

SIXTH JUDICIAL DISTRICT
(La Plata, San Juan, and Archuleta Counties)

Second Amended Administrative Order No. 2020-3

ADMINISTRATIVE ORDER RESPONDING TO THE COVID-19 OUTBREAK

Whereas, the emergence of the COVID-19 virus has created a public health emergency, the courts of the Sixth Judicial District shall take all measures reasonably necessary to protect the health of the public, litigants, court staff, and probation staff from the COVID-19 virus. It is therefore ORDERED that:

Effective immediately and continuing until further order of the Chief Judge, which will be made in conformance with the orders of the Chief Justice of the Colorado Supreme Court, the courts, including the probation offices, shall only hear cases that directly affect public safety. Such cases include:

1. Petitions for temporary civil protection orders and permanent protection order hearings;
2. Petitions for temporary emergency risk protection orders and hearings on emergency risk protection orders;
3. First-appearance advisements for incarcerated persons and the initial setting of bail;
4. Revocation hearings on complaints to revoke probation involving an incarcerated defendant;
5. Proceedings necessary to protect the constitutional rights of criminal defendants, including bond-related matters and plea agreements for incarcerated individuals;
6. Detention hearings for juvenile delinquency cases;
7. Shelter hearings in dependency and neglect cases or other juvenile proceedings;
8. Petitions for appointment of an emergency guardian and/or special conservator;
9. Hearings on motions to restrict parenting time and parental abduction prevention;
10. Emergency mental health proceedings;
11. A limited number of hearings and trials in other cases may be held so long as such hearings and trials can be conducted completely by telephone or Webex. This order should not be construed to overrule C. R. Crim. P. 43 as amended regarding which hearings or trials may be conducted remotely. Whether any hearing will be heard by telephone or Webex shall be solely at the discretion of the presiding judge who shall consider court staffing and the other judges' scheduling issues prior to setting such telephone hearing or trial: and,
12. Other proceedings deemed necessary by Chief Judge Wilson to prevent a substantial risk of imminent financial hardship, or imminent risk to the health, safety, or welfare of an individual or members of the community.

The clerks' offices and probation office shall operate on minimal staffing. The attorneys and the public are therefore encouraged to communicate with court staff via email or telephone to avoid any unnecessary personal appearances at any courthouse in the Sixth Judicial District.

Arrest Warrants

In order to relieve the overcrowding of the jails in the Sixth Judicial District and other jails throughout the State of Colorado during the COVID-19 pandemic, the judges and magistrates of the Sixth Judicial District are hereby authorized to review any outstanding arrest warrants and to temporarily cancel appropriate arrest warrants. The judges and magistrates shall use their best judgment (including a consideration as to the nature of the offense(s) alleged) in determining which individuals do not pose a risk to public safety in deciding which arrest warrants to cancel. The clerk's office shall reinstate the canceled warrants once this order or any subsequent amended version of this order is no longer in effect.

Jury Trials

There shall be no jury trials held in the 6th Judicial District unless imminent speedy trial issues exist, or exceptional circumstances apply. This order shall remain in effect until further order of the Chief Judge, which will be made in conformance with the orders of the Chief Justice of the Colorado Supreme Court. The decision as to whether a jury will be impaneled in particular cases where imminent speedy trial issues exist, or exceptional circumstances apply, shall be the sole responsibility of the chief judge.

Limitations on and Alternatives to Physical Appearance in Court

For all evidentiary hearings and for civil trials, the standard practice shall be that all witnesses shall testify by telephone. Upon request of a party, the judge hearing a case may allow in-person testimony. Due to the Confrontation Clauses of the Sixth Amendment of the United States Constitution and Section 16 of Article II of the Colorado Constitution, this paragraph shall not apply to criminal trials.

For all criminal cases where the defendants are in custody, all appearances that can be conducted via telephone or video conference shall be so conducted.

For all criminal docket day appearances, the judge of each court shall establish procedures that will maximize the ability of criminal defendants to appear by telephone in all appropriate cases.

For all in-custody criminal docket day appearances that cannot be heard via telephone or video conference, the sheriff transporting such defendants shall not transport more than 6 such defendants to court at any one time.

