

In the
Indiana Supreme Court



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

Supreme Court Case No.
20S-CB-215

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 filed an amended expansion of operations plan (“Plan”) on June 17, 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 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 shall comply with its terms through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/18/2020 , **effective May 30, 2020.**

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

Loretta H. Rush
Chief Justice of Indiana

20S-CB-215

PETITION (Amended) PURSUANT INDIANA ADMINISTRATIVE RULE 17

Comes not the Benton Circuit Court and submits for Approval a Transition Plan for the continuing operations of the Benton Circuit Court with respect to civil and criminal proceedings along with all business or activity conducted in the Benton Circuit Court. While the Court has been conducting limited video conferencing hearings and coordinating limited staffing as a result of the pandemic, the Court now needs to phase in more hearings and expand its operations to avoid a burdensome backlog. The Court submits for approval a transition plan for expansion and phasing back to normal operations, with full operation expected by August or September 2020 depending on covid-19 case counts.

1. **ADMINISTRATIVE RULE 17:** With respect to the previously approved emergency relief pursuant to administrative Rule 17, the Benton Circuit Court requests no further extension or expansion beyond the relief previously granted, including all extensions, or future extensions granted for all courts by the Indiana Supreme Court. The Benton Circuit Court has conducted hearings via Zoom Video Conferencing, and while we expect a large volume of cases and hearings to begin occurring in June and July, the Court will conduct most hearings, if not all, using video conferencing in mass if necessary, to keep cases moving.
2. **AUTHORITIES CONSULTED:** The Judge has consulted with the commissioners, prosecutor, two other local attorneys, and emergency management director with respect to the courthouse lockdown, the gradual opening of the courthouse, the positive covid-19 case count within the county, the trend of cases within the county, and the need to continue court operations and in what manner expansion can and should occur.
3. **EMPLOYMENT PROCEDURES:** To date, the Court has operated with limited staff on site, with a combination of computer work from home and office. Social distancing measures have been utilized. Recently the Court increased staffing on site but without full capacity. Starting in June all staff will report to the Court offices, but the main Courtroom door will remain closed to prevent other office personnel throughout the building from just popping in, thereby increasing exposure. Staff and janitorial services will be used to disinfect or wipe down commonly used areas or touched surfaces on a routine basis. Staff will be required to report any symptoms related to covid-19 and if reported or known, remain home. Employees will be able to maintain social distancing when they return. Sanitizing and disinfecting supplies have been provided to staff to use throughout the day and mental health resources have been provided.

- 4. COURTHOUSE FACILITY PLAN:** The current plan continues with restricted access to the courthouse until July, with entry upon appointment only or with a required hearing or meeting previously arranged. The general public is not permitted to just enter the building without having a business purpose. All public is permitted to enter assuming a legitimate purpose, meeting, hearing, or arranged appointment, and assuming the individual is not restricted as a result of symptoms or after failing written or verbal inquiries concerning their history or exposure to covid-19. After July 1, 2020, public access will become less restricted. Spectators will be either discouraged or prohibited depending on the covid-19 case count within the Indiana and Benton County at or before July 1, 2020. Janitorial services for wiping and cleaning will continue at an all time high. Further, each office and its personnel shall take care of cleaning surfaces within their own office space.
- 5. Screening Procedures for General Public:** The court security officer or sheriff department designee will be assigned to the public entrance. The security officer, or other Sheriff department designee will question those entering concerning their travel, exposure, potential symptoms, and exercise discretion in taking temperature of entrants. The security officer will deny entry in his discretion and if necessary, contact the Judge or a County Commissioner if a dispute occurs concerning entry. Entrants will be encouraged to immediately sanitize hands upon entry. Entrants will be required to conduct their stated business or purpose and exit the building immediately thereafter. Protective face covering will be optional, and none will be supplied. Benton County, a rural community has 30 positive covid-19 cases, with 23 already personally resolved without significant health issues and no intensive care requirements.
- 6. Non-Emergency and Emergency Hearing:** The Court has and will continue to use ZOOM meeting to conduct hearings whenever possible, for non-emergency and emergency hearings. A ZOOM hearing can occur immediately, with no advanced pre-arranged time required to conduct these meetings. Depending on the covid-19 case count, both state and county wide, the Court will phase out of ZOOM meetings over time. While ZOOM allows for recording of the session, the Court and court staff has found it most practical to RECORD the meetings using the normal court recording equipment via a positioned microphone, such that there is NO DIFFERENCE in the recording process outcome.

ZOOM conferencing has already occurred with jail inmates without issue. This process will continue whenever feasible and the case does not demand an in-court presence. The general public can access meetings using the predetermined and fixed ID and password for the meeting. ZOOM allows entrances and participants to be admitted or

denied entry, much like the physical courtroom. To avoid confusion and to improve efficiency and availability, the Court has found repeated use of the same ID and password most practical and logical. When the process fails or someone causes issues with this process, the Court will revert to a new ID for each session. In this way, the public can always appear, at their choosing. Court is always open to the public using this process, but for confidential hearings, participants will be denied entry, as normally occurs within the physical court location. Essentially, access to hearings and court proceedings is the same, with the same opportunity to attend. The one distinction without a difference, is physical presence versus video conference presence. The Court will not advertise hearing dates and times any more or less than it did before covid-19.

- 7. Jury Trials:** Jurors will be summoned for jury selection with a new letter identifying covid-19 concerns and asking them to report in advance by phone: contact with covid-19, travel concerns, symptoms, or household members with symptoms. The Courts concern will be the overuse of excuses to avoid serving as a juror. Upon entry to Court, jurors will be kept at a reasonable distance from other spectators or potential jurors. Upon selection and jury service, the larger commissioner's room will be used for jurors if available to allow better spacing. Depending on the covid-19 case number, the Court may shut the courtroom door, exclude spectators and others from the courtroom once deliberations begin, and make the courtroom the largest jury room in the State. Meals will likely be delivered to the courthouse. The voir dire process may be conducted using one-half of the courtroom with spacing in lieu of the jury box. Otherwise, if necessary, the regular jury box will be used, with 6 seated instead of 12 during the selection process. Jury deferrals will be given for reasons caused by the COVID-19 pandemic, such as but not limited to daycare issues, loss of income, financial hardship, and/or caring for relatives. Masks will be provided to jurors.
- 8. Court supervised services:** Court services that involve visiting a residence, shall be limited to outside structure visits only, without entry into the home. The parties shall remain socially distant. Only when an emergency or serious matter occurs shall there be entry into a home. In office visits shall be limited and with social distancing until July 1, 2020.

WHEREFORE, the Benton Circuit Court, is seeking approval of the Benton County Transition Plan. The Court seeks approval of this plan through and until August 14, 2020.

Respectfully submitted,

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Rex W. Kepner, Benton Circuit Court Judge
May 30, 2020 submission