

20S-CB-155

**CARROLL SUPERIOR AND CIRCUIT COURTS
Delphi, Indiana**

**IN RE: THE MATTER OF REQUESTING
RELIEF UNDER INDIANA
ADMINISTRATIVE RULE 17**

Cause 08C01-2003-CB-16

**PETITION FOR RELIEF UNDER INDIANA
ADMINISTRATIVE RULE 17**

The Courts of Carroll County petition the Indiana Supreme Court for relief under Indiana Administrative Rule 17. In support of this petition, the Carroll Superior Court and Carroll Circuit Court inform the Indiana Supreme Court as follows:

- A. The Governor of the State of Indiana has declared a public health emergency;
- B. Carroll County local school corporations have closed through Monday, April 6, 2020;
- C. The Carroll County Commissioners are declaring a public health emergency effective immediately;
- D. Civilians will be prohibited from entering the Carroll County Courthouse until March 31, 2020 (this date may be extended or shortened depending on the ever-changing nature of this emergency);
- E. The Governor of the State of Indiana has restrictions on all non-essential gatherings of more than 250 individuals;
- F. The United States Center for Disease Control ("CDC") recommends that effective March 15, 2020, and for the next eight weeks, all non-essential gatherings must be limited to no more than 50 people;
- G. The United States CDC is encouraging "social distancing" as a means of limiting the spread of COVID-19 and other potentially fatal viruses;
- H. The Carroll Circuit and Superior Courts hold hearings and proceedings which result in numerous people entering the Carroll County Courthouse each day;
- I. The Court has received numerous inquiries about the health and safety of litigants, counsel, prospective jurors and the public;
- J. That mitigation of the spread of contagions is of utmost importance to protect the citizens of Carroll County, neighboring counties, the state, the country and the planet;
- K. That the local courts have appointed Judge Benjamin A. Diener, Judge of the Carroll Circuit Court, as the presiding judge during this emergency.

The judges of Carroll County request that the Indiana Supreme Court declare that an emergency exists in Carroll County under the authority of Ind. Admin. R. 17, and to make appropriate emergency orders for Carroll County directing and allowing the Courts and Clerk of Carroll County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted with this petition, to appropriately address this emergency.

Further, we request that the Indiana Supreme Court:

(1) authorize tolling, beginning March 17 2020, and until April 6, 2020, of all laws, rules, and procedures setting time limits in all criminal, juvenile, CHINS, domestic relations, mental health, and all civil matters before the courts of Carroll County; and

(2) beginning March 17, 2020, and until April 6, 2020, authorize the Carroll County courts, in their discretion, to continue all hearings they deem non-essential; and

(3) authorize the Carroll County Courts to request an extension of this order, from time to time, until emergency conditions have subsided.

Respectfully submitted this 17th day of March, 2020.



Benjamin A. Diener, Judge
Carroll Circuit Court



Kurtis G. Fouts, Judge
Carroll Superior Court

CARROLL COUNTY EMERGENCY PLAN

The Courts submit the following as the Emergency Plan of Carroll County and request authorization to utilize any combination of these measures as the Courts deem appropriate:

- 1) Suspend Criminal Rule 4 due to public health risk.
- 2) The Courts will hold criminal pre-trial and discovery status hearings by counsel only. Counsel may appear remotely via teleconference. Counsel may submit a timely "Notice of Remote Appearance" prior to a scheduled hearing to inform the Court that they wish to appear remotely.
- 3) Defendants will appear via teleconference from the jail, if possible, for any other hearing excepting contested sentencing hearings or jury trials.
- 4) The Court will continue non-essential criminal hearings until such time as the Courts deem the health and safety risks to Parties and Counsel to be sufficiently addressed.
- 5) The Courts will continue criminal jury trials until no later than May 4, 2020 to allow adequate notification of the jury pool.
- 6) The Courts will allow Parties to appear remotely via teleconference in all civil matters.
- 7) The Courts will continue non-essential civil hearings until such time as the Courts deem the health and safety risks to Parties and Counsel to be sufficiently addressed.
- 8) The Courts may exercise discretion on requests for continuances. A Party's bona fide wish to avoid of unnecessary social contact may be considered good cause for continuance by the Courts under Ind. Trial Rule 53.5.
- 9) The Courts may conduct hearings that involve agreed issues by teleconference.
- 10) Allowance for attorney-only conferences whenever possible without the requirement of a motion.
- 11) Allowance for setting/resetting non-adjudicatory and non-detention juvenile CHINS and delinquency proceedings outside the statutory timeframes as deemed necessary by the Courts.

- 12) Allowance for setting/resetting juvenile termination hearings outside the statutory timeframes as deemed necessary by the Courts.
- 13) Request the Carroll County Sheriff, Delphi Police Department, and Flora Police Department to issue summonses for non-violent misdemeanor and non-violent Level 6 and Level 5 felony cases. These will be set for initial hearing in May. No Officer will be obligated to follow this request and will be expected to use their best judgment.
- 14) Allow attorneys to file a timely "Notice of Remote Appearance" to inform the Court that they wish to appear remotely for any civil status conference, pre-trial conference or non-evidentiary hearing and permit them to do so.
- 15) Limit admittance to the Carroll County Courts to Parties, Counsel, and statutorily contemplated attendees (i.e. domestic violence advocates, foster parents, victims, etc.). Allow for those who appear for hearings as spectators to be admitted to Carroll County Courts only for good cause shown.
- 16) Allowance to Continue all civil jury or bench trials to no later than May 4, 2020 to allow adequate notification to the Jury Pool.
- 17) Suspend issuing all civil body attachments and Title IV-D attachments.