

In the Indiana Supreme Court

In the Matter of the Petition of the Floyd
Circuit and Superior Courts for
Administrative 17 Emergency Relief

Supreme Court Case No.
20S-CB-122



Order Approving Expansion of Operations Plan In Part

By orders issued April 24 and May 13, 2020, this Court ordered trial courts statewide to submit plans for gradually resuming normal operations under limitations appropriate to the 2019 novel coronavirus (COVID-19) public health emergency. Pursuant to that order, the petitioning court(s) filed an amended expansion of operations plan (“Plan”) on June 17, 2020.

The Court finds that the Plan was made in coordination with appropriate local officials and local justice system partners to account for local health conditions, facility readiness, and litigants’ needs; and that the Plan makes reasonable provisions for resuming normal staffing, providing public access to non-confidential proceedings, and resuming jury trials. A copy of the Plan is attached to this order and incorporated by reference.

Being duly advised, and pursuant to Indiana Administrative Rule 17 and this Court’s inherent authority to supervise the administration of all courts of this State, the Court ORDERS as follows:

1. All emergency relief previously granted to the petitioning court(s) under Administrative Rule 17 is deemed to expire as of the effective date of this order, except as provided by this Court’s “Order Extending Trial Courts’ Emergency Tolling Authority and Setting Expiration of Other Emergency Orders” issued May 29, 2020 in Case No. 20S-CB-123. However, this Court’s May 13, 2020 “Emergency Order Permitting Expanded Remote Hearings” and paragraph 3 of its May 13 “Order Extending Time for Expanding Trial Court Operations” in Case No. 20S-CB-123 (prohibiting jury trials before July 1 without prior approval of this Court) remain in full force and effect.
2. The Plan is approved **in part**, subject to the following exceptions:
 - (a) The petitioning court(s) shall resume jury trials, subject to the health precautions proposed in the Plan, **no later than the week of August 17, 2020**. The petitioning court(s) may seek relief from this requirement pursuant to Administrative Rule 17 if a particularized local emergency requires suspending jury trials beyond that date.
 - (b) The petitioning court(s) are directed to the Court’s order issued May 29, 2020 in Case No. 20S-CB-123 for any tolling related issues; and

(c) The petitioning court(s) shall permit the public to observe courtroom proceedings, either in person or virtually, subject to public health recommendations and applicable Constitutional limitations.

The petitioning court(s) shall comply with the terms of the Plan as **modified above** through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/18/2020 , **effective May 27, 2020.**



Loretta H. Rush

Chief Justice of Indiana

EXHIBIT A**FLOYD CIRCUIT AND SUPERIOR COURT
AMENDED TRANSITION PLANS****BACKGROUND AND CURRENT OPERATIONS**

1. The Courts hereby provide this background information to the Supreme Court to place the Plans in context, given the Courts' physical layout in the multi-use New Albany-Floyd County City-County Building and Jail Complex ("Building"); the actions of the Floyd County Board of Commissioners; the actions of the Building Authority which services the Building; and the current operations of the Courts.
2. Floyd County has a population of approximately 78,500. It is bordered by the major metropolitan area of Louisville, Kentucky, where many of our residents work. The Floyd County Health Department reports there have been 311 confirmed cases of Covid-19 in Floyd County with 38 deaths. Looking at the Indiana State Department of Health Covid-19 map, Floyd County has a statistically significant number of cases and deaths given our population.
3. The five (5) Floyd County Courts are located in the Building. The original part of the Building is a four story structure built in the 1960s, and the Circuit Court and Superior Courts Nos. 2 and 3 are located on the fourth floor. Superior Court No. 1 and the Magistrate Court are located on the second floor of a two-story addition added in the 1990s. The Building also houses all New Albany City offices on the third floor, Superior Court No. 2 Probation and Professional Services on the first floor, numerous Floyd County offices on the first floor and in the basement, the Prosecutor and Prosecutor's Child Support Unit on the second floor, the Floyd County Clerk's Office on the second

