

In the Indiana Supreme Court

In the Matter of the Petition of the Delaware
Circuit Courts and Muncie City Court for
Administrative Rule 17 Emergency Relief.

Supreme Court Case No.
20S-CB-114



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 expansion of operations plan (“Plan”) on May 28, 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**, with the exception that 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. 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 6/4/2020 , **effective May 28, 2020.**

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

DELAWARE CIRCUIT COURT TRANSITION PLAN

Exhibit A

1. Administrative Rule 17 Components

- a. The Courts request that the Supreme Court permit to expire the tolling of all laws, rules, and procedures setting time limits for misdemeanor criminal matters and criminal matters, excluding misdemeanor and felony jury trials set out in paragraph 2 below, juvenile proceedings, public health, and mental health matters; all judgments, support, and other orders; and in all other civil matters before the Delaware Circuit Courts. Further, the provision ordering no interest being due or charged shall also expire.
- b. Request the Supreme Court extend the suspension of in person new juror orientations, and/or postponement of jury service to a later date for jurors who are vulnerable or post high risk to others, for as long as the public health emergency for coronavirus (COVID-19) declared by Executive Order 20-02 (the "Public Health Emergency"), remains in effect, so as to require social distancing.
- c. Request the Supreme Court extend the authorization of the Court, in its discretion and subject to applicable Constitutional limitations, to limit spectators in its courtrooms to the extent necessary to provide adequate social distancing, so long as public access is otherwise provided, for as long as the Public Health Emergency, remains in effect, so as to require social distancing.
- d. Request that the Supreme Court may continue to consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; or (b) exposure of such individuals to anyone

who has or may have the virus; to constitute “good cause” to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights, for as long as the Public Health Emergency, remains in effect.

- e. Request that the Supreme Court continue to authorize signage to be posted at all public entry points to judicial facilities advising individuals not to enter the building if they have:
 - i. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the Centers for Disease Control and Prevention (“CDC”) in the prior 14 days;
 - ii. Resided with or been in close contact with someone who has been in any of those countries within the prior 14 days;
 - iii. Traveled domestically within the United States where the virus has sustained widespread community transmission;
 - iv. Been asked to self-quarantine by any doctor, hospital, or health agency;
 - v. Been diagnosed with or had contact with anyone who has been diagnosed with the COVID-19 virus within the prior 14 days; or
 - vi. Has COVID-like symptoms, as identified by the CDC, in the prior 14 days;

And to direct bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols, for as long as the Public Health Emergency remains in effect.

