

In the  
**Indiana Supreme Court**



In the Matter of the Petition of the Brown  
County Circuit Court for Administrative  
Rule 17 Emergency Relief.

Supreme Court Case No.  
20S-CB-170

**Order Approving Expansion of Operations Plan**

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 expansion of operations plan (“Plan”) on May 29, 2020.

The Court finds that the Plan was made in coordination with appropriate local authorities 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, and the petitioning court(s) shall comply with its terms through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/1/2020 , **effective May 29, 2020.**

A handwritten signature in black ink that reads "Steve David".

Steve David

Acting Chief Justice of Indiana

## EXHIBIT A

## BROWN CIRCUIT COURT TRANSITION PLAN FOR EXPANDED OPERATIONS

The Brown Circuit Court is committed to ensuring the health and safety of its employees and the members of the community who have business with the Court.

The Brown Circuit Court has an obligation under the Indiana Constitution and the Indiana Trial Rules to remain open.

The Brown Circuit Court, guided by the Guidance to Trial Courts provided by the Resuming Court Operations Task Force and after consultation with local stakeholders, now submits its Transition Plan for Expanded Operations for the approval of the Indiana Supreme Court.

1. Planning:

The Court invited a group of local stakeholders including the emergency management director, sheriff, public defenders, prosecutor, local attorneys, director of the guardian ad litem program, Department of Child Services attorney and local director, chief probation officer, and county commissioner's representative/ human resources administrator to discuss the a proposed Brown Circuit Court Transition Plan for Expanded Operations. A meeting via Zoom was held on May 28, 2020, for those who chose to attend.

2. Employment procedures:

The Brown Circuit Court employs 14 individuals, excluding the magistrate. Three of those are part time. Six are court staff, six are probation staff, and two are security. The part-time director of the guardian ad litem program does not have an office in the courthouse. Because we are a small group, the judge is able to directly oversee the health and safety concerns of its staff, with the assistance of the chief probation officer.

- a. Staff who may work remotely: Since the beginning of the health emergency, probation staff have mainly worked remotely, with only the chief probation officer appearing at the office. Remote work may continue until the chief probation officer, in consultation with the judge and in consideration of county employment policy, determines that they should regularly report to the office. The Court staff has worked on weekly rotating shifts, with the judge determining if one or two staff need be present given the daily workload. Security has mainly been through the bailiff, with the security officer working

as needed. The director of the guardian ad litem program has effectively used Zoom to conduct trainings and meetings with DCS, parents, and children, and to participate in Child and Family Team Meetings. The director shall continue these practices as long as deemed necessary.

- b. Court: Until court operations resume to more normal levels, staff shall rotate shifts by week. The Court shall determine the number of employees who will be working on the same day. The Court shall consider the county employment policy regarding return to work. As the Court begins to hear more cases, additional staff shall report to work. The Court shall determine appropriate levels of staffing. The Court office structure currently affords sufficient space for employees to work safely.

Probation: The chief probation officer shall determine whether staff shall work remotely or in the office. They shall attend hearings if necessary, after consultation with the chief probation officer. The chief probation officer shall continue to work in the office. The current structure of the probation office affords sufficient space for employees to safely work.

Security: The bailiff and security officer will continue to coordinate their schedules.

- c. Protective steps:
- i. Workspace separation is not a concern.
  - ii. Masks and PPE are available and shall be worn when separation is not possible. Masks shall be worn during court proceedings if social distancing is not possible.
  - iii. All staff shall frequently wash their hands.
  - iv. Only court staff and essential persons are permitted in Court offices.
  - v. The County is installing shields at the front desk of both court and probation offices.
  - vi. Staff will not share equipment. Equipment that is shared, such as printers and copiers, shall be frequently disinfected.
  - vii. When face-to-face probation meetings resume, they shall be staggered and shall be conducted in a room large enough for social distancing.
  - viii. Meetings shall take place in the jury room or other location, rather than court and probation offices.
- d. Shared equipment shall be sanitized routinely. It will be the responsibility of each member of the staff to sanitize the area immediately surrounding their workspace.
- e. The bailiff and court reporter present at the hearing shall coordinate efforts to sanitize surfaces after each hearing. One may be assigned to the tables, the other to the commonly touched surfaces, such as doorknobs.

