

In the Indiana Supreme Court

In the Matter of the Petition of the
Winchester City Court for
Administrative Rule 17 Emergency Relief.

Supreme Court Case No.
20S-CB-229



Order Approving Expansion of Operations Plan In Part

By orders issued April 24 and May 13, 2020, this Court ordered trial courts statewide to submit plans for gradually resuming normal operations under limitations appropriate to the 2019 novel coronavirus (COVID-19) public health emergency. Pursuant to that order, the petitioning court(s) filed an amended expansion of operations plan (“Plan”) on June 15, 2020.

The Court finds that the Plan was made in coordination with appropriate local officials and local justice system partners to account for local health conditions, facility readiness, and litigants’ needs; and that the Plan makes reasonable provisions for resuming normal staffing, providing public access to non-confidential proceedings, and resuming jury trials. A copy of the Plan is attached to this order and incorporated by reference.

Being duly advised, and pursuant to Indiana Administrative Rule 17 and this Court’s inherent authority to supervise the administration of all courts of this State, the Court ORDERS as follows:

1. All emergency relief previously granted to the petitioning court(s) under Administrative Rule 17 is deemed to expire as of the effective date of this order, except as provided by this Court’s “Order Extending Trial Courts’ Emergency Tolling Authority and Setting Expiration of Other Emergency Orders” issued May 29, 2020 in Case No. 20S-CB-123. However, this Court’s May 13, 2020 “Emergency Order Permitting Expanded Remote Hearings” and paragraph 3 of its May 13 “Order Extending Time for Expanding Trial Court Operations” in Case No. 20S-CB-123 (prohibiting jury trials before July 1 without prior approval of this Court) remain in full force and effect.
2. The Plan is approved **in part**, subject to the following exceptions:
 - (a) The petitioning court(s) shall permit the public to observe courtroom proceedings, either in person or virtually, subject to public health recommendations and applicable Constitutional limitations; and
 - (b) The petitioning court(s) shall require employees to report if they have been in contact with someone who has contracted COVID-19.

The petitioning court(s) shall comply with the terms of the Plan as **modified above** through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/24/2020 , **effective May 19, 2020.**



Loretta H. Rush
Chief Justice of Indiana

EXHIBIT 1**TRANSITION PLAN FOR THE EXPANSION OF OPERATIONS IN THE
WINCHESTER CITY COURT DURING THE NOVEL CORONA VIRUS
(COVID-19) PANDEMIC****1. ADMINISTRATIVE RULE 17 COMPONENTS**

The Winchester City Court requests that the relief granted by the Indiana Supreme Court and its Order dated March 18, 2020 in Supreme Court Case NO. 20S-CB-229 be extended, modified, or allowed to expire as noted in bold following each paragraph below.

1. The Court authorizes the tolling, from the effective date of this order through May 04, 2020 of all laws, rules, and procedures setting time limits for speedy trials in criminal proceedings; all judgments, support, and other ordered; and in all other civil and criminal matters before the Winchester City Court. Further, no interest shall be due or charged during this tolled period.

The extension of this particular provision will remain effective until August 14, 2020 as per the May 29, 2020 order in case no. 20S-CB-123 and then allowed to expire, with notice being provided that all tolling shall cease on August 14, 2020.

2. This Court authorizes immediate suspension of all criminal and civil jury trials, including those with a “fast and speedy” setting requested, through May 04, 2020. The Winchester City Court is directed to review no later than April 16, 2020 whether continued suspension is necessary; and if it is not, to resume jury trials no later than May 04, 2020 to allow adequate notification of the jury pool. If the Winchester City Court believes continued suspension is necessary, it may petition this Court to extend the suspension. The Winchester City Court is further authorized to suspend new juror orientations, extend existing jury panels, and/or post[p]one jury service to a later date for jurors who are ill, caring for someone who is ill, or in a high-risk category.

This provision will remain effective until August 14, 2020 as per the May 29, 2020 order in case no. 20S-CB-123 and then allowed to expire on August 14, 2020.

3. Through May 04, 2020, this Court authorizes immediate suspension of all non-essential hearings and proceedings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases).

The court will put all regular hearings on the calendar effective June 11, 2020. Defendants are required to call in to the court beforehand and confirm or continue

their hearing in accordance with appropriate social distancing. No more than 4 defendants shall be scheduled for the same “cattle-call” 30-minute time slot and all non-participants shall be ordered to remain outside the building, except for one parent/guardian may accompany one minor defendant.