- floor, the New Albany Police Department, the Floyd County Sheriff's Department, and the Floyd County Jail.
4. For the most part, the entire building shares two small elevators. The public corridors are only six feet wide throughout most of the building, which does not allow for passing in the corridors without violating social distancing requirements.
 5. There are very few public restrooms in the building. Also, the Court staff use the restrooms in the jury rooms.
 6. The Floyd County Jail is undergoing a massive renovation project, which is ongoing during this health emergency, resulting in numerous contractors and workers being in and about parts of the Building.
 7. On March 17, 2020, the Floyd County Board of Commissioners closed the Floyd County Government Buildings to the general public.
 8. The Courts were given latitude by the Board of Commissioners to continue with operations as determined by the Courts.
 9. Since the March 18, 2020 Supreme Court Order in the instant Administrative Rule 17 case, the Courts have individually and on a case by case basis continued to balance the need for essential court operations to take place with the need for citizens to stay home and socially distance when out of their homes. The Courts have continued to stay open for statutorily required and other critical and emergency hearings. Also, where possible, scheduled hearings have been held telephonically and by videoconferencing.
 10. Only named parties and defendants and their attorneys are physically allowed to attend in person court hearings. Witnesses must appear telephonically unless otherwise authorized by an individual court. Members of the public who have court business may

only come into the building to do critical emergency tasks. Family members and friends of litigants and of those with critical emergency court business are required to stay home or remain outside the Building. People with critical emergency court business are required to call that specific Court before coming to the Building.

11. The Courts requirements have been circulated widely through the Floyd County Bar Association, the local newspaper, and social media of various organizations including the Floyd County Department of Health.
12. The Floyd County Clerk is following a similar protocol to that of the Courts, and the Clerk is only allowing essential activities to take place in person. The Clerk's information regarding operations is posted on the website of the Floyd County Clerk.
13. The Floyd County Sheriff provides two Court Security Officers to work the entrance check point to the Building, and each person entering the Building must be approved by Courts or the other county or city office he or she needs to visit.
14. The Building Authority has provided hand sanitizer stations at the elevators and critical doors of the Building.
15. The Courts each have four Court Administrative Professionals other than the Magistrate Court, which has two Court Administrative Professionals.
16. The Courts have balanced keeping the Courts functioning smoothly and open for essential business with the Indiana Supreme Court's recommendation to allow as many staff members as possible to work from home. The Courts have allowed our staff to work from home on a rotating basis. Both emergency and non-emergency matters continue to be filed and processed in each Court by staff, both at home and in the office.

17. Probation Officers continue to work from home and in the office on a rotating basis depending on the needs of the Courts and their clients.
18. Each judge and the magistrate individually determines his or her ability to reduce his or her daily hours in the Building or work from home.

TRANSITION PLANS FOR EXTENDED OPERATIONS

19. The Board of Commissioner has indicated the goal of opening the Building to the General Public by June 14, 2020, although that date is not certain and depends on the Building Authority's ability to prepare the Building according to the Board of Commissioner's written May 3, 2020, Safety Plan ("Safety Plan") and on the status of Covid-19 cases in Floyd County on that date.
20. The Safety Plan for the Building recommends that all employees wear face coverings, wash their hands often and/or use hand sanitizer, stay home if they do not feel well, practice physical distancing leaving six feet between themselves and others, and avoid touching their face, nose, and eyes.
21. The Safety Plan for the Building also requires a separate enter/exit flow plan with directional floor markings, temperature checks at the entrance, six-foot distance floor markers, hand sanitizer in every office, and elevators limited to two or three persons at a time.
22. One of the most important parts of the Safety Plan for purposes of the instant petition is the requirement for the Building Authority to install glass dividers in all offices between the public and court staff in the court offices. This has taken place in all five Courts.
23. The safety plan also includes measuring for and installing glass dividers in certain areas of courtrooms including between the judges' benches and the public and the court

reporters' desks and the public. The installer and Building Authority have indicated that these dividers for the courtrooms require a special type of material which is currently in limited supply and may take some time to secure, which may push installation in the courtrooms beyond June 14, 2020.

