

In the  
**Indiana Supreme Court**



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

Supreme Court Case No.  
20S-CB-219

**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 expansion of operations plan (“Plan”) on May 29, 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 petitioning court(s) are directed to the Court’s order issued May 29, 2020 in Case No. 20S-CB-123 for any tolling related issues. 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 6/11/2020 , **effective May 29, 2020.**

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush  
Chief Justice of Indiana

## IN THE INDIANA SUPREME COURT

In the Matter of the Petition of )  
 The Montgomery Superior Court I, )  
 The Montgomery Superior Court II, ) Supreme Court No. 20S-CB-219  
 The Montgomery Circuit Court )  
 For Approval of a COVID-19 Transition Plan )

**PETITION FOR APPROVAL OF MONTGOMERY COUNTY  
 COURTS' COVID 19 TRANSITION PLAN**

1. Administrative Rule 17 Request

- a. The Montgomery County Courts request that the Supreme Court extend the tolling of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; and in all other civil and criminal matters before the Montgomery County Courts until August 1, 2020, with all tolling under Criminal Rule 4 to begin anew on said date in each case that was pending at the time this Plan was filed.
- b. The Montgomery County Courts request that the Supreme Court extend the suspension of in person new juror orientations, and/or postponement of jury service to a later date for jurors who are vulnerable or post high risk to others, for as long as the public health emergency for coronavirus ("COVID-19") declared by Executive Order 20-02 (the "Public Health Emergency") remains in effect, to require social distancing.
- c. The Montgomery County Courts request that the Supreme Court extend the authorization of the Court, in its discretion and subject to applicable Constitutional limitations, to limit spectators in its courtroom to the extent necessary to provide adequate social distancing, so long as public access is otherwise provided, for as long as the Public Health Emergency remains in effect, to require social distancing.
- d. The Montgomery County Courts request that the Supreme Court may continue to consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; or (b) exposure of such individuals to anyone who has or may have the virus; to constitute "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights, for as long as the Public Health Emergency remains in effect.
- e. The Montgomery County Courts request that the Supreme Court continue to authorize signage to be posted at all public entry points to judicial facilities advising individuals not to enter the building if they have:
  - i. Visited China, Iran, South Korea, any European country, or any other high-risk country identified by the Centers for Disease Control and Prevention ("CDC") in the previous 14 days;
  - ii. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;

- iii. Traveled domestically within the United States where the virus has sustained widespread community transmission within the previous 14 days;
  - iv. Been asked to self-quarantine by any doctor, hospital, or health agency within the previous 14 days;
  - v. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19 in the previous 14 days, or
  - vi. Has COVID-like symptoms, as identified by the Centers for Disease Control, in the previous 14 days;
- and to direct bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols, for as long as the Public Health Emergency, remains in effect.

## 2. Planning

- a. This Plan was developed after consultation by the Court with local community stakeholders in Montgomery County (“County”) including: County Health Department, Emergency Management Director, Chief Public Defender, Prosecuting Attorney, Clerk of the Court; Chief Probation Officer; County Administrator, Attorney for Local Office of Department of Child Services, and based upon printed materials from the Indiana State Government Offices, County Health Department, and Indiana Supreme Court.
- b. The Courts will continue to review County health data using the *Indiana COVID-19 Dashboard*, published by the Indiana State Department of Health at [www.coronavirus.in.gov](http://www.coronavirus.in.gov) for this county and in conjunction with information from the local health department.
- c. The Courts will expect a 14-day period of a downward or level trajectory in local data, before advancing to the next tentative phase dates for expanding operations by considering COVID-19 deaths and positives cases as a percentage of total cases tested.
- d. Appropriate and timely information regarding the operations of the courts will be shared with the public, local bar association, community and elected officials to gain voluntarily compliance.

