



INDIANA SUPREME COURT

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Office of Judicial Administration

COURTS.IN.GOV

To: Circuit, Superior and Probate Judges
City and Town Court Judges

From: Jeffrey Wiese, Deputy Director of Legal Support Division
Indiana Office of Court Services

Date: November 12, 2020

RE: Updated Guidance for Court Operations During the COVID-19 Health Emergency

As COVID-19 cases continue to rise, courts must remain attentive and exercise flexibility in adjusting local operations to address fluid conditions.

Trial courts possess a great deal of discretion in how you operate your courtrooms and manage your dockets. The Supreme Court will only grant an Administrative Rule 17 petition under extraordinary circumstances. A new (amended) Administrative Rule 17 petition is only necessary if tolling is required due to circumstances that make it impossible to proceed with court, even remotely. The request for tolling should not exceed the length of your current local emergency.

Before filing, please contact [Jeff Wiese](#) at IOCS for guidance on whether a new or amended petition is required. If you deem it necessary to file an Administrative Rule 17 petition, the Indiana Office of Court Services remains ready to assist you in this process. The format should be consistent with previously filed petitions and should include the following:

- The specifics of your local emergency that make it impossible to proceed (e.g., unavailability of essential staff or stable internet in your county to conduct remote proceedings, number of COVID-19 cases in your county).
- Reason(s) why discretionary tools are inadequate to address the emergency.
- The length of time requested for tolling because the current local emergency. This should be the specific amount of time it will take your court to handle the emergency at hand and not an extended blanket amount of time.

The [Supreme Court's November 10, 2020 order](#) provides, in relevant part:

- Trial courts have inherent authority to extend criminal trials based on a finding of congestion of the court calendar or locally existing emergency conditions for good cause shown. Non-emergency proceedings can be continued, if possible, by agreement of the parties. In civil cases, the parties can request motions for continuances or to extend procedural deadlines as provided in the Trial Rules.

MARY KAY HUDSON, EXECUTIVE DIRECTOR

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- Remote proceedings, subject to constitutional limitations, and as directed by the Supreme Court’s [order](#)—which has been extended through July 1, 2021— are encouraged. Remote hearing guidance, information, and technology tips are available in the [INcite Benchbook](#) application. These materials include instructions to allow you to stream to the Supreme Court’s website for trial court hearings.
- Judges always have authority to review county-jail and direct-placement community correction sentences of non-violent inmates and juveniles to mitigate the spread within detention facilities.
- Judges should continue to review and revise as needed policies and procedures concerning:
 - protecting court employee health and safety;
 - protecting public health and safety in accordance with county health department guidelines;
 - sanitizing and maintaining sanitation of court facilities;
 - maintaining court records in each case;
 - selecting jurors, and
 - protecting the health and safety of potential jurors.

Accordingly, subject to constitutional limitations, you may continue to conduct proceedings remotely, and given local circumstances, trial courts possess the ability to continue criminal trials under Criminal Rule 4. It is important to note that when cases are continued pursuant to Criminal Rule 4, individual findings are required in each case.

Despite the pandemic, you must continue to ensure that:

- the public has access to file cases and documents using e-filing, fax, mail, in-person, or drop box at the courthouse; and,
- the public has simultaneous access to observe non-confidential court proceedings in person or via livestream of video/audio during the court hearing.

There may be instances when a judicial officer is unavailable due to illness. The options to address this will depend on the existing county’s judicial resources and duration of need. Some counties may have other judicial officers able to cover in-person and remote hearings. Other counties may need to secure a senior judge to help cover remote hearings. It may be that a judicial officer will need to appoint a judge *pro tempore* for a short time.

There are several senior judges willing to preside over remote hearings. For more information regarding the availability of senior judges, please contact [Heather Falks](#). Senior judges are also available to help with reducing a court’s backlog by presiding over remote hearings. For longer term coverage, the court can request appointment of a judge *pro tempore* from the Supreme Court. See [Ind. Trial Rule 63](#).

Please refer to, and use, the following guidance from the Resuming Operations Task Force:

- [Comprehensive guidance on resuming operations and related issues](#).
- [Protocol for In-Courthouse COVID-19 Exposure or Symptoms by a Participant in Indiana State Courts](#). This includes guidance on how to proceed when court personnel/participants become ill.