24. Another pertinent part of the Safety Plan pertaining to the Courts is a specific request by the Board of Commissioners that the Courts, with the permission of the Indiana Supreme Court, continue to limit court cases to the litigants and their attorneys beyond June 14, 2020, when the Building is tentatively re-opened to the public. This part of the Safety Plan recognizes the need to strictly limit the number of people entering this large public building until the Covid-19 pandemic is brought under control, but it also recognizes that such a decision ultimately lies with the Indiana Supreme Court.
25. The Building Authority has been working continuously with the Courts to implement the Safety Plan as outlined above for the Building, particularly for the court offices, courtrooms, and hallways outside of the courts.
26. The Building Authority has also provided extra cleaning services for the Courts and will continue to do so.
27. The judges and magistrate and Building Authority have met to discuss the requirements of face coverings and other PPE in our courtrooms, and we will continue to have those discussions as well as working with the Floyd County Health Department, Building Authority, Floyd County Council, Floyd County Commissioners, and other local and state agencies to secure disposable face coverings and needed PPE through the CARES Act and any other means possible. We are also working to secure needed additional

hand sanitizer and spray disinfectant to have in ready supply when we allow increased access to the courtrooms.

28. The judges and magistrate met with the Jail Commander of the Floyd County Jail regarding the need for video-conferencing capabilities from the Floyd County Jail to the courtrooms. The Floyd County Sheriff's Department, who operates the jail, has agreed to make a space in the jail for the inmates to videoconference with the courtrooms. The Floyd County Sheriff's Department, the Courts, and Court Call are currently working on having the necessary equipment placed in the jail and in our courtrooms to facilitate videoconferencing.
29. The Courts use the Clark County Detention Center to house juveniles in delinquency cases. Clark County Judge Vicki Carmichael has had Court Call installed there and is allowing Floyd County to utilize the system to alleviate the transport of many juveniles to this Building.
30. The Courts are already employing phone conferences and virtual platforms to conduct many hearings without requiring anyone to enter the courthouse. The addition of professional videoconferencing equipment in the courtrooms will enhance the Courts ability to expand this practice and fully comply with the Supreme Court's May 13, 2020 Emergency Order Permitting Expanded Remote Hearings, including the requirement to create a procedure for creating a recording, at every stage of the proceeding, sufficient to enable a transcript to be produced, and allowing public access to remote hearings.
31. With respect to jury trials, none of the Courts currently have a jury box or jury room which will allow for proper social distancing. Moreover, with the potential lack of response from summonsed jurors due health, economic, and child care issues, it is

anticipated that a very large number of jurors would need to be called for a jury trial. The Building has one entrance staffed by two Court Officers, and the Building safety plan requires a temperature check of every person entering the Building. A large jury pool would cause an enormous line out the door, and if each person must distance six feet, such a line could not be accommodated without a safety issue.

32. Based upon all the above information, the Courts respectfully request that all parts of Floyd County's preexisting approved Administrative Rule 17 petition be extended as outlined below.
33. The Courts first note that the Supreme Court's March 18, 2020 gives each court in Floyd County broad discretion to handle its docket and cases in compliance with the Order. The Courts respectfully request the continued ability to exercise this individual discretion in manner that fits the needs of each Court and respects the rights and safety of everyone involved in the justice system.
34. Further, once the Building opens to the public, the Courts plan to continue the current limited operations in the building for two weeks (until approximately July 1, 2020, if the Building opens on June 14, 2020) to determine what effect the addition of allowing the general public in the Building has on safety and social distancing in the common areas of the Building including the two elevators, corridors, and entrance check point. At that time, if the Courts conclude that safety and social distancing in the common areas of the Building is adequate and, as long as the requested glass partitions have been installed as needed in the courtrooms, the Courts will begin to gradually increase the number and types of cases heard in courts while maintaining appropriate social distancing.