## 3. Employment Procedures

- a. Court Employees shall take the same steps as visitors, plus these additional steps to minimize the spread of viruses in areas and on surfaces around the court offices, which shall be adopted as court procedure throughout this Public Health Emergency:
  - i. Clean and sanitize work areas often.
  - ii. Provide hand sanitizer and/or wipes and trash cans at counsel tables when supplies are available and encourage visitors to wipe down or wash their hands.
  - iii. Avoid closing doors to increase air circulation and reduce the need to handle door knobs or latches, consider virus film for elevator and handicap buttons, and open windows when weather permits to increase air circulation.
  - iv. Avoid sharing phones, microphones, writing utensils or other office equipment that may come in contact with the face, mouth or hands, and when necessary keep those surfaces sanitized after use.
  - v. Employees shall wear face coverings when working or coming within six (6) feet of others.

- vi. Employees shall notify their supervisor if they are experiencing COVID-19 like symptoms, have tested positive for COVID-19, or have been instructed to quarantine by medical professionals or health officers. Employees shall report an elevated temperature, COVID-like symptoms or exposure to their supervisor immediately and without returning to work. Employees experiencing symptoms while in the workplace shall leave the work place immediately and phone the supervisor after leaving the building to report their concerns. Employees shall get tested if they are experiencing COVID-like symptoms. Employees may be required to self-isolate, even with a negative result, depending upon the symptoms and exposure. Employees shall report if someone they live with or have been with in the last fourteen days tests positive for COVID-19. Employees shall follow the Montgomery County Employee Manual regarding COVID-19 requirements.
- vii. When employees must come within six (6) feet of another person or place hands upon another person in the scope of their employment, such as for courthouse or probation searches, screening, arrest, or other lawful interactions, employees shall: wear appropriate personal protective equipment (“PPE”) of medical grade (i.e., N95/N99), and gloves; ask advanced screening questions of the individual; and ask the individual to wear a face covering, all if appropriate and time permitting under exigent circumstances. Employees shall take steps to separate desks, work stations, and seating areas from other employees and visitors to maintain social distancing whenever possible.
- viii. Physical changes will be made to the Court Offices, set forth in Section 4, to promote social distancing, hand washing, and other healthy practices.
- ix. The Courts will inquire of employees as to those who consider themselves vulnerable and offer reasonable accommodations to protect against COVID-19, as set forth through this Plan, and welcome other suggestions.
- x. The Courts will share information with employees on resources for mental health support, including *Be Well Indiana*, where employees may speak with someone directly about COVID-19, at the ISDH COVID-19 Call Center (open daily from 8 a.m. to midnight ET: 877-826-0011) or by visiting [www.bewellindiana.com](http://www.bewellindiana.com), or calling 2-1-1 from a mobile phone, or texting the employee’s zip code to 898-211.

b. Phase I

- i. The Courts plan to make reasonable accommodations to isolate vulnerable workers by heightened social distancing and eliminating access to public, which may include telework where feasible.
- ii. To maximize social distancing, employees and visitors should maximize physical distance from others, with a goal of maintaining six (6) feet social distancing. The Courts will post signage and add physical barriers, including taping off areas, removing/rearranging seats, adding floor decals, and other increased messaging to promote awareness of social distancing requirements.
- iii. Employees will be prohibited from congregating in violation of social distancing guidelines, encourage re-spacing of workstations to meet CDC guidelines, meetings will be conducted by remote appearance, suspend in-person trainings and continuing education and encourage employees to explore innovative methods to improve social distancing in all aspects of court and probation services.
- iv. The Courts will encourage telework, when feasible with Court operations, and minimize non-essential business travel.

- v. Employees shall follow the directives of the Montgomery County Health Department, Emergency Management and Board of Commissioners with respect to COVID-19 best practices.
- c. Phase II
  - i. Telework will be permitted, so long as court operations and business needs permit, if feasible, to assist with reasonable accommodations or staggering of employees.
  - ii. Non-Essential travel for business will be permitted.
- d. Phase III
  - i. The Court will resume normal staffing operations through Phase IV.
  - ii. Monitoring of employee health issues will conclude, with employees directed to self-report if they become High Risk through Phase IV.
- e. Phase IV
  - i. Operations resume to pre-pandemic practices.

