

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **March 18, 2020**

3 **NO. 20-8500-004**

4 **IN THE MATTER OF**
5 **TEMPORARY CASE MANGEMENT PROTOCOLS**
6 **FOR CHILDREN’S COURT CASES IN THE**
7 **NEW MEXICO JUDICIARY DURING THE**
8 **COVID-19 PUBLIC HEALTH EMERGENCY**

9 **ORDER**

10 WHEREAS, this matter having come before the Court upon
11 recommendation to allow district courts to adopt case management protocols used
12 by the Children’s Court Division in the Second Judicial District Court during the
13 current COVID-19 public health emergency, and the Court having considered the
14 recommendation and being sufficiently advised, Chief Justice Judith K. Nakamura,
15 Justice Barbara J. Vigil, Justice Michael E. Vigil, Justice C. Shannon Bacon, and
16 Justice David K. Thomson concurring;

17 NOW, THEREFORE, IT IS ORDERED that the district court in each
18 judicial district shall be authorized to implement case management protocols
19 consistent with those used by the Children’s Court Division in the Second Judicial
20 District Court, a copy of which is attached to this order, provided that each judicial
21 district shall have discretion with regard to the following matters:

- 22 1. Each judicial district shall have the discretion to decide whether to
23 authorize telephonic or audio-visual attendance for court appearances by attorneys,

1 litigants, and witnesses and whether to require the filing of motions and orders to
2 authorize remote appearances. Any Children's Court Rules that may require the
3 presence of a party or witness in court may be accomplished through remote
4 telephonic or audio-visual appearance, provided that a means of confidential
5 communication between a party and the party's counsel is made available and
6 subject to the discretion of the judge to require a child over the age of 14 or any
7 other party or witness to appear in person as warranted on a case-by-case basis;
8 and

9
10 2. Each judicial district shall have the discretion to adopt temporary
11 local procedures for accepting filings by email from attorneys in proceedings
12 arising under the Children's Court Rules. Applicable provisions in the Children's
13 Court Rules addressing the filing of documents in children's court proceedings by
14 email are temporarily suspended to the extent necessary to accommodate local
15 procedures adopted by courts under the terms of this order for filing pleadings,
16 orders, and other documents by email during the current public health emergency;

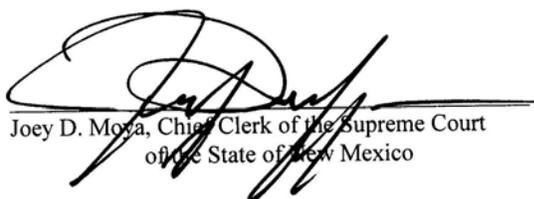
17
18 IT IS FURTHER ORDERED that case management protocols implemented
19 by a judicial district under the terms of this order for children's court cases shall
20 otherwise comply with all precautionary measures required by Supreme Court
21 Administrative Order No. 20-8500-002 filed on March 17, 2020; and

22 IT IS FURTHER ORDERED that this order shall remain in effect until
23 amended or withdrawn by future order of the Court.

24 IT IS SO ORDERED.



WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 18th day of March, 2020.


Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico

CHILDREN'S COURT DIVISION SECOND JUDICIAL DISTRICT COURT POLICY

TEMPORARY EMAILING OF PLEADINGS

We are still working on procedures for emailing pleadings but wanted to provide you some initial information. We are working on getting a separate JQ email address but until you receive that update, please use the one below:

jjc-calclerks-grp@nmcourts.gov

For any pleading after CYFD has initiated a case, please ensure the ***children's initial are used in the caption and text of a pleading, and not the child's full name***. Please allow at least 24 hours before the same is available in SOPA.

If you have filed any emergency motion, please alert the judges staff. The clerk's office will be making every effort to do the same. Please do not call the clerk's office to check on matters if at all possible. If there are longer delays in getting pleadings into SOPA we will make every effort to update you.

Now more so than ever, every motion must note the position of all parties consistent with Rule 10-111. Proposed forms of orders should reflect positions of parties and shall be emailed with the motion. All pleadings must be signed by counsel mailing the pleading. An unsigned pleading violates Rule 10-115. Electronic signatures are acceptable.

The Court will be emailing Notice of Hearings for all matters at this time. Court staff will also only utilize children's initials on pleading captions.

