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TO: All Trial Court Judges
FROM: Judge Elizabeth F. Tavitas,
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Guidelines on Resuming Operations in Family Law Cases

The COVID-19 pandemic has required courts to suspend non-essential hearings for nearly three (3) months. The Indiana Family Law Taskforce is aware of the impact this has had on parties and children in family law cases, and recognizes there are challenges in efficiently managing domestic relations cases as courts resume full operations. The Indiana Innovation Initiative Family Law Taskforce is reviewing the continually evolving circumstances and offering guidance. On April 2, the Taskforce provided [Guidance on Family Law for Courts and Communities](#). Today, the Taskforce provides further general guidance and recommendations based on the information currently available.

1. **Consider General Guidelines.** The Office of Judicial Administration of the Indiana Supreme Court published “Resuming Operations of the Trial Courts – Covid-19 Guidelines for Indiana’s Judiciary” (“Resuming Operations”) on May 13, 2020, which provides detailed guidance, and should be reviewed in conjunction with this notice. See <https://www.in.gov/judiciary/files/covid19-resuming-trial-court-operations.pdf>.
2. **Use Remote Hearings Whenever Possible.** In order to promote public health and safety during the continuing pandemic, courts are strongly encouraged to minimize the number of individuals entering the county courthouse. Judges and judicial officers should conduct remote hearings in domestic relations cases as much as possible; and when not feasible or appropriate in particular circumstances, courts should allow witnesses to appear remotely to limit contact between individuals. The Indiana Supreme Court has offered Zoom licenses to all trial courts, and allows

remote hearings even when the parties object, so long as good cause is found by the trial court, which can be the continued existence of COVID-19.

3. **Provide Advance Information on Protocol.** At the time a hearing is scheduled, the courts should provide parties and attorneys their plans for maintaining social distancing, the requirement of masks, security procedures, sanitation methods, and any other helpful information that can ease the concerns of the public for their health and safety. *See Resuming Operations* at pages 12-13.
4. **Ensure Access to Digital Justice.** Courts should be mindful that not every party has reliable or available technology to participate in hearings by phone or video. Some parties may have cell phone service with a limited number of minutes available. Parties should not incur expense to participate in hearings, nor should they be required to remain on a telephone line until their case is called. Possible options for ensuring access include calling the party when their case is ready to be heard, or offering a public location for parties to use a computer or phone (such as a library, bar association, or legal assistance clinic). Courts should also consider maintaining the necessary video technology that parties can access at a remote location which provides the level of privacy required. Personal protective equipment should be available for parties to use.
5. **Schedule Cases at Specific Times.** The use of high-volume dockets, where multiple cases are scheduled each hour, or at the same time, is discouraged. Cases held in person should be scheduled at specific times to allow for proper social distancing in accordance with CDC guidelines, and to provide for adequate sanitation between hearings. As discussed above, cases held remotely should also be scheduled at specific times to prevent parties from having to use cell phone minutes or data waiting for their cases to be called. Alternatively, courts should consider “doctor’s office” protocols – having parties wait in the parking lot or another nearby location outside the courthouse that permits social distancing until they are summoned to appear either by a phone call, text messaging, or pager system.
6. **Prioritize Cases.** Courts are encouraged to review the filed pleadings and case chronology to prioritize cases – especially those that must be conducted in person (due to lack of resources or necessity). Cases involving the safety and emotional well-being of children, or issues relating to domestic violence, should take priority over most other case types. After addressing emergency cases, courts should prioritize cases with statutory deadlines, such as provisional hearings, and then other non-emergency cases that were continued during the pandemic.

7. **Use Trauma-Informed Practices.** For a multitude of reasons, the pandemic has resulted in traumatic circumstances for many families and children. While there is a high volume of cases that needs to be addressed as quickly and efficiently as possible, courts should be mindful of trauma-informed practices. Courts should display patience and understanding to families during their time of crisis. Courts should provide parties with informational resources in their jurisdictions relating to domestic violence, substance use and abuse, and counseling services so that emotional, physical, and mental health needs can be addressed during this time.
8. **Triage Cases.** To expedite the resolution of domestic relations cases, and consistent with the recommendations of the National Center for State Courts' Family Justice Initiative (<https://www.ncsc.org/services-and-experts/areas-of-expertise/children-and-families/family-justice-initiative>), courts should consider a triage approach to assess which cases may be resolved more quickly and which cases require more extensive court time and services. A possible triage option may involve immediately scheduling a remote pre-trial conference to determine whether:
 - a. the parties have an agreement, either in whole or in part, and whether they need assistance in memorializing that agreement;
 - b. the parties would benefit from a referral to legal assistance organizations or resources (such as www.indianalegalhelp.org);
 - c. mediation is appropriate;
 - d. referral to services is appropriate (such as counseling or parenting classes); or
 - e. the case involves high conflict requiring substantial court time and intervention.

This approach may take an early investment of time, but in the long-term, could save significant court time for many cases.

9. **Strive for Uniformity.** All of the courts handling family law cases within a particular county should consider uniform rules and practices during the pandemic in order to promote efficiency and increase public confidence in the process.
10. **Encourage Language Access.** Courts must still ensure that individuals with limited English proficiency, or those who are hearing impaired, are provided necessary language interpreters, regardless of whether the hearing is in person or conducted remotely. Language line is available to all courts free of cost. Interpreters certified by the Indiana Supreme Court can be used both in person or by video. For assistance in locating a language interpreter, please contact Lun Pieper at lun.pieper@courts.in.gov.

11. **Use Technology to Increase Efficiency.** Courts should consider developing and using a paperless process that will move emergency pleadings to the judge as soon as possible. Courts should also consider obtaining the email and/or cell phone information of unrepresented litigants in order for them to receive notice quickly and electronically from the court.