If requested, the court will grant telephonic initial hearings. The court will continue all evidentiary hearings until after August 14, 2020 unless the trial is pending an agreement (e.g. plea or deferral), in which case the hearing will remain scheduled to encourage the parties to complete the agreement in a timely manner. If such agreements are not complete, an order continuing the hearing with a warning to complete any such agreements by the next scheduled hearing date will be issued.

4. Through May 04, 2020, the Winchester City Court is authorized to utilize video or telephonic conferencing in lieu of in-person appearances, unless a litigant’s due process rights would be violated.

The Winchester City Court intends to allow telephonic non-evidentiary hearings indefinitely, subject to any constitutional limitations. Teleconferencing will be considered, pending technological capabilities and considerations for all other entities that regularly use the city court room when the court is not in session. All evidentiary hearings will be conducted in person effective June 11, 2020, but extensions of time will be granted for good cause, and all hearings scheduled prior to August 14, 2020 will be treated with the appropriate level of mercy.

5. Through May 04, 2020, the Winchester City Court is authorized to issue summonses in lieu of bench warrants, writs of attachment, notice of failure to appear, or notices of failure to pay.

The Winchester City Court requests that this provision be extended until August 14, 2020, after which time the issuance of summons, writs of attachment, or warrants be left to the discretion of the Winchester City Court.

6. Through May 04, 2020, the Winchester City Court may consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; or (c) status of such individuals in a high-risk category; to constitute “good cause: to either appear remotely or continue a court setting, to the extent possible without violating any statutory or constitutional rights.

The Winchester City Court requests that this provision be extended until August

14, 2020 at which time it may expire unless modified by further order from the Indiana Supreme Court.

7. Through May 04, 2020, any attorney wishing to appear remotely for any status conference or non-evidentiary hearing in the Winchester City Court may do so without further leave of the court upon filing a "Notice of Remote Appearance" in the court in which the matter will be heard.

The Winchester City Court requests that this provision be continued indefinitely and made a permanent option to be utilized at the court's discretion, especially where distance is a factor.

8. Through May 04, 2020, the Winchester City Court is authorized, in its discretion and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing and to limit the size of the gathering consistent with public-health recommendations.

The Winchester City Court requests that this provision be extended until August 14, 2020 at which time it may expire unless modified by further order from the Indiana Supreme Court.

9. Through May 04, 2020, the Winchester City Court is authorized to utilize a drop box for conventional paper filed documents and receipt of payments.

The Winchester City Court requests that this provision be continued indefinitely and made a permanent option to be utilized at the court's discretion, especially in locals where "first-shift," "swing-shift," "graveyard-shift," or other scheduling concerns make delivering payments during normal business hours a legitimate burden.

10. Through May 04, 2020, the Winchester City Court is authorized to reduce the number of court staff members working and/or permit working remotely if feasible; provided, however, that the court shall maintain sufficient operations to process emergency matters, mail and email received, e-filing of pleadings, and receipt of payments for fines and judgments.

The Winchester City Court requests that this provision be extended until June 14, 2020 at which time it may expire unless modified by further order from the Indiana

Supreme Court.

11. Through May 04, 2020, the Winchester City Court may allow individuals with legitimate court business who are ill, caring for someone who is ill, or in a high-risk category for COVID-19 to request a continuance by telephone or court clerk.

The Winchester City Court requests that this provision be continued indefinitely and made a permanent option to be utilized at the court's discretion.

12. Through May 04, 2020, the Winchester City Court is authorized to post signage at all public entry points to judicial facilities advising individuals not to enter the building if they have:

- a. Visited China, Iran, North Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
- b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
- c. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
- d. Been asked to self-quarantine by any doctor, hospital, or health agency;
- e. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or
- f. A fever, cough, or shortness of breath;

and to direct bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols.

The Winchester City Court requests that this provision be extended until August 14, 2020 at which time it may expire unless modified by further order from the Indiana Supreme Court.

2. PLANNING

The Winchester City Court has developed this plan by coordinating with the Mayor so that the policy of the Winchester City Court is not contrary to the policy of the rest of the city government. These meetings took place in person after both the judge and the mayor were clear of the symptoms of COVID-19, had not developed symptoms within 45 days of the start of stay-at-home quarantine procedures, and were both conducting their essential services as defined in the stay-at-home Executive Order issued on March 24, 2020.