2. Planning

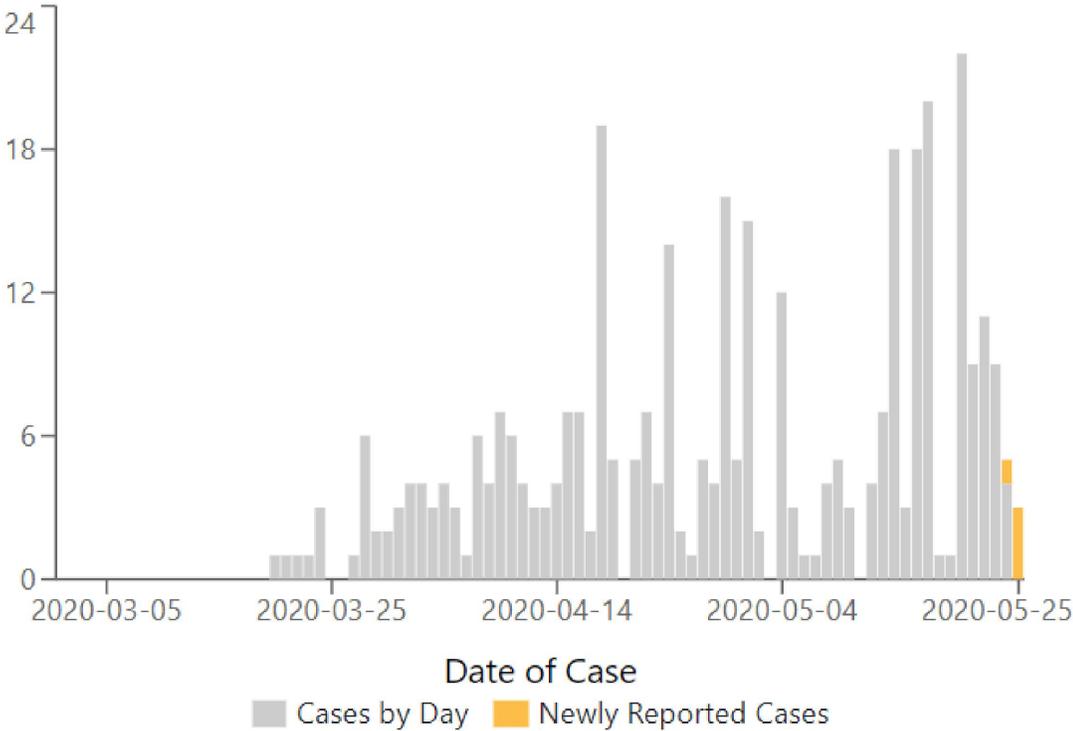
- a. This Plan was developed after consultation by the Courts with local community stake holders in Delaware County including but not limited to the Director of County EMS, Prosecutor, Chief Public Defender, Chief Probation Officer, Community Corrections Director, the County Executive and County Attorney.
- b. The Courts have reviewed and will continue to review County health data using the *Indiana COVID-19 Dashboard*, published by the Indiana State Department of Health at www.coronavirus.in.gov for this county and in conjunction with information from the local health department.
- c. The Courts will expect a 14-day period of a downward or even trajectory in local data, before advancing to the next tentative phase dates for expanding operations, by considering: COVID deaths, positive cases as a percentage of total cases tested; and the local hospital treating all patients without crisis care.

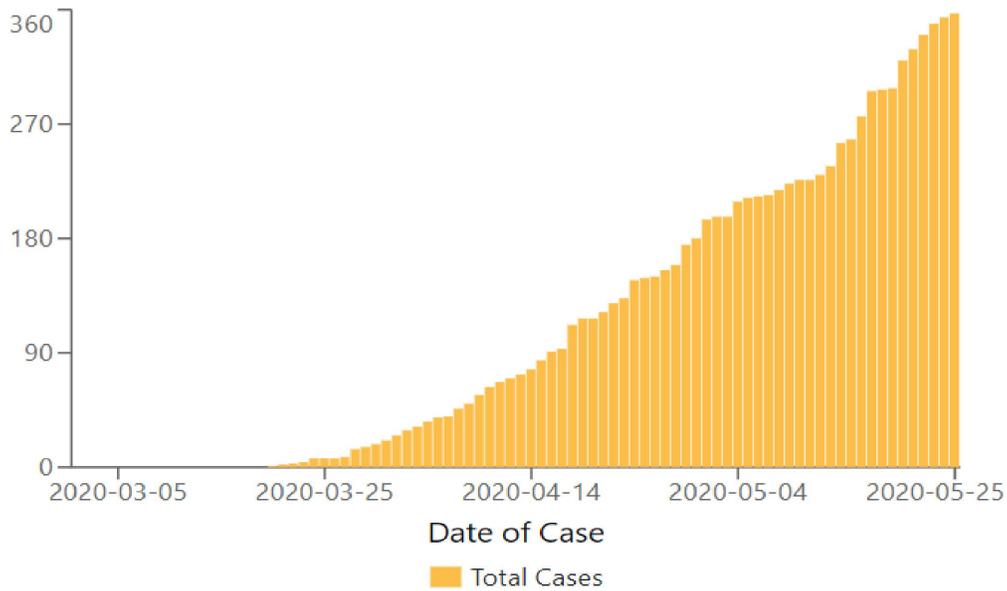
i. The Courts have considered the *Indiana COVID-19 Dashboard* for Delaware County. The day thus far with the highest total of cases in

