

20S-CB-178

**Bartholomew County Courts
Columbus, Indiana**

PETITION FOR RELIEF UNDER INDIANA ADMINISTRATIVE RULE 17

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

1. The Bartholomew County Courts have determined:
 - A. The Governor of the State of Indiana has declared a public health emergency and on March 16, 2020 ordered that no one is to be served in bars or restaurants. Drive-through items and carryout items are permitted. State employees have been asked to work from home whenever possible. The State has raised its Emergency Operations Center to Level 1 status.
 - B. The Indiana State Department of Health reports that Bartholomew County has one confirmed case of coronavirus as of Sunday, March 15, 2020. This case “appears to be a community-based spread as the patient did not have travel history or a clinical contact link.” Brian Niedbalski, M.D. Bartholomew County Health Department Director.
 - C. On March 16, 2020, attorney from Jackson County notified Bartholomew Circuit Court that he will not be able to attend a hearing on March 18, 2020 because he has been quarantined as a result of his daughter being infected with the coronavirus.
 - D. On March 16, 2020, a juvenile who had been detained in a Vigo County facility appeared for a detention hearing. He was running a fever and was coughing throughout the hearing.
 - E. Under the direction of the Bartholomew County Health Department and Columbus Regional Health, the Bartholomew County School Corporation and Flat Rock-Hawcreek School Corporation have closed all local schools through Monday, April 6, 2020 and implemented eLearning. They have also suspended all school-related activities beginning March 16, 2020;
 - F. Ivy Tech and IUPUC will hold classes by ELearning through April 5, 2020;
 - G. There have been numerous closures in Bartholomew County including the following: The Commons Indoor Playground, Donner Center, Hamilton Ice Arena, Columbus Gymnastics Center, Lincoln Park and Clifty Park baseball and softball diamonds, Blackwell Park soccer fields, Columbus Area Visitors Center, Mill Race Center (for Seniors), Foundation For Youth, Kids Commons, the Bartholomew County Library and a large number of churches.
 - H. The Bartholomew County Jail has suspended all visitation.
 - I. The United States Center for Disease Control is encouraging “social distancing” as a means of limiting the spread of COVID-19 and other potentially fatal viruses;
 - J. The Bartholomew Courts hold hearings and proceedings which result in hundreds of people entering the Courthouse each week;
 - K. That mitigation of the spread of contagions is of utmost importance to protect the citizens of Bartholomew County;
 - L. The local courts have appointed Judge Kelly Benjamin as the presiding Judge for this emergency.

The judges of Bartholomew County request that the Supreme Court declare that an emergency exists in Bartholomew County under the authority of Ind. Admin. R. 17, and to make appropriate emergency orders for Bartholomew County directing and allowing the courts and clerk of Bartholomew County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herewith, so as to appropriately address this emergency for the period of Tuesday, March 17 through Friday, April 17, 2020, including a toll on the timeframes set forth in Ind. Crim. R. 4.

EMERGENCY PLAN

The Bartholomew County Courts submit the following as the Emergency Plan of Bartholomew County and the City of Columbus:

1. Suspend CR 4 due to public health risk.
 - a. The Court will hold pre-trial and discovery status hearings by counsel only. Counsel may appear remotely by conference call. Counsel may submit a Notice of Remote Appearance at least 24 hours prior to a scheduled hearing to inform the Court they wish to appear remotely.
 - b. Defendants in the Bartholomew County Jail or Indiana Department of Correction will appear by teleconference for all hearings except contested sentencing hearings or jury trials.
 - c. The Court will continue non-essential criminal hearings until the health risk no longer exists.
 - d. The Court will continue criminal jury trials until the health risk no longer exists and until a pool of jurors can be assembled without risk
2. Allow Parties to appear remotely or by conference call in all civil matters.
3. Continue civil pre-trial conference and non-essential hearings, such as collection hearings, that will not result in a resolution of a case until the health risk no longer exists.
4. Conduct hearings that involve agreed issues by conference call.
5. Exercise flexibility on requests for continuances.
6. Allow attorney-only conferences whenever possible without the requirement of a motion.
7. Request the Columbus Police Department and Bartholomew County Sheriff's Department to issue summonses for non-violent misdemeanor and low level (level 5 and level 6) felony cases. These will be set for initial hearing at times that does not present a health risk to the public. No police officer will be obligated to follow this request and will be expected to use their best judgment.
8. Allow attorneys to file a simple "Notice of Remote Appearance" to inform the Court they wish to appear remotely for any civil status conference, pre-trial conference or non-evidentiary hearing and permit them to do so.