#### 4. Courthouse Security Plan

- a. Employees shall be advised to practice good hygiene, designed to minimize the spread of viruses, including these admonishments:
  - i. Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
  - ii. Avoid touching your face.
  - iii. Sneeze or cough into a tissue, or the inside of your elbow.
  - iv. Disinfect frequently used items and surfaces as much as possible.
  - v. Strongly consider using face coverings while in the court offices.
  - vi. Avoid all physical contact, such as shaking hands.
  - vii. People who feel sick shall stay home
  - viii. Do not enter the court offices if you are at high-risk of infecting others.
- b. Phase I
  - i. Through Phase III, custodial and/or courtroom staff will clean the courtrooms after use, including points of ingress and egress (handrails, door handles, handicap and elevator buttons, and the like), and utilize these practices:
    - 1. Disinfect common and high-traffic areas.
    - 2. Spot clean contact areas during recess and breaks in the courtrooms and access areas.
  - ii. Provide wipes for use at counsel tables.
- c. Phase II
  - i. As visitors increase to the Courts, courtroom deputies will ensure strict compliance with social distancing and barriers displayed.  
Staff will minimize congestion in court lobby by directing litigants into courtroom when possible, to improve social distancing.
- d. Phase III
  - i. The Courts will use best practices to limit the number of jurors or separate jurors by spacing in the courtroom during voir dire and jury trials. The Courts will ensure that the public has access but continue to require social distancing.
- e. Phase IV
  - i. Operations will resume to pre-pandemic best practices, with signage removed.

- ii. Employees and Court will staff best practices and technology from pandemic to continue.

## 5. Screening Procedures for the Public

### a. Phase I

- i. Montgomery County courthouse has a staff of four security officers and it is the primary responsibility of courthouse security to screen all visitors to the courthouse for safety and COVID-19 concerns. Entrance to the Montgomery County courthouse is limited to one entrance for all employees and visitors (with the exception of judicial officers who have a separate secured entrance). Courthouse security and staff will offer face masks to adults and children over the age of two (2) years who fail to bring their own masks. The individual courts may require face coverings in the courtroom. Signs will be posted to notify the persons entering the courtroom of this requirement. If required, the individual courts will provide disposable face masks. Accommodations will be made during criminal cross examinations to balance confrontation clause challenges with public safety.
- ii. The Court will avoid any hearing, trial, or proceeding that may attract more people than court capacity will allow by increasing the use of remote hearings for all or most parties, inquiring of parties as to expected witnesses to appear, waiving initial hearings on infractions and misdemeanors, holding video guilty pleas and encouraging consent to remote felony sentencing, especially where limited or no testimony will be heard (ie, agreed sentences), use of queuing or text notification practices, live streaming court proceedings, enforcing prompt arrival and departure by litigants and attorneys, prohibiting courtroom negotiations and conferencing, and limiting courtroom seating to essential individuals by excluding appearance of personal supports, spectators, media, and others, when necessary.
- iii. Through Phase III, visitors to the Court who are vulnerable or high-risk will be encouraged to stay home and seek remote hearings or continuances or, where appearances are required, to wear face coverings, social distance, and alert court staff at the time of the hearing so others can wear face coverings. When feasible, these persons shall seek continuances to less busy times on the Court's docket or to allow a short delay for high risk individuals to recover.
- iv. Through Phase II, courthouse security will verbally screen visitors coming to court to prevent appearance by high risk individuals.

### b. Phase II

- i. Verbal screening of visitors will relax, but signs will remain, advising of restrictions upon high-risk persons entering the building and promoting good hygiene.
- ii. Courthouse security and staff will continue to make available face masks to adults and children over the age of two (2) years who fail to bring their own. Signs will remain posted encouraging face coverings, but courtroom deputies will no longer make courtesy suggestions.

### c. Phase III

- i. Courthouse security and staff will continue to make available face masks to adults and children over the age of two (2) years who fail to bring their own. Signs will

remain posted encouraging face coverings, but courtroom deputies will no longer make courtesy suggestions.

- d. Phase IV
  - i. Court facilities return to normal operations.
  - ii. Discussions with Courtroom Deputies, staff, and county executives to determine which best practices and technology from pandemic shall continue.