NO ONE HAS TO FILE A MOTION AND ORDER FOR TELEPHONIC APPEARANCE UNTIL FURTHER NOTICE. PLEASE DO NOT FILL UP THE EMAIL BOX WITH THE SAME.

SOCIAL DISTANCING IN COURT

Where in person hearings are necessary (where time limits are at issue) the court will practice Social Distancing. This includes placing a podium away from the bench at tables. Parties sitting apart at tables including moving to the gallery when necessary, parties approaching podium one by one to address the court/witness. PLEASE MAKE EFFORTS TO ENSURE NO PARTY BRINGS FAMILY OR FRIENDS TO COURT PROCEEDINGS.

NO ONE SHOULD ATTEND IN PERSON IF THEY ARE SHOWING SIGNS OF ILLNESS

Telephonic appearances are permitted in this circumstance. If your personal attendance is not necessary to a hearing, you are not required to be present and may appear by phone.

HIGH RISK CATEGORIES

If you meet or believe you fall under the high risk criteria as outlined by the Department of Health for high risk, such as autoimmune disorders, chronic illness, out of state/country travel quarantine, etc, please do not appear in person in Court. Start communications with opposing counsel and file any appropriate motions. We will do our best to set telephonic motions on requests to vacate when there is not full agreement on issues.

MEDIATIONS

All mediations are cancelled for the week of 3/16/2020. Once conference calls lines are in place the matter will be revisited for the following weeks. At this time anticipate meditations by conference call only, for the next 30 days.

MEET AND CONFER ELECTRONICALLY- OTHER TELEPHONIC APPEARANCES

Please meet and confer on any hearing prior to presenting for any IN PERSON hearing. If there is a lack of service, if there is a good faith belief that a hearing may need to be reset due to illness or non-availability please confer with each other. PARTIES MAY AGREE TO APPEAR BY PHONE FOR ADJUDICATIONS/CUSTODY HEARINGS IF ITS STIPULATED IN WRITING AND SUBMITTED TO THE COURT. For the health and safety of your, your clients, public and staff, WE DO NOT WANT YOU TO COME TO COURT EXCEPT WHEN IT IS ESSENTIAL.

CLEANING OF COURTHOUSE

We want you to know that the Court and County have been working to increase the safety of all individuals at the Court. There are extra efforts at disinfecting every day. Staff have disinfecting wipes, hand sanitizer and disinfectant spray and routinely clean before and after each hearing. If you feel like you need to utilize a cleaning product or have a concern, please alert Court staff and they will assist.

COMMUNICATION WITH CLIENTS and OTHER INTERESTED PARTIES/ICWA

Please keep your clients updated on telephonic v. in person hearings and ensure they continue communication with you on this issue over the next weeks and months. CYFD and GALs should both strive to provide foster parents and children conference call or phone information for them to attend hearings.

No Adjudication or TPR will proceed without an ICWA representatives on ICWA cases. Please be aware that many tribes and pueblos have closed. CYFD shall ensure QEW is available for any hearing or file an appropriate motion. If a tribal member is not available for a permanency or judicial review hearing, the Department will be required to put language in any Court order that the tribe may reopen the hearing by request made within 30 days. The Department shall immediately email the tribal representative the same information. Tribes may have additional time if they demonstrate they were unable to receive such information due to closure.

UPDATE ON WEBSITE FORTHCOMING

We are working on providing some information and updates that stakeholders and their clients may be able to reference. We will keep you posted when that is in effect from

Children's Court. Court dockets are changing daily so please check often and call court staff if you are not sure of a hearing date and time the following day.

TRANSPORT ORDER

Proposed transport order can be emailed to the same address for Court pleadings above for approval but please be aware there are limitations with MDC at this time. All contact with your clients is remote access. Please contact MDC for current policies and procedures that may change daily. If your client can appear telephonically, please arrange the same. Please allow sufficient time for filing, signature and SOPA access.

CONFERENCE CALLS

The Court is still attempting to obtain adequate conference call lines. We will send further instructions as soon as we have the same. At this time remember if you have a telephonic hearing (more than two people will be on the line) please utilize the conference call number. If you are not sure, please contact the judicial staff for clarification.

Current line conference call line:

1-800-747-5150

Access code 4721500

Thank you for your continued patience and cooperation. Please continue to monitor emails and pass along information to your colleagues and staff.