



Administrative Office of the Courts

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Contact: Barry Massey, public information officer

bmassey@nmcourts.gov

505-827-4805; 505-470-3436

NM Supreme Court provides legal framework for resuming in-person family visits in abuse and neglect cases

SANTA FE – The state Supreme Court has established legal guidelines for resuming in-person visits between children in state custody and their biological parents or guardians.

Under an order issued Thursday by the state’s highest court, district judges may permit in-person family visits if those can occur in a safe manner based on local COVID-19 conditions. Most in-person visitations have been suspended since late March because of public health risks from coronavirus.

“The Court’s order strikes an appropriate balance in protecting the health of children in state custody and the interests of parents in maintaining a family relationship,” said Chief Justice Judith K. Nakamura. “Judges can utilize public health data to help determine whether families can resume in-person visitations.”

Under the Court’s order, judges are to presume that in-person visitations are safe in areas where the regional transmission rate for COVID-19 is 1.15 or less and if a visit can be conducted according to public health procedures for minimizing the spread of the virus. However, the parties in a case, including the Children, Youth and Families Department (CYFD), can present evidence why it is unsafe for visitations even with low transmission rates and safety procedures. If the regional COVID-19 transmission rates exceeds 1.15, parties can offer evidence to a district court to show how in-person visits can safely resume.

New Mexico’s regional COVID-19 transmission rates are reported in [epidemiological modeling updates on the New Mexico Department of Health’s website](#).

In cases in which no in-person visits are occurring, CYFD and other parties must meet and determine whether in-person visitations can take place safely based on the terms of the Court’s order. If the parties reach an agreement, CYFD is to present a stipulated order to the district court for its approval with details about the planned visitation.

Until a district judge permits in-person visits, CYFD is to continue to make diligent efforts to provide for visits between parents and their children through videoconferencing and teleconferencing.

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