

In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-203



Order

The Rush County Courts, *en banc*, have petitioned this Court for emergency relief pursuant to Indiana Administrative Rule 17. The petition states that the Governor of the State of Indiana has declared a public health emergency due to outbreak of the 2019 novel coronavirus (COVID-19); the CDC has advised that “social distancing” and other drastic steps are required to prevent of the further spread of the virus; and on March 16, 2020, Rush County officials adopted a Joint Executive Order to, among other preventive measures, restrict non-essential public access to the Rush County Courthouse. The petition states that this emergency will inhibit litigants’ and courts’ ability to comply with statutory deadlines and rules of procedure. The Honorable David E. Northam has been appointed as presiding judge for this emergency.

The Court finds that good cause exists for granting emergency relief.

Being duly advised, the Court GRANTS IN PART the petition, DECLARES pursuant to Indiana Administrative Rule 17 that an emergency exists in Rush County, and APPROVES the plan. The Court further ORDERS as follows to ensure the orderly and fair administration of justice during this emergency, effective **March 19, 2020**:

1. This Court authorizes the tolling, from the effective date of this order **through May 1, 2020**, of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters and in all other civil and criminal matters before the Rush County courts. Further, no interest shall be due or charged during this tolled period.
2. This Court authorizes immediate suspension of all criminal and civil jury trials **through May 1, 2020**. The Rush County courts are directed to review **no later than April 13, 2020** whether continued suspension is necessary; and if it is not, to resume jury trials no later than May 1, 2020 to allow adequate notification of the jury pool. If the Rush County courts believe continued suspension is necessary, they may petition this Court to extend the suspension.
3. **Through May 1, 2020**, the Court authorizes the Rush County courts in **criminal** cases, subject to Constitutional limitations, to:
 - a. continue all pre-trial conferences and non-essential hearings that will not result in a resolution of the case;

- b. hold pre-trial and discovery status hearings by counsel only;
 - c. allow attorney-only conferences whenever reasonable without the requirement of a motion;
 - d. allow counsel to appear remotely by conference call;
 - e. have defendants appear via teleconference from jail for any hearings, except contested sentencing hearings and jury trials; and
 - f. continue trials for non-incarcerated individuals.
4. **Through May 1, 2020**, the Court authorizes the Rush County courts in **civil** cases, in their discretion and subject to Constitutional limitations, to:
- a. continue all bench trials and all matters deemed non-essential in the courts' discretion;
 - b. use conference call to:
 - i. conduct hearings that involve agreed issues;
 - ii. allow parties to appear remotely, unless a litigant's due process rights would be violated; and
 - iii. allow attorneys to appear remotely for any civil status conference, pre-trial conference, or non-evidentiary hearing;
 - c. allow attorney-only conferences whenever possible without the requirement of a motion; and
 - d. suspend issuing civil body attachments and Title IV-D attachments.
5. **Through May 1, 2020**, the Court authorizes the Rush County courts in **juvenile** cases, including child in need of services (CHINS), juvenile delinquency, and termination of parental rights, in each court's discretion and subject to Constitutional limitations, to:
- a. continue all hearings, except detention hearings;
 - b. hold detention hearings by audio or video conference to allow parties to appear remotely, unless doing so would violate a litigant's due process rights;
 - c. setting fact-finding hearings, disposition hearings, periodic review hearings, and permanency hearings beyond the timeframes set forth by statute, pursuant to Paragraph 1 above;
 - d. utilize audio or video conferencing for all hearings involving incarcerated parents, to the extent consistent with constitutional rights; and
 - e. limit admittance to the court to parties, counsel, and other attendees set forth by statute, such as relative/foster/kinship placements.
6. **Through May 1, 2020**, the Rush County courts are authorized, in their discretion and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing and to limit the size of the gathering consistent with public-health recommendations.
7. **Through May 1, 2020**, the Rush County courts may 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 COVID-19;

to constitute “good cause” to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

8. The Rush County courts shall file a status update **no later than April 24, 2020** to inform this Court of whether there is an ongoing need for emergency relief.

Done at Indianapolis, Indiana, on 3/20/2020.



Loretta H. Rush
Chief Justice of Indiana