Delaware County Positive Cases by Day



Showing: All





- d. An aggressive media campaign will be employed to share this information with the public, local bar association, community and elected officials, to gain voluntary compliance.
- e. The Court, during the planning stage, has adopted key terms used in this Plan.
 - i. "Court Offices" shall mean the Courtroom, Court Offices, Probation Offices, and areas immediately adjacent thereto.
 - ii. "COVID-19" symptoms mean, as adopted by the CDC at the time of this Plan or later modified by the CDC:
 1. Fever (100.4 that day or in the preceding 3 days)
 2. Shortness of breath or difficulty breathing
 3. Chills
 4. Muscle and body aches
 5. Sore throat
 6. New loss of taste or smell
 7. This list is not all possible symptoms. Other less common symptoms have been reported, including gastrointestinal symptoms like nausea, vomiting, or diarrhea
 - iii. "High Risk" shall refer to a person who:
 1. Has experienced COVID-19 symptoms in the past 2-14 days;
 2. Has tested positive for COVID-19 in the past 14 days;
 3. Has been in contact with a person in the past 14 days that tested positive for COVID-19; or
 4. Has been ordered to quarantine or self-isolate by a medical professional or local health officer.

- iv. “Social Distancing”, also referred to as physical distancing, shall mean keeping space between yourself and other people outside of your home. To practice social or physical distancing:
 - 1. Stay at least 6 feet from other people, and
 - 2. Do not gather in groups (in excess of stated capacities).
- v. “Visitors” shall mean any person coming to the Court Offices, who is not an employee of the Court, including attorneys, litigants, spectators, and witnesses.
- vi. “Vulnerable” means a person over the age of 65, or anyone who has any of the following underlying medical conditions:
 - 1. Chronic lung diseases or moderate to severe asthma;
 - 2. Serious heart conditions;
 - 3. Immunocompromised from any disease such as cancer, smoking, AIDS, or medications that compromise immunity;
 - 4. Severe obesity (BMI of 40 or higher);
 - 5. Chronic kidney disease requiring dialysis; or
 - 6. Pregnancy
- f. The following dates have been identified to associate with the Phases set out below. These dates may be modified depending upon the 14-day period of a downward or even trajectory in local data, before advancing to the next tentative phase dates for expanding operations, by considering: COVID deaths, positive cases as a percentage of total cases tested; and the local hospital treating all patients without crisis care.
 - i. Phase I: present to July 31, 2020
 - ii. Phase II: August 1, 2020 to September 30, 2020
 - iii. Phase III: October 1, 2020 to December 31, 2020
 - iv. Phase IV: January 1, 2021
- g. Delaware County courtrooms do not permit social distancing for jury trials. Seats have been measured to allow for 6’ distancing. Four of the five courtrooms will seat only thirteen people (3 in the jury box and 10 in the gallery-see below. Chairs are marked with orange tape). The fifth courtroom will seat only 22 (3 in the jury box and 19 in the gallery). Jurors will be seated in the gallery behind counsel table. Counsel tables cannot be turned to face the gallery, and jurors will therefore be able to view computer screens for all counsel. The juvenile courtroom will seat only 16, so remote jury selection would also need to be conducted in phases if this Courtroom is utilized. The Courts have approved the purchase of a movable recording system, which would allow for remote jury selection/conduction of trial in only one off-site location. The Courts have received permission to utilize the County Fairgrounds for remote jury selection/conduction of jury trial. This will only

allow for one court to conduct jury selection/conduction of trial off-site at one time.

- h. The Chief Public Defender and the Delaware County Prosecutor have informed the Courts that they will not agree to remote jury selection in any case.