3. EMPLOYMENT PROCEDURES

The employee of the Winchester City Court (the city court clerk), continued to work and perform essential services except when being evaluated for COVID-19 after discovering she had been in close proximity to another individual who had tested positive for COVID-19. She was allowed to remain home while awaiting the test results, which came back negative.

The Winchester City Court employment policy in general has been very forgiving of sick leave and working from home when necessary, even before COVID-19 became a health emergency. Neither the judge nor the city court clerk is over age 65, nor are they immune-compromised or are otherwise in the high-risk category to contract COVID-19. Should any such condition be discovered or developed, the court will at that time allow for any accommodations necessary, such as, but not limited to the following:

- Working remotely;
- Separation from the public; and/or
- Permitting the use of medical-grade equipment.

The Court and the City of Winchester are ensuring appropriate policies to prevent future outbreaks of COVID-19 including, but not limited to:

- Social Distancing;
- Encouraging and making available materials for increased public hygiene;
- Encouraging employees who are symptomatic to remain home and provide notice to each other if they experience any of the symptoms currently approved by the CDC as symptomatic of COVID-19. The CDC symptoms control so that the court policy will remain as current as the CDC;

Additionally, should any employee of the Winchester City Court develop mental health difficulties (stress that interferes with normal work, depression, etc.), that employee is encouraged to seek rest and mental health services available under employee's current medical plan. If the employee's medical plan does not have a mental health component or is unsure of what services are available, then the Winchester City Court will ensure that a list or referral source can be identified (sources such as online postings, doctors' referrals, etc.).

4. COURTHOUSE FACILITY PLAN

The Winchester City Building is only accepting in person visitors by appointment only during this transition period. Those persons with court business will have to either make an appointment

or call in for information about their case. The Winchester City Court is regularly posting updates and making general court information online, thereby reducing the amount of foot traffic encountered.

The Winchester City Court is included in the Winchester City Janitorial Contract, and measures will be coordinated with the Winchester City Government to ensure that post-COVID-19 janitorial measures will improve to minimize future risk.

The Court will take steps to minimize the number of hearings scheduled at the same time to reduce the necessity of people having to wait in or near the courtroom. Sanitizer will continue to be made available for the public.

Any court personnel who wish will be allowed to wear any protective medical gear they feel is necessary (i.e. breathing masks, remain behind glass barriers while interacting with the public, etc.)

5. SCREENING PROCEDURES FOR THE PUBLIC

Signs will direct the public to not enter the Winchester City Building if they and/or someone they live with or have been with in the past 14 days have tested positive for COVID-19 or if they are experiencing or have experienced in the last three days any symptoms of COVID-19, including:

- Fever of 100.4 degrees or higher;
- Chills;
- Muscle and body aches;
- Headache;
- Sore throat;
- Cough, chest tightness, or shortness of breath; and/or
- New loss of taste or smell.

Anyone experiencing these symptoms are to call the intended court to inform the staff of the issue.

Hand sanitizer will be made available for those persons physically appearing in the building.

6. RESUMING NON-EMERGENCY HEARINGS

The court will begin holding non-emergency hearings on June 11, 2020. Hearings will be held on all matters regularly before this court with backlog being prevented by encouraging online ticket pay and calling ahead so that non-mandatory hearings can be rescheduled to avoid less crowded court days. As much as possible, no more than six (6) persons will be scheduled for hearings per hour. Defendants may appear by telephone. The court will make every effort to accommodate Defendant incarcerated on other charges so that their cases in Winchester may be resolved.

As long as the Indiana Supreme Court permits it, the only persons who will physically be present in the courtroom for evidentiary hearings will be limited to parties to a case, their attorneys, and one parent or guardian per Defendant for cases where the Defendant is a minor. While no member of the media has observed a case in the Winchester City Court in at least four years, one member of the media will be allowed, upon request, to observe proceedings so long as social distancing can be achieved. The Court continues to encourage that all parties resolve their cases outside of court and submit their agreements prior to any scheduled hearings.

7. JURY TRIALS

Due to budgetary constraints and the fact that the Winchester City Court is not a court of record, all jury trials requested in Winchester City Court are automatically transferred to Randolph Superior Court. Therefore, no additional jury trial precautions are necessary.

8. COURT-SUPERVISED SERVICES

The Winchester City Court, currently limited to traffic infractions, ordinance violations, and minor traffic misdemeanors, does not directly supervise probation, pre-trial release, CASA, or Community Corrections. Any cases that involve these services are handled in Randolph Circuit and Superior Courts. Therefore, no additional precautions are necessary.