## 6. Resuming Non-Emergency Hearings

- a. Phase I
  - i. All vulnerable individuals should continue to avoid the Court Offices or seek reasonable accommodations if avoidance is not feasible. Members of households with vulnerable residents should be aware that when coming to Court Offices, where distancing is not practical, they could carry the virus back home. Vulnerable members of the public should continue to self-isolate, including appearing remotely for hearings or seeking continuances. Parties seeking continuances should include in motions if they are vulnerable or high-risk members of the community, which may be considered good cause in all but the most critical matters.
  - ii. The Courts will prioritize cases to be heard, with incarcerated defendants, CHINS/TPR Initial and Detention Hearings, Protective Orders, and emergency provisional family law matters continuing to have priority. Low priority cases, such as final hearings on divorces without children, proceedings supplemental, civil jury trials, and estate matters may not be heard until Phase IV.
  - iii. Through Phase III, the Courts will maximize remote video hearings for DOC and jail inmates, exercising great care to minimize the movement of incarcerated individuals to the court offices and between jailing facilities.
  - iv. During any hearing throughout this Plan where the public is excluded from the courtroom, the Courts will: (1) publish the Zoom hearing information in the order setting the hearing or by docket entry, which will be available on [mycase.IN.gov](http://mycase.IN.gov); and/or (2) live stream the court proceedings to YouTube or another similar platform.
- b. Phase II
  - i. All vulnerable individuals should continue to avoid the court offices unless reasonable accommodations can be made. Members of households with vulnerable residents should be aware that when coming to court offices, where distancing is not practical, they could carry the virus back home. Vulnerable or high-risk members of the public should continue to self-isolate, by appearing remotely for hearings or seeking continuances. Parties seeking continuances should include in motions if they are vulnerable or high-risk members of the community, which will generally be considered good cause in most matters.
  - ii. Court dockets will resume with in-person hearings being staggered, avoiding any “cattle call” type hearings that would violate social distancing considerations and ISDH or local health department’s recommended maximum capacities.
  - iii. The Courts will continue to closely prioritize cases to heard, with incarcerated defendants, CHINS/TPR’s of all types, Protective Orders, and emergency

provisional family law matters continuing to have priority. More moderate level cases will be scheduled to be heard in court.

- iv. Criminal bench trials will begin, with witnesses staggered to avoid capacity limits. Texting and queuing will continue. Remote civil bench trials may resume, if scheduling permits.
- v. Most hearings occurring during this phase will be held remotely, including evidentiary hearings. Only those with the highest concerns for constitutional protections and timeliness, or those having complex issues, should be conducted in person during this Phase, unless scheduling permits otherwise.

c. Phase III

- i. Vulnerable individuals can resume regular visits to court offices, but should practice social distancing, avoiding visits during congested times where distancing may not be practical, unless precautionary measures are observed. The Courts may consider the need to have occasional settings reserved for vulnerable litigants. High risk individuals will still be required to appear remotely or seek continuances.
- ii. The Courts will continue to strongly encourage remote hearings, when constitutionally appropriate, but more traditional hearings in person may resume to improve court access and case resolutions.

d. Phase IV

- i. All cases will resume and be scheduled using pre-pandemic practice.
- ii. Court, staff, and local bar will address which best practices and technology from pandemic should continue.

## 7. Jury Trials

a. Phase I

- i. Jury Trials remain stayed until August 1, 2020.
- ii. Final Pretrial Hearings should be held on those cases anticipated for Phase III settings, and summons jurors, as needed. Courts will discuss with State and Defense counsel new practices to be used for jury selection and trials, to seek input and prepare them for trial, encouraging only the most serious to set firm trial dates, and strongly discouraging setting trials where a resolution is expected.
- iii. The Courts will review jury trials set for Phase III and IV, to identify whether additional panel members should be summonsed. The Courts will revise the current jury questionnaire to include appropriate COVID-19 questions and prepare literature for prospective jurors on the new selection process and the Courts' practices. In the fourteen days prior to reporting for jury duty, the Courts will communicate information regarding best practices for high-risk individuals to prospective jurors who may develop symptoms of COVID-19 and how to notify the Court.

b. Phase II

- i. Revised jury questionnaires will be reviewed to determine best estimates for jury appearance rates, to make final adjustments to panel size.

