

20S-CB-193

STATE OF INDIANA) IN THE CIRCUIT AND SUPERIOR COURTS
)SS: OF GRANT COUNTY, INDIANA
COUNTY OF GRANT)

IN RE: PETITION OF GRANT COUNTY
 UNDER A.R. 17 DUE TO COVID-19

PETITION FOR A.R. 17 RELIEF FOR GRANT COUNTY

Come now the Circuit and Superior Courts of Grant County and petition the Supreme Court for relief under Ind. Administrative Rule 17. In support of this petition, the courts inform the Supreme Court as follows:

1. The courts of Grant County have convened in banc and have determined:
 - A. On March 6, 2020, Governor Holcomb declared a public health emergency in Indiana relating to the 2019 novel coronavirus (COVID-19). Since that date, he has issued further directives relating to public activities during the emergency.
 - B. On March 13, President Trump declared a national emergency relating to the virus.
 - C. The Centers for Disease Control and Prevention (CDC) has determined that "social distancing" is necessary to minimize further spread of the virus.

- D. The Indiana State Department of Health has issued and will continue to issue recommendations related to public activity. The State Department of Health has noted that neighboring counties to Grant County contain individuals testing positive for the virus.
- E. The Indiana Supreme Court has noted in its March 16, 2020 Order that “[a]ppropriate public health responses to the COVID-19 outbreak will likely require limiting trial court operations and inhibit litigants’ and courts’ ability to comply with statutory deadlines and rules of procedure applicable in courts of this state. “
- F. Public health officials have suggested that no public or private gatherings of more than ten people be held. Jury panels consist of 35 to 65 people, or more for complex cases. Juries for civil cases, misdemeanor and Level 6 felonies consist of six people, and may also include up to 2 alternates. Juries for criminal cases consist of 12 people, and may also include up to 2 alternates. The Grant County Courthouse has four jury rooms, none of which would accommodate juries of any size while maintaining proper social distancing practices. The largest jury room is approximately 13x25 feet. It is impossible to achieve social distancing for fourteen, or even 6, jurors in such a space to accommodate the needs of jury service. The Courts find that it is not possible to summon a pool of potential jurors and conduct a jury trial in a manner that does not expose potential jurors,

counsel, court staff and litigants to substantial and unacceptable health risks, specifically, the danger of becoming infected with COVID-19.

- G. All Grant County schools are closed. Jurors with children are often unable to make arrangements for this unexpected child care requirement for the duration of a trial.
- H. Two of Grant County's judges have been contacted by jurors in the recent weeks who indicated that they were unable to serve because of inability to accommodate child care, exposure to the virus, or of the age which places them at risk. Anecdotally, a significant percentage of jurors summonsed and appearing in Grant County are 60 or older.
- I. Hand sanitizer and antibacterial wipes are sold out, and stores have informed court staff that they do not know when more will become available. Courts do not have sufficient supplies to accommodate jury pools.
- J. That the local courts have appointed Judge Jeffrey D. Todd as the presiding Judge for this emergency.

2. The Judges of Grant County request that the Supreme Court declare that an emergency exists in Grant County under the authority of Ind. Admin. R. 17, and to make appropriate emergency orders for Grant County directing and allowing the courts and clerk of Grant County to alter, modify, and suspend necessary procedures as provided in

the emergency plan submitted herewith, so as to appropriately address this emergency, including as follows:

A. Tolling until May 4, 2020 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.

B. Suspending and/or rescheduling all criminal and civil jury trials until May 4, 2020 or after.

C. 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.

D. Continuing and/or rescheduling non-essential hearings.

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

F. 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.

G. 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.

H. Subject to applicable Constitutional limitations, limiting spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing.

I. Posting signage at all public entry points to judicial facilities advising individuals not to enter the building if they have: a. Visited the following countries in the previous 14 days:

- China
- Iran
- South Korea
- Europe (Schengen Area): Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Monaco, San Marino, Vatican City
- United Kingdom and Ireland: England, Scotland, Wales, Northern Ireland, Republic of Ireland
- Vatican City

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 court security officers or law enforcement to deny entrance to individuals attempting to enter in violation of these protocols.