- f. It is the policy of the Brown Circuit Court that any staff member report illness to the judge, and if the judge is not available, to the magistrate. All staff having COVID-19 symptoms shall stay at home and advise the judge of the illness. All staff who become aware that they have been exposed to COVID-19 shall report that exposure to the judge. A separate policy has been issued and circulated to all court, probation and security staff.
- g. All employees are aware of the symptoms of COVID-19 and will stay home if they are exhibiting symptoms or have been exposed to a person who has tested positive for COVID-19 or is believed to be suffering from COVID-19.

3. Courthouse facility plan:

- a. The Courthouse is cleaned each night by a professional cleaning crew. The judge has spoken with the head of the crew and finds that the cleaning process is adequate and appropriate
- b. The County's cleaning policy is adequate and appropriate.
- c. Mail is opened by the bailiff. He has been instructed regarding the appropriate procedure including wearing gloves and washing hands immediately afterwards.
- d. The Courtroom has been measured and it has been determined that, excluding court personnel, 34 persons may safely be present.
- e. The Hearing Room has been measured and it has been determined that five people, excluding a judge and a court reporter, may safely be present. The judge or magistrate shall determine if a hearing or trial may safely be conducted in the Hearing Room.
- f. Alternate sites for jury trials have been considered and include the intermediate, junior high and high school gymnasiums. The intermediate school is the most appropriate due to its accessibility and size. The Brown County School Corporation Superintendent has agreed to permit the Court to use its facilities for a jury trial, if necessary. If these school locations are not available, the court will explore the use of the Brown County Music Center or county fairgrounds.
- g. County partners have been consulted and steps taken to minimize risk of exposure and transmission. The only steps available are propping some doors open and reducing access to common areas. If additional measures are recommended, they shall be implemented.
- h. Attorneys must wear a mask when entering court and probation offices and during court proceedings whenever social distancing is not possible. They shall refrain from touching surfaces and shall sanitize any surfaces touched.

- i. The Court, though its court security officer and court employees, will encourage and recommended the wearing of masks by all persons entering the Courthouse. If available, court security will provide a mask to all persons entering the building. If a mask is not worn, the Court will ensure that persons are socially distant to each other.
- j. The Court will institute procedures to limit the necessity of attorneys and parties entering the court office to deliver papers.

#### 4. Screening procedures for the public

The Court has instituted the following screening procedures. These will remain in place until the Court's emergency order pursuant to AR 17 expires:

- Only parties, their attorneys and necessary witnesses shall be permitted to enter the courthouse for the purpose of attending a court hearing. The Court authorizes court security to deny entrance to any person who wishes to attend a hearing and is not a party, an attorney or a necessary witness. Members of the media and alleged crime victims may also be permitted to attend court hearings as required by the Indiana Constitution and statutes. The Court will review this policy each week to determine if additional persons should be permitted entry based on the current local and regional health conditions.
- Defendants in a criminal proceeding have the right to a public trial. The public shall be permitted to attend a criminal trial so long as court facilities permit in consideration of social distancing requirements.
- Court security personnel are directly supervised and employed by the Court. When persons enter the Courthouse, court security shall ask questions to determine why a person wishes to enter the courthouse. If court security determines that a person could conduct his or her necessary business by telephone or other means, court security may temporarily deny entrance and direct the person to attempt to conduct his or her business by telephone or other means. If the person is unable to conduct their business by other means, the security officer shall reevaluate the situation and permit entry if necessary. The Court has provided guidelines to court security to implement this policy and has instructed court security to contact the judge or magistrate if there is any question regarding how to proceed in a particular situation.
- In order to limit the court security officer's interaction with individuals, court security is authorized to prohibit a person from carrying into the courthouse a purse, backpack or bag that is not capable of effective visual search.
- A court security officer shall take the temperature of each person wishing to enter the building and deny entry to any person who registers a temperature over 100.4 degrees.

- A court security officer shall not permit entry to any person who answers yes to any of the following questions:
  1. In the past 14 days, have you or anyone in your household been asked to self-quarantine by any doctor, hospital, health agency;
  2. In the past 14 days, have you been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or
  3. Do you have a fever, cough, shortness of breath, sore throat, chills, muscle or body aches, new loss of taste or smell.
- A court security officer may deny entry any person who refuses to answer questions or comply with these policies and procedures.
- Brown County Emergency Management has provided PPE to the courthouse and PPE will be offered to persons who are permitted entrance into the courthouse. Court security shall encourage and recommend the use of face masks.

#### 5. Resuming Non-Emergency Hearings:

- a. Remote hearings will continue as determined by the judge and magistrate. Telephonic appearances may be authorized if consistent with the rights of the parties and objections are not sustained.
- b. Inmates of the Brown County Jail and Indiana Department of Corrections will continue to appear by audiovisual communication for all hearings in which their constitutional rights are not violated by remote appearance.
- c. Non-emergency hearings will be phased in with priority given to:
  - i. Protective order hearings
  - ii. Criminal cases in which the Defendant is incarcerated
  - iii. Higher level criminal offenses and those with allegations of violent crime
  - iv. Proceedings involving children, including JC, JT, JS, JD, DC, JP, GU
  - v. Proceedings involving mental health and incapacitated persons, including MH and GU
- d. Hearings will be spaced apart so that surfaces may be cleaned in between hearings.
- e. Hearings will be spaced apart so that there is not an accumulation of people needing to enter the courthouse at the same time. If more than three hearings are scheduled to commence at the same time, the bailiff shall assist the security officer in processing those persons safely into the building.
- f. When possible, non-evidentiary hearings shall be conducted by telephone, including scheduling conferences, hearings on dispositive motions in civil cases, and hearings regarding discovery disputes.

- g. Local rules do not, at this point, mandate mediation before a hearing is set.

## 6. Jury Trials

- a. If time permits, an additional questionnaire for jurors will be mailed at least two weeks before trial. If a prospective juror requests a deferral, the Court shall determine if a person is entitled to an automatic deferral due to status as an essential health care or emergency worker, exposure to COVID-19, in a higher risk category for COVID-19 or is just returning to work. Counsel shall be notified of deferrals.
- b. Given the lack of internet access in the rural areas of the County, the Court will not utilize remote selection of jurors.
- c. Additional prospective jurors will be called in light of increased deferrals.
- d. Jury summonses have been issued for the year. Letters detailing steps the Court is taking to keep jurors safe will be mailed to jurors who have been called for a particular trial. In addition, when the bailiff notifies a prospective juror that he or she has been selected to appear for voir dire, he shall provide information regarding the steps that the Court is taking to keep jurors safe and the mask requirement.
- e. The judge, court staff and attorneys will plan and rehearse the handling of a jury including: relocation of side bars, reduction of side bars, social distancing, location of jurors outside the jury box, food handling and delivery, exhibit handling, and location of deliberations.
- f. Court facilities are not large enough to empanel a 12-person jury until the health emergency dissipates. A 12-person jury trial would be conducted at a location other than the Courthouse. The Brown County School Corporation is willing to permit use of its facilities as an alternate venue to conduct a jury trial, if necessary. The Court will ensure security and that a record of the proceeding is preserved.
- g. Court facilities could manage a 6-person jury with certain accommodations. Jury selection may occur at a location other than the Courthouse if the court determines that more than 28 prospective jurors should be called for the jury selection process..
- h. Until the health emergency is eliminated, the only trials in criminal cases where the Defendant's constitutional rights necessitate a trial will be held.

7. Court supervised services:

- a. The guardian ad litem's resumption of home visits and in-person meetings will be determined by the Director, after consultation with the judge. The Director shall consider the risk factors of the individual guardian ad litem, the ability to practice social distancing at the location, and the need or lack thereof, to be physically present.
- b. The probation office's resumption of in-person meetings and home visits shall be determined by the chief probation officer, after consultation with the judge. The chief probation officer shall consider the risk factors of the probation officer and probationer, the ability to social distance, and the possibility of conducting office visits in a larger room such as the jury room.