3. Employment Procedures

- a. Court Employees shall take the same steps as visitors, plus these additional steps to minimize the spread of viruses in areas and on surfaces around the Court offices, which shall be adopted as a Court Procedure to be followed throughout this Public Health emergency:
 - i. Clean and sanitize work areas often.
 - ii. Provide hand sanitizer and/or wipes and trash cans at counsel tables, when supplies are available and encourage visitors to wipe down and/or wash their hands.
 - iii. Provide wipes in kitchen area, for use when handling microwaves, cabinet doors, cleaning handles of coffee makers or drink dispensers; or wash hands immediately after handling those surfaces.
 - iv. Avoid sharing phones, microphones, writing utensils, or other office equipment that come in contact with the face, mouth or hands, and when necessary keep those surfaces sanitized after use.
 - v. Employees shall wear face coverings in hallways, courtrooms or when coming within 6' of others.
 - vi. Employees will notify supervisors if they experience COVID-19 like symptoms; have tested positive for COVID-19; or have been instructed to quarantine by medical professionals or health officers. Employees shall check their temperatures before coming to work and in the evening to monitor for fever above 100.4°F, reporting elevated temperature, COVID-like symptoms or exposure to their supervisor immediately and without returning to work. Employees experiencing symptoms, while in the workplace, shall leave the work place immediately and phone the supervisor after leaving the building to report their concerns. Employees shall get tested if they are experiencing COVID-like symptoms. Employees may be required to self-isolate, even with a negative result, depending upon the symptoms and exposure. Employees shall report if someone they live with or have been with in the past fourteen days tests positive for COVID-19. Disciplinary action may result if there is a violation of these paragraphs or directives. Employees may consult the *Self-Checker: A Guide to Help You Make Decisions and Seek Appropriate Medical Care* on the CDC website, which provides a

short quiz to help employees decide whether to seek treatment; call a physician; or the local health department to inquire about testing.

- vii. When employees must come within six (6) feet of another person or place hands upon another person, in the scope of their employment, such as for courthouse or probation searches, screening, arrest, or other lawful interactions, employees shall: wear appropriate personal protective equipment (PPE) of medical grade (i.e. N95/N99), and gloves; ask advanced screening questions of the individual; and, ask the individual to wear a face covering, all if appropriate and time permitting under exigent circumstances. Employees shall take steps to separate desks, work stations, and seating areas, from other employees and visitors to maintain social distancing, whenever possible. The Courts have provided all employees with masks, gloves, and sanitizer.
 - viii. Physical changes have been made to Court Offices, set forth in Section 4, to protect employees from visitors and other employees, by promoting social distancing, hand washing, and other healthy practices.
 - ix. The Courts will inquire of employees as to those who consider themselves vulnerable and offer reasonable accommodations to protect against COVID-19, as set forth in this plan.
 - x. The Courts will share information with employees on resources for mental health support, including *Be Well Indiana*, where employees may speak with someone directly about COVID-19, at the ISDH COVID-19 Call Center (open daily from 8 a.m. to midnight ET: 877-826-0011) or by visiting www.bewellindiana.com, or calling 2-1-1 from a mobile phone, or texting the employee's zip code to 898-211.
- b. Phase I
- i. The Courts plan to make reasonable accommodations to isolate vulnerable workers, by heightened social distancing and eliminating access to public, which may include telework, where feasible.
 - ii. To maximize social distancing, employees and visitors should maximize physical distance from others, with a goal of maintaining six (6) feet social distancing. The Court will post signage and physical barriers, including taping off areas, taping chairs, remove/rearrange seats, floor decals, and other increased messaging to promote awareness with employees and visitors of

social distancing requirements. The Courts will compel non-employees to social distance in the Court offices.

