

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**

**PETITION TO THE INDIANA SUPREME COURT PURSUANT TO
ADMINISTRATIVE RULE 17**

Comes now the Courts of Rush County, Indiana, hereinafter "Rush County Courts," and petition The Indiana Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the Rush County Courts inform the Indiana Supreme Court as follows:

The judges of the Rush County Courts have convened en banc, and have determined the following:

That the Rush County Courts are informed that various governmental officials and/or Agencies have recognized that there is an emergency due to Coronavirus disease. Said Information includes the following:

The Center for Disease Control (CDC) has determined that drastic steps are immediately required to halt the spread of the virus, and to protect public health care systems from being inundated with patients.

The Governor of the State of Indiana has declared a public health emergency due to Coronavirus disease 2019 ("COVID-19") pursuant to Executive Order 20-02 signed March 6, 2020. Said Executive Order Provides, in part, the following: that COVID-19 is a severe respiratory illness; a rapidly spreading virus that is transmitted from human-human and results in symptoms ranging from fever, cough, acute respiratory distress, pneumonia, and even death; that on January 31, 2020, the Health and Human Services Secretary declared a public health emergency for the United States.

The Indiana State Department of Health (ISDH) has already recommended that public facilities and organizations should implement preventive measures to help contain the spread of COVID-19. With the objectives of protecting public health and slowing the rate of transmission of this illness, ISDH has issued several recommendations that can generally be summarized as providing for postponement or cancellation of non-essential gatherings of individuals in a single room or space, and allowing for social distancing of at least six (6) feet per person.

The Rush County elected officials have taken steps to address COVID-19. On

March 16, 2020, the Rush County Commissioners and the Director of Rush County Emergency Management adopted a Joint Executive Order wherein certain actions were taken, including but not limited to the following: providing for restricted access of the public to the Rush County Courthouse permitting only essential business and requiring a check in for all individuals entering the aforementioned buildings.

The Rush County Circuit and Superior Courts have appointed the Honorable David E. Northam as the Presiding Judge for this emergency.

The Rush County Courts have determined the compliance with appropriate public health practices will inhibit litigants' and courts' ability to comply with statutory deadlines and rules of procedure. Such deadlines are further inhibited by the size of the Rush Superior Courtroom will not allow the compliance with the CDC's social distancing policies. Therefore all hearing will need to be held in the Circuit Courtroom.

The judges of the Rush County Circuit and Superior Courts therefore respectfully request that the Indiana Supreme Court declare that an emergency exists in Rush County, Indiana, under the Authority of Indiana Admin. R. 17, and to make an appropriate emergency order for Rush County, directing and allowing the Rush County Courts and Clerk of Rush County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted herein, so as to appropriately address this emergency.

EMERGENCY PLAN

The Rush County Circuit and Superior Court submit the following as the Emergency Plan for Rush County Courts, to continue through Friday, May 1, 2020 unless an extension is otherwise requested and granted:

1. Effective upon the date authorized by the Indiana Supreme Court, and continuing through May 1, 2020, toll all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters: and all other civil and criminal matters presently before or coming before the Rush County Courts.
2. Additionally, specific to criminal cases, at the election and determination of each Court, the authority to do the following:
 - 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;
 - F. continue all jury trials to a date to begin June 1, 2020 or after
 - G. continue all jury trials to a date to begin June 1, 2020 or after;
3. Additionally, specific to civil cases, at the election and determination of each court, the authority to do the following:
- A. continue all bench and jury trials to a date to begin June 1, 2020 or after;
 - B. continue all non-essential matters;
 - C. use conference call to:
 - 1) conduct hearings that involve agreed issues;
 - 2) allow parties to appear remotely, unless a litigant's due process rights would be violated; and
 - 3) allow attorneys to appear remotely for any civil status conference, Pre-trial conference, or non-evidentiary hearing.
 - D. allow attorney-only conferences whenever possible without the requirement of a motion;
 - E. suspend issuing civil body attachments and Title IV-D attachments;
 - F. specific to juvenile cases, including CHINS, delinquency, and termination of parental rights, at the election and determination of each court;
 - 1) continue all hearings, except detention hearings;
 - 2) detention hearings may be held by audio or video conference to allow all parties to appear remotely, unless a litigant's due process rights would be violated;
 - 3) fact-finding hearings, disposition hearings, periodic review hearings, and permanency hearings may be set beyond the timeframes set forth by statute until normal operations are resumed;

- 4) when a parent is incarcerated, utilize audio or video conferencing for all hearings, including fact-finding hearings, for the parent(s) To participate from the Rush County Jail, another county jail, or the Indiana Department of Correction if possible; and
 - 5) limit admittance to the court to parties, counsel, and other attendees set forth by statute such as relative/foster/kinship placements.
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4. Additionally, the authority to limit spectators in court to the extent deemed appropriate to provide adequate social distance, as determined by each court.
 5. Additionally, to conduct mental health hearings that may be held in or outside of the courthouse by conference call, at the election and determination of each court.
 6. Regarding evidentiary hearings and trials, the Rush County Courts may consider as “good cause” for any motion made to appear remotely or continue a court setting, the existence of flu or flu-like symptoms in any attorney, litigant, party, or witness expected to testify, or exposure of such individuals to anyone who has or may have COVID-19.
 7. The Rush County Courts shall file a status update no later than thirty (30) days after the approval of this Emergency Plan to inform the Indiana Supreme Court whether there is an ongoing need for continued emergency relief.

Respectfully submitted this 19th day of March, 2020, on behalf of the Rush Circuit Court and the Rush Superior Court.



Honorable David E. Northam, Presiding Judge