- ii. Juror deferrals will be granted liberally to vulnerable jurors, high-risk jurors, front-line and essential workers, previously furloughed workers just returning to work, employees of long-term care facilities, those without childcare due to COVID-19 and others most impacted by COVID-19.
  - iii. Final review of Administrative Rule 17 concerns to confirm all local data and best practices support the safe and practical commencement of jury trials on August 1, 2020, as expected, without further extensions or Criminal Rule 4 concerns.
- c. Phase III
- i. Criminal jury trials will resume first, to include those with pending speedy trial motions under Criminal Rule 4. Other criminal jury trials with incarcerated defendants will follow, with priority given to Level 6 felony and misdemeanor jury trials, which require fewer jurors and smaller panels.
  - ii. The Courts will primarily use block/staggered panels for jury selection, with parties arriving at staggered times in groups or at an off-site location to maintain social distancing. Accommodations will be made to courtroom and jury seating to accommodate social distancing guidelines, with court staff monitoring group size. Jurors will be mailed advanced information concerning social distancing, which will include the jury video and an admonishment to view the same.
  - iii. The Courts shall develop a COVID-19 Jury Questionnaire, including an option to complete and submit it online, to avoid handling paper.
  - iv. The jury room and waiting area will be marked with signs to adjust for new seating capacity. In the event of larger juries requiring greater capacity, the courtroom will be used for deliberations and the jury will be split into separate rooms for jury breaks.
- d. Phase III
- i. Criminal jury trials of all types not addressed in Phase II, will be given priority.
  - ii. The Courts will continue to practice those social distancing and policies set forth for juries in Phase II.
- e. Phase IV
- i. All jury trials will resume without social distancing and under pre-pandemic practices.
  - ii. The Courts, staff, and local bar will address which best practices and technology from pandemic should continue.

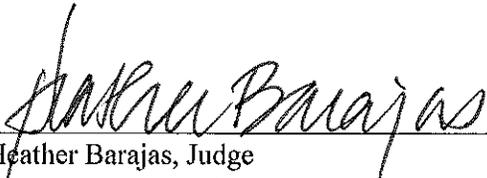
## 8. Court Probation Services

### a. Phase I

- i. Weekend drug screens suspended. Field contacts suspended. Site visits suspended. Probation Officers will use social distancing practices and approved medical grade PPE. Written, video, or telephonic reporting will be used in all cases, except where in-person is necessary to protect the community.
- i. Appropriate COVID-19 signage placed at Thomas K. Milligan Justice Center (probation offices) similar to the warnings described above for the courthouse.
- ii. All regular probationer office appointments suspended in favor of telephone appointments with probation officers having the discretion to see any high-risk/high-need probationers.

- iii. All regularly scheduled drug screens suspended.
  - iv. Utilize remote reporting.
  - v. All employees follow the guidelines described above for courthouse employees.
- b. Phase II
- i. In the discretion of the Chief Probation Officer, some site visits and in-office probation appointments may resume. Social distancing must be maintained with family members and other occupants of these homes, including all children, who may not appreciate social distancing guidelines.
  - ii. The other Phase I guidelines shall be followed.
- c. Phase III
- i. Probation Officers may resume site visits, field contacts and drug screens as needed, adhering to social distancing and masking recommendations. Remote appearances in court will continue to be strongly encouraged.
  - ii. All employees follow the guidelines described above for courthouse employees.
- d. Phase IV
- i. Probation resumes pre-pandemic best practices.

Respectfully submitted this 29 day of May, 2020.

  
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Heather Barajas, Judge  
Montgomery Superior Court I

  
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Peggy Q. Lohorn, Judge  
Montgomery Superior Court II

  
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Harry A. Siamas, Judge  
Montgomery Circuit Court