Effective immediately, any law enforcement officer seeking an arrest warrant, search warrant, or request for production of documents shall use the Sixth Judicial District on-call warrant procedure at all times. Law enforcement officers shall not bring these documents to any judge or magistrate unless specifically authorized to do so.

The judges in this district are also encouraged, but not required, to allow the prosecutor and defense counsel to stipulate that, when nothing of substance will occur at a scheduled hearing, defense counsel may appear in lieu of any appearance by the defendant without prior court order.

Upon a motion in a criminal case being filed that a criminal defendant has a heart condition, diabetes, lung disease, is 60 years of age or older, or suffers from any other serious health condition, the judges in this district are encouraged, but not required, to continue the defendant's case until sometime after June 1, 2020, so long as the motion contains a waiver of the defendant's rights to a speedy trial.

Probation

Probation officers are to limit nonessential probationer traffic in the courthouse. Until further notified, face-to-face contact standards are modified to include the use of telephones and email communication in lieu of having the probationer report to the courthouse for appointments. This includes minimum, medium, and maximum risk level probationers. Presentence investigation report appointments and alcohol evaluation appointments may also be conducted through telephone, email, or other means of technology. If a probation officer has the ability and wishes to conduct work remotely from home, the officer may do so until further notified.

Collections and Self-Help Coordinator

The collections office and self-help coordinator shall immediately develop and implement plans to conduct as much of their business as possible by use of telephone, email, or other electronic means.

Rule 120 and FED Hearings

Consistent with the HUD moratorium, until the HUD moratorium on the foreclosure of single-family FHA-insured mortgages is lifted, the courts will not authorize any sales pursuant to CRCP 120 unless the petitioner certifies that the property is not subject to the HUD moratorium.

The courts will not conduct any Forcible Entry and Detainer hearings, including hearings by telephone.

Posting of Notice

Each clerk's office shall post the following notice at the entrance to each courthouse and other appropriate locations in each courthouse:

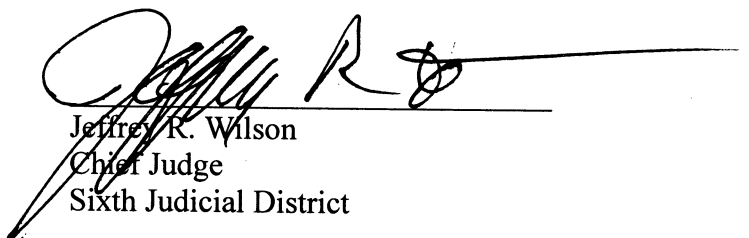
NOTICE REGARDING COVID-19 (THE NOVEL CORONAVIRUS)

The courts and probation department provide important and essential services to the public and we will endeavor to maintain normal operations to the fullest extent possible. We understand there is concern about COVID-19 and the 6th Judicial District is requesting that you PLEASE NOT COME TO THE COURTHOUSE, PROBATION, OR PRETRIAL SERVICES if: (1) you have been diagnosed with COVID-19 (“Novel Coronavirus”) and you have not received a subsequent test confirming that you are currently virus-free; (2) you have been in direct contact with someone who has been diagnosed with COVID-19 within the past 14(fourteen) days; (3) you are experiencing a fever, cough, shortness of breath, or any other respiratory illness symptoms. If any of these three criteria apply, please call the clerk’s office at [insert appropriate phone number] 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 subpoenaed as a witness in a case, please contact the attorney or party issuing the subpoena to explain the circumstances and discuss the options available. If you are summoned to report for jury duty, please contact the jury commissioner at [insert appropriate phone number] to reschedule your jury service. Please call to reschedule appointments with the probation department [insert appropriate phone number], collections [insert appropriate phone number].

Until further notice, the court will permit persons to wear surgical masks and gloves in court and probation buildings if they so desire. Persons may also bring small plastic containers of hand sanitizer into courthouses.

This Order may be extended, shortened, and/or modified as conditions warrant.

SO ORDERED this 51 day of April, 2020, *Nunc Pro Tunc* 3/30/20.


Jeffrey R. Wilson
Chief Judge
Sixth Judicial District

cc: 6th Judicial Probation
SWC Bar Association
All Law Enforcement Agencies, 6th Judicial District
Judges and Magistrates, 6th Judicial District