Gary Richard Herbert

Governor

EXECUTIVE ORDER
2020-64

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

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to Novel Coronavirus Disease 2019 (COVID-19);

WHEREAS, on March 17, 2020, I issued Executive Order 2020-3, suspending Utah Administrative Code R671-302, which governs public access to hearings of the Board of Pardons and Parole, as necessary to address the COVID-19 pandemic;

WHEREAS, on August 20, 2020, the state of emergency declared in Executive Order 2020-1 expired, causing the termination of several executive orders necessary to address the statewide effects of the COVID-19 pandemic, including Executive Order 2020-3;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-51, declaring a new state of emergency due to the ongoing and evolving effects of the COVID-19 pandemic;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-52, reauthorizing the the suspension of Utah Administrative Code R671-302;

WHEREAS, on this day, September 19, 2020, the state of emergency declared in Executive Order 2020-51 expires, causing the termination of several executive orders necessary to address the COVID-19 pandemic, including Executive Order 2020-52;

WHEREAS, on this day, September 19, 2020, I issued Executive Order 2020-63, declaring a new state of emergency in response to the ongoing and evolving effects of the COVID-19 pandemic throughout Utah;

WHEREAS, the facts and conditions justifying the suspension of Utah Administrative Code R671-302 persist;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 continues to spread and threaten public health and safety, causing loss of life, human suffering, and social and economic disruption throughout Utah;

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 Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery 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:

1. At any 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.

2. At any original hearing, rehearing, special attention review hearing, or 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.

3. At any 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.

4. At any 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 take effect immediately upon Executive Order 2020-63 becoming effective and shall remain in effect through September 25, 2020, or until otherwise lawfully modified, amended, rescinded, or superseded.

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 19th day of September, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor