

# In the Indiana Supreme Court

In the Matter of Matter of the Petition of  
the Decatur County Courts for  
Administrative Rule 17 Emergency Relief

Supreme Court Case No.  
20S-CB-162



## 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 4, 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**, with the exception that the Plans shall expire on August 15, 2020, including that the petitioning court(s) shall resume jury trials, subject to the health precautions proposed in the Plan, **no later than the week of August 17, 2020**. Any or all of the petitioning court(s) may seek relief from this requirement pursuant to Administrative Rule 17 if a particularized local emergency requires relief beyond that date. 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 6/8/2020, effective **May 29, 2020**.

Loretta H. Rush  
Chief Justice of Indiana

**IN THE INDIANA SUPREME COURT**

IN THE MATTER OF THE )	SUPREME COURT CASE NO.:
PETITION OF THE )	20S-CB-162
DECATUR COUNTY CIRCUIT )	TRIAL COURT CAUSE NO:
AND SUPERIOR COURTS FOR )	16C01-2003-CB-11
ADMINISTRATIVE RULE 17 )	
EMERGENCY RELIEF. )	

**SECOND AMENDED EMERGENCY PETITION FOR ADMINISTRATIVE ORDERS**

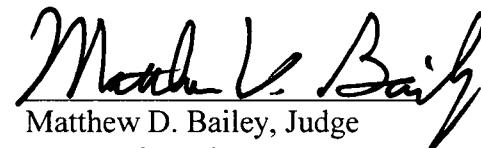
Come now the Decatur Circuit Court and the Decatur Superior Court and submit a Second Amended Petition to the Supreme Court for relief under Indiana Administrative Rule 17 as follows:

1. The original Petition for Administrative Orders filed in this cause of action is attached hereto as "Exhibit A". Said Petition was approved by the Supreme Court on March 24, 2020. The effective date of the Petition has been extended by the Supreme Court to May 30, 2020.
2. The Supreme Court has instructed the Trial Courts to amend their Administrative Rule 17 Petitions to include a plan for insuring a safe environment for staff, court participants and the public upon the resumption of court business. That Amended plan is attached hereto as "Exhibit B".

Done at Greensburg, Indiana, this 3<sup>rd</sup> day of June, 2020.



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Timothy B. Day, Judge  
Decatur Circuit Court



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Matthew D. Bailey, Judge  
Decatur Superior Court

**IN THE INDIANA SUPREME COURT**

IN THE MATTER OF THE	)	CAUSE NO. 2003S
PETITION OF THE	)	
DECATUR COUNTY CIRCUIT	)	
AND SUPERIOR COURTS FOR	)	TRIAL COURT CAUSE NO:
ADMINISTRATIVE RULE 17	)	16C01-2003-CB-11
EMERGENCY RELIEF.	)	

**EMERGENCY PETITION FOR ADMINISTRATIVE ORDERS**

Come now the Decatur Circuit Court and the Decatur Superior Court and petition the Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the Decatur Circuit Court and the Decatur Superior Court inform the Supreme Court as follows:

The Decatur Circuit Court and the Decatur Superior Court have convened and have determined:

1. That the COVID-19 or corona virus is spreading across the nation, state, and world.
2. That on March 2, 2020, Governor Eric Holcomb signed an executive order declaring an emergency related to the corona virus.
3. The judges of the Decatur Circuit Court and the Decatur Superior Court request that the Supreme Court declare that an emergency exists in Decatur County under the authority of Indiana Administration Rule 17, and to make appropriate emergency orders for Decatur County directing and allowing the courts to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.

4. The Decatur Circuit Court and the Decatur Superior Courts' emergency plan which would take effect upon approval and run through April 10, 2020, is as follows:

- A. Only hearings that are considered necessary in nature shall be conducted by the Court.

These shall include:

**EXHIBIT A**

1. Initial, Detention and Fact-finding hearings in Child In Need of Services cases
  2. Protective Order proceedings
  3. Initial/bond hearings in criminal cases involving incarcerated inmates
  4. Emergency guardianship proceedings
  5. Civil/mental health commitment proceedings
  6. Child custody/visitation proceedings that are emergency in nature
- B. No jury trials shall be held or jury panels summoned from March 17, 2020 to April 10, 2020.
- C. When possible, necessary hearings can be conducted telephonically and/or by video conferencing.
- D. During necessary hearings only litigants and their counsel shall be permitted in the courtrooms. No family members/friends shall be permitted.

Done at Greensburg, Indiana, this 17<sup>th</sup> day of March, 2020.

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Timothy B. Day, Judge  
Decatur Circuit Court

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Matthew D. Bailey, Judge  
Decatur Superior Court

**IN THE INDIANA SUPREME COURT**

IN THE MATTER OF THE )	SUPREME COURT CASE NO.
PETITION OF THE )	20S-CB-162
DECATUR COUNTY CIRCUIT )	
AND SUPERIOR COURTS FOR )	TRIAL COURT CAUSE NO:
ADMINISTRATIVE RULE 17 )	16C01-2003-CB-11
EMERGENCY RELIEF. )	

**PLAN OF THE DECATUR CIRCUIT AND DECATUR SUPERIOR COURTS  
FOR RESUMPTION OF COURT ADMINISTRATION/PROCEEDINGS**

Come now the Decatur Circuit Court and the Decatur Superior Court and submit the following plan for the resumption of court administration/proceedings due to the COVID-19 pandemic:

I. Collaboration conducted. The Judges of the Decatur Circuit Court and the Decatur Superior Court have consulted with numerous individuals in arriving at this plan for the resumption of court administration/proceedings, including but not limited to:

- A. The Decatur County Health Officer, Sean Durbin
- B. A member of the Decatur County Commissioners
- C. The Decatur County Sheriff
- D. The Decatur County Prosecutor's Office
- E. Court Security Officials
- F. Members of the Decatur County Bar
- G. Local counsel for the Decatur County Department of Child Services
- H. Staff members for each court
- H. The Director for Decatur County Court Services

II. Recognition of Emergency Authority. In administering a plan for the resumption of court administration/proceedings, the Judges of the Decatur Circuit and Decatur Superior Courts have recognized and will continue to recognize and adhere to any emergency COVID-19 related orders issued by Governor Eric Holcomb, the Indiana Supreme Court, the Decatur County Commissioners and the Decatur County Health Officer, Sean Durbin. The Courts recognize that

**EXHIBIT B**

such orders have and will continue to change in nature and duration and that any plan adopted by the Court pertaining to court administration/proceedings must be broad enough to allow for compliance with those orders.

III. Court staff. It is the intention of the Decatur County Courts to allow for a safe work environment for all court employees. When possible, court employees shall be permitted to perform work functions from home to reduce exposure to the COVID-19 virus. Employees working at the Decatur County Courthouse will be provided masks and hand sanitizer as well as antibacterial wipes for their work area. Plexiglass barriers have been put in place in the courtrooms and court offices to protect court staff. The Courts have also been provided a digital thermometer for use by court staff and judges. Mental health resources have been identified for employees. Employees have been instructed to stay home and report if they have had COVID-19 symptoms or have been exposed to someone with COVID-19 . Employees will be allowed to return to work in accordance with health department instructions or guidance.

IV. Hearings. Presently, the Decatur County Commissioners have opened the Decatur County Courthouse by “appointment only”. No time line has been established as to how long admittance into the Decatur County Courthouse will be restricted in that manner. The Courts have construed “appointment only” to include scheduled court hearings. The current Administrative Rule 17 Order allows for certain “Necessary” hearings to be held. “Necessary” hearings are now to be classified as “Essential Hearings”. Essential Hearings shall be considered to be all previously named Necessary hearings plus the following:

- A. All Children in Need of Services proceedings
- B. All protective order proceedings
- C. All hearings involving support/visitation with minor children in DR, DC and JP cases

- D. Hearings in criminal felony/misdemeanor cases involving scheduling and/or resolution of the case by plea/admission (includes incarcerated and non-incarcerated defendants)
- E. All guardianship proceedings
- F. Civil/Mental health commitment proceedings

Non-essential hearings shall include the following:

- A. Small claims
  - B. Civil - CT, PL, CC
  - C. DR and DN cases not involving children
  - D. Probate
  - E. Infractions
1. Hearings shall be permitted to resume but, when applicable, hearings shall be conducted telephonically or via zoom or other approved electronic means.
  2. Live hearings will be conducted as follows:
    - a. All participants shall have their temperature checked by court security before entering the second floor of the courthouse where courtrooms are located. A temperature of over 100.4 degrees will result in that person not being permitted into the Courthouse and the hearing will be postponed until a later date.
    - b. All hearing participants and spectators shall be provided masks by Court Security and the use of a mask will be strongly suggested.
    - c. Hand sanitizer shall be located outside courtroom entrances and its use shall be suggested before entering the courtroom.
    - d. The Court will follow the capacity limit as determined by the Decatur County Health Officer (15 persons per courtroom including Judge, Court Reporter and Security Officer) to allow for appropriate social distancing in the courtroom (six feet of separation). The Courts and Court Security

Officers will assist participants/spectators with social distancing within courtrooms.

e. The Courts shall also begin scheduling hearings for designated times rather than in blocks to allow hearings to begin and conclude without multiple litigants congregating inside and outside the courtrooms to allow for social distancing wherever possible. This is anticipated to result in the Courts occasionally being open at later hours to accommodate the number of hearings that are being scheduled.

3. Non-essential hearings may be conducted as outlined above with a strong preference for remote hearings by telephone, Zoom or other approved electronic means. The Courts will be sensitive to litigants and attorneys who have COVID-19 concerns and grant continuances when requested. The Courts also reserve the right to reschedule any non-essential hearings if time slots or space is not available to allow for appropriate social distancing to occur.

IV. Jury Trials. Jury trials shall not resume until after September 1, 2020. Once jury trials resume, the Courts shall adhere to courtroom capacity requirements and social distance recommendations as outlined herein. This will result in a longer jury selection process with only 8 to 10 potential jurors being questioned at a time until a jury is selected. Jurors will be situated in the courtroom during the trial to allow for proper social distancing, and the Courthouse library will be utilized as a jury room to allow for social distancing. The Courts have also discussed and may utilize facilities outside the Decatur County Courthouse that are large enough to accommodate jury selection and trial proceedings while still maintaining social distancing

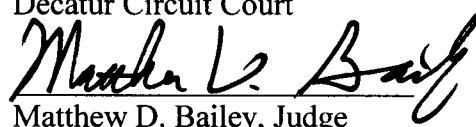
required. A separate juror questionnaire will be utilized in an effort to identify at risk potential jurors as it pertains to the COVID-19 virus, and potential jurors will be notified in writing that all necessary precautions are being used to protect them during jury selection and the trial process. The Courts intend to allow great flexibility with potential jurors who have concerns about COVID-19 exposure.

VI. Court Services. The Decatur County Department of Court Services which includes Adult/Juvenile Probation and Community Corrections is housed in a building separate from the Decatur County Courthouse. Court Services staff shall be treated in the same manner as court staff with regard to safety precautions under paragraph II herein. Both Probation and Community Corrections shall maintain contact with those they supervise by phone or other electronic means whenever possible. In-person contacts and home visits/searches will only be conducted for those individuals considered a high risk to re-offend.

VII. Duration. The plan adopted herein will take effect upon approval by the Supreme Court. Its duration shall be considered indefinite and dependent upon directives from Governor Eric Holcomb, the Indiana Supreme Court and/or the Decatur County Commissioners. The plan is intended to allow for flexibility should further measures be needed as the COVID-19 pandemic progresses.

Done at Greensburg, Indiana, this 3<sup>rd</sup> day of June, 2020.



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Timothy B. Day, Judge  
Decatur Circuit Court  
  
Matthew D. Bailey, Judge  
Decatur Superior Court