

Cause No. 89D01-2003-CB-000032

20S-CB- 129

**WAYNE COUNTY CIRCUIT AND SUPERIOR COURTS**  
**PETITION TO THE INDIANA SUPREME COURT PURSUANT TO**  
**ADMINISTRATIVE RULE 17**

Comes now the Courts of Wayne County, Indiana, hereinafter "Wayne County Courts,"<sup>1</sup> and petition the Indiana Supreme Court for relief under Indiana Administrative Rule 17. In support of this petition, the Wayne County Courts inform the Indiana Supreme Court as follows:

The judges of the Wayne County Courts have convened en banc, and have determined:

That the Wayne County Courts are informed that various governmental officials and/or agencies have recognized that there is an emergency due to Coronavirus disease. Said information includes the following:

The Governor of the State of Indiana has declared a public health emergency due to Coronavirus disease 2019 ("COVID-19") pursuant to Executive Order 20-02 signed March 6, 2020. Said Executive Order provides, *in part*, the following: that COVID-19 is a severe respiratory illness; a rapidly spreading virus that is transmitted from human-to-human and results in symptoms ranging from fever, cough, acute respiratory distress, pneumonia, and even death; that on January 31, 2020, the Health and Human Services Secretary declared a public health emergency for the United States.

The Indiana State Department of Health (ISDH) has already recommended that public facilities and organizations should implement preventive measures to help contain the spread of COVID-19. With the objectives of protecting public health and slowing the rate of transmission of this illness, ISDH has issued several recommendations that can be generally summarized as providing for postponement or cancellation of non-essential gatherings of individuals in a single room or space, and allowing for social distancing of at least six (6) feet per person.

The Center for Disease Control (CDC) has determined that drastic steps are immediately required to halt the spread of the virus, and to protect public health care systems from being inundated with patients.

The Wayne County elected officials have taken steps to address COVID-19. On March 16, 2020, the Wayne County Commissioners and the Director of Wayne County Emergency Management adopted a Joint Executive Order wherein certain actions were taken, including but not limited to the following: immediately providing for restricted access to the public of the Wayne County Courthouse and Wayne

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<sup>1</sup>Comprised of Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior Court No. 3 and any Magistrate and Commissioner thereof.

County Annex Building,<sup>2</sup> permitting only essential business and requiring a temperature check/screening for all individuals entering the aforementioned buildings.

The Wayne County Health Department is coordinating with federal and state officials to respond to the COVID-19 outbreak, and said department held a meeting for elected officials on March 12, 2020, regarding said outbreak and the role of said department in addressing said outbreak.

It is the understanding of the Wayne County Courts that all Wayne County high schools and colleges have closed for a time period in response to the COVID-19 outbreak.

The Wayne County Circuit and Superior Courts have appointed the Honorable Charles K. Todd, Jr. as the Presiding Judge for this emergency,

The Wayne County Courts have determined that compliance with appropriate public health practices will inhibit litigants' and courts' ability to comply with statutory deadlines and rules of procedure.

The judges of the Wayne County Circuit and Superior Courts therefore respectfully request that the Indiana Supreme Court declare that an emergency exists in Wayne County, Indiana, under the authority of Indiana Admin. R. 17, and to make appropriate emergency orders for Wayne County, directing and allowing the Wayne County Courts and Clerk of Wayne County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herein, so as to appropriately address this emergency.

### **EMERGENCY PLAN**

The Wayne County Circuit and Superior Courts submit the following as the Emergency Plan for Wayne County Courts, to continue through Sunday, May 31, 2020, unless an extension is otherwise requested and granted:

1. Effective upon the date authorized by the Indiana Supreme Court, and continuing through May 31, 2020, toll all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters; and all other civil and criminal matters presently before or coming before the Wayne County Courts.

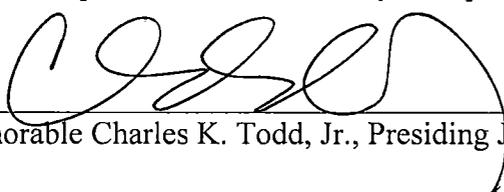
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<sup>2</sup>All Wayne County Courts operate in the Wayne County Courthouse and the Wayne County Probation Department operates in the Wayne County Annex Building.

2. Additionally, specific to criminal cases, at the election and determination of each court, the authority to do the following:
  - A. continue all pre-trial conferences and non-essential hearings that will not result in a resolution of the case;
  - B. hold pre-trial and discovery status hearings by counsel only;
  - C. allow attorney-only conferences whenever reasonable, without the requirement of a motion;
  - D. allow counsel to appear remotely by CourtCall or conference call by filing a “Notice of Remote Appearance” at least 24 hours prior to the scheduled hearing, and without the need to comply with the requirements of Indiana Admin. R. 14;
  - E. have defendants appear via teleconference from jail for any hearings, except contested sentencing hearings and jury trials;
  - F. continue trials for non-incarcerated individuals;
  - G. continue all jury trials to a date to begin June 1, 2020 or after.
  
3. Additionally, specific to civil cases, at the election and determination of each court, the authority to do the following:
  - A. continue all bench and jury trials to a date to begin June 1, 2020 or after;
  - B. continue all non-essential matters;
  - C. use CourtCall or conference call to:
    - 1) conduct hearings that involve agreed issues;
    - 2) allow parties to appear remotely, unless a litigant’s due process rights would be violated; and
    - 3) allow attorneys to appear remotely for any civil status conference, pre-trial conference, or non-evidentiary hearing by filing a “Notice of Remote Appearance” at least 24 hours prior to the scheduled hearing;
  - D. allow attorney-only conferences whenever possible without the requirement of a motion;
  - E. suspend issuing civil body attachments and Title IV-D attachments;

- F. specific to juvenile cases, including CHINS, delinquency, and termination of parental rights, at the election and determination of each court:
- 1) continue all hearings, except detention hearings;
  - 2) detention hearings may be held by audio or video conference to allow all parties to appear remotely, unless a litigant's due process rights would be violated;
  - 3) fact-finding hearings, disposition hearings, periodic review hearings, and permanency hearings may be set beyond the timeframes set forth by statute until normal operations are resumed;
  - 4) when a parent is incarcerated, utilize audio or video conferencing for all hearings, including fact-finding hearings, for the parent(s) to participate from the Wayne County Jail, another county jail, or the Indiana Department of Correction, if possible; and
  - 5) limit admittance to the court to parties, counsel, and other attendees set forth by statute, such as relative/foster/kinship placements.
4. Additionally, the authority to limit spectators in court to the extent deemed appropriate to provide adequate social distancing, as determined by each court,
5. Additionally, to conduct mental health hearings that may be held in or outside of the courthouse by conference call, at the election and determination of each court.
6. Regarding evidentiary hearings and trials, the Wayne County Courts may consider as "good cause" for any motion made to appear remotely or continue a court setting, the existence of flu or flu-like symptoms in any attorney, litigant, party, or witness expected to testify, or exposure of such individuals to anyone who has or may have COVID-19.
7. The Wayne County Courts shall file a status update no later than thirty (30) days after the approval of this Emergency Plan to inform the Indiana Supreme Court whether there is an ongoing need for continued emergency relief.

Respectfully submitted, this 16th day of March, 2020, on behalf of the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior Court No. 3.

  
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Honorable Charles K. Todd, Jr., Presiding Judge