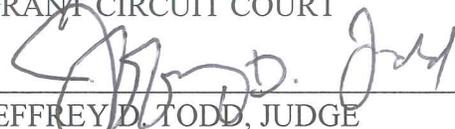
J. Allowing individuals with legitimate court business to stay home and request a continuance by phone to the county Clerk if they are ill, caring for someone who is ill, or in a high-risk category.

K. During the period set out in this Petition, allowing non-emergency filings by unrepresented litigants 1) using the Indiana Statewide E-filing System; 2) mailing them; 3) or depositing them in a drop box designated by the Clerk.

DONE at Marion, Indiana, this 18 day of March, 2020.



MARK E. SPITZER, JUDGE
GRANT CIRCUIT COURT



JEFFREY D. TODD, JUDGE
GRANT SUPERIOR COURT NO. 1



DANA J. KENWORTHY, JUDGE
GRANT SUPERIOR COURT NO. 2



WARREN HAAS, JUDGE
GRANT SUPERIOR COURT NO. 3



BRIAN MCLANE, MAGISTRATE
GRANT COUNTY JUVENILE COURT

**COVID-19 EMERGENCY PLAN
GRANT COUNTY COURTS**

The Judges of the Grant County Circuit and Superior Courts (“the Courts”) hereby enact the following Emergency Plan in response to the Covid-19 (“Coronavirus”) outbreak:

The Courts expect the outbreak of the Coronavirus will require the implementation of extraordinary measures for at least several weeks, to and including May 4, 2020 unless this plan is terminated by Order of the Courts earlier. The duration of such measures is referred to herein as the “Response Period.” During the Response Period, the Courts will take the following actions:

1. The judicial officers of the Courts will work with the Grant County Sheriff in addressing the wellness needs of the Grant County Jail population and the Grant County Juvenile Detention Center Population. If it becomes necessary to do so, the judicial officers will assess sentences being served, as well as pre-trial release decisions, in order to try to strike a proper balance between community safety and community wellness.

2. Non-emergency in-person court proceedings will be postponed until after the Response Period. Every effort will be made to ensure that access to justice will remain available in Grant County. Requests for continuances of trials and hearings will be considered in light of the outbreak, and personal and community wellness needs will be carefully considered. Attendance at hearings by telephone and video conferencing, including but not limited to all hearings involving defendants in criminal cases, will be encouraged whenever possible and when consistent with the rights of the parties and the

interests of justice. Attorneys will be allowed to participate in pre-trial conferences by telephone upon filing a notice without filing a motion. The Courts will take reasonable steps to limit the number of people attending hearings and trials to those who are essential to the proceedings being conducted, subject to the requirements of all applicable laws and rules. The following hearings will continue as scheduled:

- A. All Criminal hearings except jury trials
- B. All CHINS and Parental Termination hearings
- C. JD In-custody trials and hearings
- D. Civil Commitments or other Mental Health hearings
- E. Problem-solving courts hearings as directed by the Judge in any individual case, including sanction hearings
- F. Eviction hearings
- G. All other cases will be held in the discretion of the judicial officer hearing the case. Parties and attorneys shall check the status of their cases on mycase.in.gov. If parties or attorneys would like to appear by telephone for their hearings, they should file a notice as outlined above and should also contact the Court no later than the day prior to the hearing to make appropriate arrangements. The Court numbers are:

Circuit Court: (765) 664-5527

Superior Court 1: (765) 664-9532

Superior Court 2: (765) 662-1719

Superior Court 3: (765) 668-8123

Juvenile Court: (765) 662-3626

3. All civil jury trials will be postponed during the Response Period. Criminal jury trials will be postponed during the Response Period, provided that such postponements are consistent with the rights of the parties and the interests of justice. The Courts hereby declare an emergency for purposes of Criminal Rule 4 through May 4, 2020, subject to extension by the Courts.

4. Efforts will be made to address the wellness needs of jurors and prospective jurors, as well as other persons involved in legal proceedings in Grant County. In the event that jury trials are held during the Response Period, special consideration will be given to excusing prospective jurors from service if the health and well-being of such jurors likely would be adversely affected by jury service.