9. Limit admittance to the second floor, third floor and IV-D Hallway of the Bartholomew County Courthouse to litigants and listed witnesses only. No spectators will be permitted to enter the Bartholomew County Courthouse without good cause shown.
10. Security staff will take the temperature of everyone entering the Bartholomew County Courthouse. If a person has a temperature of 100.2 degrees, or higher, they will not be allowed to enter the Bartholomew County Courthouse unless they have a statement from a Medical Doctor indicating the person has a temperature for some other reason than having the Coronavirus. Security staff shall notify the appropriate Court about the person and their situation.
11. At the court's discretion, continue all civil jury or bench trials until the health risk no longer exists.
12. Continue all non-essential civil matters, at the Court's discretion, until the health risk no longer exists.
13. At the court's discretion, continue criminal trials for non-incarcerated individuals until the health risk no longer exists.
14. Conduct all mental health hearings by conference call.
15. Suspend issuing all civil body attachments and Title IV-D attachments.
16. Utilize video conferencing in Juvenile Court for all fact-finding and termination hearings in CHINS cases where either parent is incarcerated.
17. Setting/Re-setting non-adjudicatory, non-detention Juvenile CHINS and Delinquency Proceedings outside the statutory timeframe as deemed necessary by the Juvenile Court.
18. Setting/Re-setting Juvenile Termination hearings outside the statutory timeframe as deemed necessary by the Court.
18. Until the health risk no longer exists, allow Bartholomew Circuit Court, Bartholomew Superior Court 1 and Bartholomew Superior Court 2 to have concurrent jurisdiction over all existing and new cases filed in Bartholomew County. Until the health risk no longer exists, allow the Judges of Bartholomew Circuit Court, Bartholomew Superior Court 1 and Bartholomew Superior Court 2, as well as the Bartholomew Superior Court 2 Magistrate, Circuit Court Magistrate and IV-D Commissioner, to assist other local courts with administrative matters, including approving and signing claims for payment, conduct hearings, make rulings and issue final Orders if the Judge of that court is unavailable.

The Bartholomew County Courts propose this plan to remain in effect until April 18, 2020.

Respectfully Submitted,



Judge Kathleen T. Coriden

Bartholomew Superior #2



Judge James D. Worton

Bartholomew Superior #1



Judge Kelly S. Benjamin

Bartholomew Circuit

In Re The Matter of the)
Bartholomew County Courts) Supreme Court Case No.
Petition For Administrative Rule)
17 Emergency Relief.

Order

The Bartholomew County Courts have petitioned this Court for emergency relief pursuant to Indiana Administrative Rule 17. The petition indicates a state of emergency has been declared in Indiana for the 2019 novel coronavirus (COVID-19) and the Bartholomew County Commissioners and the Bartholomew County Chief Health Officer, in cooperation with the City of Columbus, have taken extraordinary steps to contain the spread of COVID-19. The petition further states the Honorable Kelly Benjamin has been appointed the presiding Judge for this emergency. The petition also requests relief be granted until April 18, 2020.

It appears from the petition compliance with appropriate public health practices will inhibit litigants' and the courts' ability to comply with statutory deadlines and the Indiana Rules of Trial Procedure. The Court, therefore, finds good cause exists to grant emergency relief.

Being duly advised, the Court GRANTS the petition, DECLARES pursuant to Indiana Administrative Rule 17 an emergency exists in the Bartholomew County Courts and APPROVES the plan as submitted. The Court ORDERS as follows to ensure the orderly and fair administration of justice during this emergency, beginning March 18, 2020 and through April 18, 2020:

1. The Court authorizes the tolling of all laws, rules and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health

matters; all judgments, support and other orders; and in all other civil and criminal matters before the Bartholomew County Courts. Further, no interest shall be due or charged during this tolled period.

2. The Court authorizes the Bartholomew County Courts in all criminal cases to:

- a. continue all pre-trial conferences and non-essential hearings that will result in a resolution of the case;
- b. hold pre-trial and discovery status hearings by counsel only;
- c. allow attorney only conferences whenever possible without the requirement of a motion;
- d. allow counsel to appear remotely by conference call by filing a Notice of Remote Appearance at least 24 hours prior to the scheduled hearing;
- e. have defendants appear by teleconference or video conference from the Bartholomew County jail or the Indiana Department of Correction for all hearings except contested sentencing hearings and jury trials;
- f. at the Court's discretion, continue trials for defendants who are not incarcerated;
- g. continue all jury trials until no later than May 4, 2020 to allow adequate notification to the jury pool.

3. The Court authorizes the Bartholomew County Courts in civil cases, in their discretion, to:

- a. continue all jury trials until no later than May 4, 2020 to allow adequate notice to the jury pool;
- b. continue all bench trials;
- c. continue all non-essential matters, including collection hearings;
- d. use conference calls 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 by filing a Notice of Remote Appearance at least 24 hours prior to a scheduled hearing.
- e. allow attorney only conferences whenever possible without the requirement of a motion;
- f. suspend issuing civil body attachments and Title IV-D attachments; and
- g. use video conferencing in Juvenile Court for all fact-finding and termination hearings in Child In Need Of Services (CHINS) cases where either parent is incarcerated.

4. The Court authorizes the Bartholomew County Courts, in their discretion, and subject to applicable Constitutional limitations, to limit access to the second floor, third floor and IV-D hallway of the Bartholomew County Courthouse to only the parties to the litigation, their counsel and any listed witnesses to the extent necessary to provide adequate social distancing as recommended by the Center For Disease Control.

5. The Court authorizes the Bartholomew County Courts to have concurrent jurisdiction of all existing and new cases filed in Bartholomew County during the emergency period and for the Bartholomew County Judges, Magistrates and IV-D Commissioner to assist the Bartholomew County Courts with administrative matters, including approving claims for payment, conducting hearings, making rulings and issuing final Orders if the Judge of a Bartholomew County Court is unavailable.

6. The Bartholomew County Courts shall file a status update no later than April 18, 2020 to advise the Court if there is still an ongoing need for emergency relief.

Done at Indianapolis, Indiana on _____.

Loretta H. Rush
Chief Justice of Indiana