

20S-CB-174

NEWTON COUNTY CIRCUIT AND SUPERIOR COURTS

KENTLAND, INDIANA

RULE AR 17 PETITION

Comes now the Newton County Circuit Court and the Newton County Superior Court and petitions the Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the Courts inform the Supreme Court as follows:

1. The Newton County Circuit Court and the Newton County Superior Court have convened en banc and have determined:
 - a. That the Governor of the State of Indiana has declared an emergency due to the COVID-19 virus.
 - b. That the WHO has declared the Coronavirus a Pandemic.
 - c. The Governor of the State of Indiana has declared a Public Health Emergency and a restriction of all non-essential public gatherings of people over 250 individuals.
 - d. That the school corporations located in Newton County have closed beginning March 16, 2020 to April 6, 2020 and are conducting classes via e-learning methods,
 - e. That the Newton County Commissioners have instituted measures to protect the County employees and the public while ensuring the essential governmental functions are conducted, which includes limiting access to the Courthouse during this public health emergency.

The Judges of the Newton County Circuit Court and the Newton County Superior Court request that the Supreme Court declare an emergency exists in Newton County under the authority of Ind. Admin. R. 17, and to make appropriate

emergency orders for Newton County directing and allowing the Courts and the Clerk of Newton County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency.

EMERGENCY PLAN

The Courts submit the following as the Emergency Plan of Newton County:

1. Tolling for a limited time all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters before all State of Indiana trial courts between March 16, 2020 and May 1, 2020.

2. Suspending and/or rescheduling criminal and civil jury trials for a limited time beginning on March 16, 2020 and ending on May 1, 2020, (subject in criminal cases to the Constitutional right to speedy trial and Constitutional protection against double jeopardy).

3. Suspending new juror orientations, extending existing jury panels, and/or postponing jury service to a later date for jurors who are ill, caring for someone who is ill, or in a high-risk category beginning on March 16, 2020 and ending on May 1, 2020.

4. Continuing and/or rescheduling non-essential hearings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases) from March 16, 2020 ending on May 1, 2020.

5. Using telephonic or video technology in lieu of in-person appearances, unless a litigant's due process rights would be violated.

6. Issuing summonses in lieu of bench warrants or notices of failure to appear.

7. Considering (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; or (c) status of such individuals in a high-risk category; to constitute "good cause" to either

appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

8. Allowing any attorney wishing to appear remotely (e.g., through teleconference systems, etc.) for any status conference or non-evidentiary hearing without further leave of court upon filing a “Notice of Remote Appearance” in the court in which the matter will be heard. If an attorney appears on behalf of a client, then the Court would excuse the client being present for a pre-trial conference or pre-Fact-Finding hearing or omnibus hearings.

9. Subject to applicable Constitutional limitations, only parties to litigation and their attorneys may enter the Newton County Courthouse. No spectators are permitted in courtrooms to the extent necessary to provide adequate social distancing.

10. Posting signage at all public entry points to judicial facilities advising individuals not to enter the building if they have:

- a. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
- b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
- c. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
- d. Been asked to self-quarantine by any doctor, hospital, or health agency;
- e. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or
- f. A fever, cough or shortness of breath;

and directing bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols.

11. Allowing individuals with legitimate court business to stay home and request a continuance by phone to the respective court if they are ill, caring for someone who is ill, or in a high-risk category.

12. Providing sanitation materials (such as hand sanitizer or bleach wipes) at all courtroom entrances and counsel tables.

13. Suspend issuing all civil body attachments and the Title IV-D attachments from March 16, 2020 ending on May 1, 2020.

14. Utilize video conferencing in Juvenile Court for all fact-finding and termination hearings in CHINS cases where either parent is in the Newton County Jail from March 16, 2020 ending on May 1, 2020.

15. Setting/Re-setting non-adjudicatory, non-detention Juvenile CHINS and Delinquency Proceedings outside the statutory timeframe as deemed necessary by the Juvenile Court from March 16, 2020 ending on May 1, 2020.

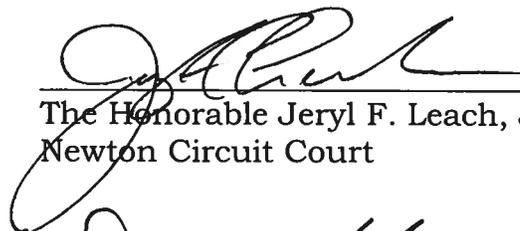
16. Setting/Re-setting Juvenile Termination hearings outside the statutory timeframes as deemed necessary by the Court from March 16, 2020 ending on May 1, 2020.

17. Any Family law matter, including IV-D cases, shall first be required to conduct a settlement conference between the parties and their attorneys, by telephone, internet or in person, if feasible.

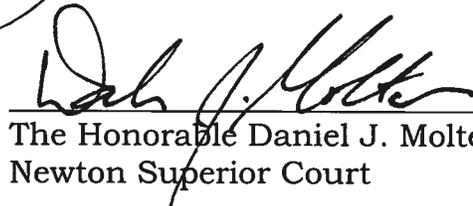
18. In the event of emergency during this national crisis, the Judge of the Newton Circuit Court shall be eligible to serve as Judge of the Newton Superior Court and the Judge of the Newton Superior Court shall be eligible to serve as Judge of the Newton Circuit Court.

The Newton County Circuit Court and the Newton County Superior Court propose this plan to remain in effect until May 1, 2020.

Respectfully submitted:



The Honorable Jeryl F. Leach, Judge
Newton Circuit Court



The Honorable Daniel J. Molter, Judge
Newton Superior Court