5. The Courts and their staffs will work with Grant County maintenance personnel so that all appropriate steps are taken to see that Grant County Court facilities are in an appropriately safe and sanitary condition.

6. The Courts will support and encourage compliance with mandatory preventative measures like quarantines and isolations, protect potentially vulnerable staff, and be prepared for situations such as school closings that could impact court staff.

A. Employees under official quarantine/isolation orders are authorized to work from home without further approval needed.

B. For employees tangentially affected by COVID-19 by actions such as school closures—or who might be vulnerable demographics or have underlying health conditions, etc.—who cannot or do not wish to be in the office, the presumption is that they will use benefit time to cover their

absence from the office. But judicial officers will have the discretion to authorize and require those employees to work from home, considering the following non-exclusive set of guidelines:

- Age and capacity of children affected by school or childcare closures;
- Availability of additional spouse/family support;
- Underlying medical conditions or vulnerabilities;
- Evidence of symptoms;
- Nature of the employee's job and ability to be performed remotely; and
- Availability of resources to support remote work by the employee.

C. Employees are not required to work from home—they may still use benefit time if available and desired. Where necessary to the essential function of the Courts, however, judicial officers are authorized to require employees to work remotely.

7. Signage shall be posted at all public entry points to judicial facilities advising individuals not to enter the building if they have: a. Visited the following countries in the previous 14 days:

- China
- Iran
- South Korea
- Europe (Schengen Area): Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Monaco, San Marino, Vatican City
- United Kingdom and Ireland: England, Scotland, Wales, Northern Ireland, Republic of Ireland
- Vatican City

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. Court security officers and/or law enforcement are authorized to deny entrance to individuals attempting to enter in violation of these protocols.

8. Individuals with legitimate court business may stay home and request a continuance by phone to the court in question if they are ill, caring for someone who is ill, or in a high-risk category.

9. The following conditions: (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; constitutes "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

10. Correctional Services will continue to perform critical functions. Critical functions include:

- A. Court coverage, including preparation of presentence investigation reports.
- B. Field checks for electronic monitoring, high risk, or very high risk probationers, with appropriate protocols to limit exposure
- C. Juvenile intakes with mental health issues, victims, and those in need of immediate services/referrals, juvenile placement travel. For home-based services, face-to-face contacts will only occur for emergencies.
- D. Drug tests for those engaged in treatment
- E. Pretrial assessments
- F. DOC releases

G. Jail releases if assigned to Reentry Court

The following non-critical functions may be suspended, delayed or altered:

- A. Thinking for a Change classes
- B. Non-critical adult and juvenile contacts - via telephone during the Response Period
- C. Adult Intakes
- D. CCP Assessments
- E. Jail releases
- F. Technical violations will be addressed via telephone contact
- G. Graduations from programs/problem-solving courts
- H. Problem-solving court compliance hearings - may be rescheduled, done remotely, or limited to sanctions
- I. Community service sanctions

Travel Permits for probationers will not be issued except in the case of both supervisor and judicial approval.

11. Unrepresented litigants have been permitted to file cases and pleadings in person in the Clerk's Office. During the period set out in this Petition, non-emergency filings by unrepresented litigants may be filed 1) using the Indiana Statewide E-filing System or 2) mailing them. In-person emergency filings and document requests by unrepresented litigants are permitted.

12. The Judges of the Courts will remain in regular communication throughout the outbreak with the Grant County Clerk, Grant County Correctional Services, the Grant

County Board of Commissioners, the Grant County Council, the Grant County Board of Health, the Grant County Bar Association, the Grant County Prosecutor, the Grant County Managing Public Defender, and the Grant County Sheriff. The cooperation and coordination with all such officials and agencies will remain a high priority during the Response Period.

DONE at Marion, Indiana this 18th day of March, 2020.



MARK E. SPITZER, JUDGE
GRANT CIRCUIT COURT



JEFFREY D. TODD, JUDGE
GRANT SUPERIOR COURT NO. 1



DANA J. KENWORTHY, JUDGE
GRANT SUPERIOR COURT NO. 2



WARREN HAAS, JUDGE
GRANT SUPERIOR COURT NO. 3



BRIAN MCLANE, MAGISTRATE
GRANT COUNTY JUVENILE COURT