35. If allowing the public back in the Building causes too much congestion and lack of safety in the common areas of the Building and/or the number of Covid-19 cases and deaths continues to increase in Floyd County at that time, the Courts will reevaluate this part of the plan involving types of cases heard.
36. At this time, the Courts concur with the request from the Board of Commissioners in its Safety Plan that Court hearings be limited to in person appearances by litigants and their attorneys beyond the time the Courts begin to resume normal operations. The Courts will allow witness to appear either in person, if critical, or by telephone or video platform. The Courts plan to begin hearing all types of cases (other than jury trials) by August 1, 2020, given our current plan to gradually add case types throughout July 2020. Thus, through August, 2020, the Courts need to evaluate (1) the continued capacity for social distancing in each courtroom; (2) the availability of face coverings, hand sanitizer, and disinfectant spray; and (3) the Covid-19 numbers in Floyd County before allowing witnesses and spectators to enter the courtrooms. Thus, the Courts may be able to loosen restrictions on witnesses and spectators in the Courts by approximately September 1, 2020.
37. Between now and June 14, 2020 (or whatever date the Building ultimately opens to the public), the Courts plan to try to increase holding some types of additional hearings in person if possible, such as contested divorces where both parties are represented by counsel and no in person witnesses are required. However, the Courts will continue to focus primarily on statutorily required and other critical and emergency hearings as well as continuing and expanding remote hearings as outlined above and in compliance with

the Supreme Court's May 13, 2020 Emergency Order Permitting Expanded Remote Hearings.

38. The Courts plan to continue and expand remote hearings well past the re-opening of the Building to the general public as one of the primary methods of keeping everyone involved with the court system safe.
39. As outlined in paragraph 31, it will be difficult to hold jury trials in the courtrooms as currently configured or utilize the current jury deliberation rooms while maintaining social distancing. Jury selection and jury trials will also cause an untenable number of people to enter the Building and place a significant burden and safety hazard to the Court Officers operating the check point at the front door and other people in the building. The Courts will need to address facility issues before it will be feasible to hold a jury trial as well as conclude that the Building is a safe place for potential jurors. It is anticipated that the (1) facility improvements to allow for proper social distancing; (2) having enough potential jurors to respond to summonses; and (3) securing adequate facial coverings and perhaps PPE for summonsed jurors will likely take through September of 2020. Our fourth quarter jury panel will be from October 1, 2020, to December 31, 2020. Thus, the Courts will endeavor to be ready to resume jury trials on October 1, 2020, assuming that all identified impediments are resolved and the Covid-19 cases and deaths in Floyd County have subsided. The Court specifically acknowledge that the latest May 29, 2020 Supreme Court Order extends the tolling of time limits in criminal and civil trials only through August 14, 2020. However, the Courts respectfully request permission to begin jury trials in Floyd County on October

- 1, 2020, due to the issues set forth throughout this Exhibit and more specifically herein paragraph 39.
40. The Courts have been in contact with the Floyd County Sheriff's Department (including the Floyd County Jail Commander), Floyd County Probation Department, Floyd County Community Corrections, Clark County Juvenile Detention Center/Judge Carmichael, Floyd County Health Department, Building Authority, Floyd County Board of Commissioners, Floyd County Council, Floyd County Office of the Public Defender, Floyd County Office of the Prosecutor, and Floyd County Office of the Clerk throughout this public health crisis and as the Courts' emergency operations have taken place.
41. The protections for ensuring court employees health and safety are outlined above at paragraphs 20 through 30. Furthermore, the Courts will inform all employees of available mental health resources by providing them with the website <https://beweallindiana.com/> Court employees will also be informed that they need to self-report symptoms and close contact with someone who is or may be infected. Any employee who has symptoms and/or has been in close contact with someone who is or may be infected will be required to stay home until advised by the local health department it is safe to return to work.
42. The policies for protecting public health and safety are outlined above at paragraphs 20 through 30.
43. The County and court plans for sanitizing and maintaining sanitation of court facilities is set forth above at paragraphs 20-30.
44. The procedure for maintaining a record and allowing public access to remote hearings is set forth above at paragraph 30.

45. The policies for selecting jurors and procedures for protecting the health and safety of potential jurors will be ongoing as the Building re-opens and the health emergency evolves, but it is roughly outlined above at paragraph 39. In addition, the Courts will allow juror deferrals due to illness or concerns about illness related to Covid-19.
46. The Courts' plan for resuming activities related to community supervision such as pretrial services, probation services, and problem-solving courts will track the timing and procedures set forth above for resuming activities of the Courts. The timing and procedure for each individual community supervision entity shall be determined by the director of the entity with the consultation and approval of the judge or judges of the court or courts which they serve.