for courts located in a county designated by the CDC COVID Data Tracker as a low or medium community level county, but required courts located in a county designated as a high community level county to follow the September 17, 2021 Administrative Order and operate under the Yellow Phase of the Risk Phase Response Plan.

This Order supersedes all previous Orders, including the Risk Phase Response Plan and operations under the Green, Yellow or Red Phase of operations, and clarifies that the Judiciary will continue to follow the CDC guidelines for communities that are designated as low, medium or high community level counties by the CDC data tracker.

To the extent any provision of this Administrative Order conflicts with the Utah Code of Judicial Administration or with a rule of procedure or evidence, the provision in this Administrative Order will govern. The provisions of this Administrative Order are therefore subject to the same types of challenges that could be raised against a rule of administration, procedure, or evidence. Rules 2-205 and 11-105(5)(B) of the Utah Rules of Judicial Administration are suspended to the extent they require a rule amendment that has been adopted on an expedited basis to be immediately published for comment and to be published for 45 days. Rule amendments will be published for public comment as directed by the body that adopts the rule, including reducing the time for public comment.

IT IS HEREBY ORDERED:

General Orders and Orders Applicable to All Courts

1. Presiding judges, trial court executives, clerks of court, guardian ad litem managing attorneys, and chief probation officers should implement the changes to court operations as a result of this order in coordination with community partners, such as sheriffs, jails, prosecutors, and defense attorneys. Each judicial district shall designate a person to weekly check the CDC COVID Data Tracker to determine the county community level and adjust the court's operations accordingly. The designated person shall also check the CDC Quarantine and Isolation Calculator and inform their bench of any changes to the quarantine or isolation standards. For purposes of this Administrative Order:

The CDC COVID Data Tracker can be found at:

https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=all_states&list_select_county=all_counties&data-type=CommunityLevels&null=CommunityLevels

The CDC Quarantine and Isolation Calculator can be found at:

<https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html#>

2. Except as provided in paragraph 3 or this order, Courts in the state are authorized to continue in person proceedings, including jury trials, and must follow the CDC recommendations for the county community level. Those recommendations and an explanation of how they apply to the Courts are found in the document titled *Management Committee's COVID-19 Community Level Instructions*.
3. Courts in Community Level High may not hold law and motion calendars with more than 10 cases set at the same time or convene a large gathering for purposes of selecting a jury, unless approved in advance by the Management Committee.
4. Presiding judges may issue whatever orders are necessary to facilitate remote transmission of court hearings and to implement all other provisions of this Administrative Order. Orders issued by presiding judges or individual judges before the effective date of this Administrative Order that are consistent with this Administrative Order remain in effect. Orders may be issued hereafter by presiding judges or individual judges provided they are consistent with this Administrative Order.

Judicial Council Temporary Rule Modifications

The Utah Judicial Council continues the following temporary rule modifications.

5. The calculation of time for determining juror terms of availability under rule 4- 404(2)(B) of the Utah Rules of Judicial Administration is suspended. The suspension will be lifted for a particular court when jury trials resume in that court.
6. Rule 4-404(6)(C)(i) is amended as follows: The summons may be by first class mail delivered to the address provided on the juror qualification form, by email to the email address provided on the juror qualification form, or by telephone.

Supreme Court Order for Temporary Rule Modifications

The Utah Supreme Court continues the following temporary rule modifications.

Orders Applicable to All Courts

7. Rule 17(a) of the Utah Rules of Criminal Procedure is amended to include the following: In all cases tried to the bench, a defendant may waive the right to appear in person at trial and consent to appear through video conferencing if the defendant has an effective opportunity to participate, which includes the ability to view trial participants and to meaningfully interact with counsel of record in real time. "Trial participants" is defined to include the judge and testifying witnesses. The defendant's waiver and consent must be on the record and the court must make findings that the waiver and consent are voluntary.

Orders Applicable to District Courts

Criminal Cases

8. Rule 17.5(b) of the Utah Rules of Criminal Procedure is suspended in infraction cases and to the extent it requires the prosecution's consent in other cases. The parties' consent is not required for a bench trial by remote transmission in an infraction case and a defendant may consent to a bench trial in other cases. Bench trials will be conducted as scheduled unless the court determines it is not reasonably practical to do so in a particular case, given the issues and anticipated evidence.

Civil Cases

9. Rule 26.3 of the Utah Rules of Civil Procedure is temporarily amended. In unlawful detainer cases under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, the plaintiff shall include a completed form declaration, disclosing information relevant to federal, state, and local COVID relief law. Such declaration shall be provided with the

required Rule 26.3(b)(1) disclosures. Rule 55 of the Utah Rules of Civil Procedure is also temporarily amended. The court may not enter default judgment in unlawful detainer cases under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the plaintiff has submitted to the court a completed form declaration showing compliance with federal, state, and local COVID relief law. A sample form declaration will be available on the Utah State Courts website after review by the Judicial Council

Orders Applicable to Juvenile Courts

10. Any child welfare, delinquency, or protective order timeline may be extended by the court.
11. With respect to any court hearings or reports, any persons who provide information to the court shall obtain that information in a manner that is consistent with federal, state, and local law or directives and the policies and procedures of their agency or organization. In the event sufficient information cannot be safely obtained in this manner, the court shall continue that hearing until the information can be safely obtained.

Orders Applicable to Justice Courts

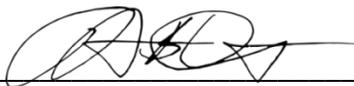
13. Rule 17.5(b) of the Utah Rules of Criminal Procedure is suspended in infraction cases and to the extent it requires the prosecution's consent in other cases. The parties' consent is not required for a bench trial by remote transmission in an infraction case or for a small claims hearing, and a defendant may consent to a bench trial in other cases. Bench trials and small claims hearings will proceed as scheduled unless the court determines it is not reasonably practical to do so in a particular case, given the issues and anticipated evidence.

Order Subject to Amendment

15. This Order may be amended at any time to respond to changed conditions.

DATED this 24th Day of June, 2022

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MATTHEW B. DURRANT
Presiding Officer, Utah Judicial Council



MATTHEW B. DURRANT
Chief Justice, Utah Supreme Court