Gary Richard Herbert

Governor

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R671-302 Regarding Public Access to Board of Pardons and Parole Hearings

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 12, 2020, the Utah Department of Corrections suspended access to the Utah State Prison in Draper and the Central Utah Correctional Facility in Gunnison by visitors and volunteers in order to prevent the spread of COVID-19;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Strict adherence to Utah Administrative Code R671-302, News Media and Public Access to Hearings, will substantially hinder necessary action by the Utah Department of Corrections in coping with and preventing the continuing spread of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of Utah Administrative Code R671-302, News Media and Public Access to Hearings. Effective immediately, the Utah Board of Pardons and Parole ("Board") shall restrict in-person access to Board hearings as follows:

A. At a parole revocation hearing, including an evidentiary hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) legal counsel for the offender; (6) an Adult Probation and Parole agent; (7) legal counsel for Adult Probation and Parole; (8) a witness; (9) a victim; (10) one representative of each victim; and (11) up to two family members of each victim.

B. At an original hearing, rehearing, special attention review hearing, and redetermination hearing, in-person access shall be limited to: (1) a Board member; (2) a hearing officer; (3) a prison staff member; (4) an offender; (5) a victim; (6) one representative of each victim; and (7) up to two family members of each victim.

C. At a pardon hearing, in-person access shall be limited to: (1) a Board member; (2) a prison staff member; (3) a pardon applicant; (4) legal counsel for the pardon applicant; (5) a victim; (6) one representative of each victim; (7) up to two family members of each victim; and (8) an authorized representative of the arresting or investigative agency, sentencing court, or prosecutor's office for each conviction being addressed.

D. At a commutation hearing, in-person access shall be limited by the Board as the Board reasonably determines is necessary to prevent or control the spread of COVID-19.

Notwithstanding the foregoing restrictions, the Board shall simultaneously transmit by electronic means hearings for public viewing and listening.

This Order shall remain in effect until the date of termination of the state of emergency declared in Executive Order 2020-1 unless terminated earlier by the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 17th day of March, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/003/EO