- iii. Employees will be prohibited from congregating in violation of social distancing guidelines; encouraging re-spacing of workstations to meet CDC guidelines; meetings will be conducted by remote appearance; suspend in person trainings and continuing education; and encourage employees to explore innovative methods to improve social distancing in all aspects of court and probation services.
 - iv. The Courts will encourage telework, when feasible with Court operations, and minimize non-essential business travel.
 - v. Probation and Problem-Solving Court appointments, home visits, and searches when necessary, will occur using social distancing practices and approved medical grade PPE. Written, video, or telephonic reporting will be used in all cases, except where in person is necessary due to protect the community.
- c. Phase II
- i. Telework will be permitted, so long as court operations and business needs permit, if feasible, to assist with reasonable accommodations or staggering of employees.
 - ii. Non-Essential travel for business will be permitted.
 - iii. Probation and Problem-Solving Court appointments and home visits will return to regular frequency, while insuring persons in waiting areas adhere to social distancing practices, by promoting: timely meetings, prompt arrival/departure by clients; discouraging of guests and children with probationers; and encouraging remote reporting for low risk or compliant clients.
 - iv. Conventional drug testing may resume with greater regularity, while still following section (a)(vii) best practices above, with high risk on IRAS and Problem-Solving Court participants prioritized.
- d. Phase III
- i. The Court will resume normal staffing operations through Phase IV.
 - ii. Conventional drug testing may resume at pre-pandemic levels with both probationers and Problem-Solving Court participants. Clients shall be screened, the use of medical grade PPE will be at the discretion of the probation officer, with clients encouraged to wear face coverings.
 - iii. Monitoring of employee health issues will conclude, with employees directed to self-report if they become High Risk through Phase IV.

- e. Phase IV
 - i. Operations resume to pre-pandemic practices in Probation.
 - ii. Probation officers, Chief Probation Officer and Courts will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.

4. Courthouse Security Plan

- a. Employees and visitors to the Court Offices shall be advised to practice good hygiene, designed to minimize the spread of viruses, including these admonishments:
 - i. Wash hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
 - ii. Avoid touching your face.
 - iii. Sneeze or cough into a tissue, or the inside of your elbow.
 - iv. Disinfect frequently used items and surfaces as much as possible.
 - v. Strongly consider using face coverings while in the Court Offices.
 - vi. Avoid all physical contact, such as shaking hands.
 - vii. People who feel sick shall stay home.
 - viii. Do not enter the Court Offices if you are at high-risk of infecting others.
 - ix. Visitors should not bring personal items to the Court Offices, such as handbags, purses, backpacks, and the like which would require searching and add increased surfaces for cross-contamination.
- b. The Courts have posted floor markings to: separate employees from each other and the public, promote social distancing and create visual awareness of 6' spacing. The Courts have also modified seating capacity and restricted certain areas, all to further ensure social distancing and capacity limitations are met. These will remain for as long as the Public Health Emergency requires social distancing.
- c. Phase I
 - i. Through Phase III, Custodial and/or courtroom staff will clean the Courtrooms after use, including points of ingress and egress (handrails, door handles, handicap and elevator buttons, and the like), and utilize these practices:

1. Disinfection of common and high-traffic areas.
 2. Spot clean contact areas during recess and breaks, in the Courtrooms and access areas.
- ii. Provide wipes in kitchen areas with sanitizing spray, for use when handling microwaves, refrigerator, cabinet doors, and cleaning handles of coffee makers or drink dispensers; and post signs requiring employees to wash hands immediately after handling those surfaces.
 - iii. Through Phase II, mail coming from the jails, prisons, work release centers, or other confinement facilities, shall be placed in safe storage for 36 hours before processing.
 - iv. Through Phase II, the Court will work with county executives to limit public access to the building to one entrance and suggest screening practices.
- d. Phase II
- i. As visitors increase to the Courts, Courtroom deputies will ensure strict compliance with social distancing and barriers displayed.
 - ii. Improvements to Court infrastructure may be made to allow for notifications, when Court offices capacity limits are close to being exceeded. Visitors (including media) may be requested to provide contact, case, and cell phone information to staff, then be given an estimated wait time and directed to wait outside or in their vehicle. Staff will then send notifications using Google Voice or another platform, when the interested case is nearing the top of the docket. This will also be used by probation. Staff will strive to minimize congestion in court lobby, by directing litigants into courtroom when possible, to improve social distancing. Staff will also regularly monitor the court calendar to determine times that are high volume scheduling. Staff will coordinate with the Court Administrator's office to assist with traffic flow in the lobby.
- e. Phase III
- i. The Courts have identified Delaware Circuit Court No. 1, the Delaware County Juvenile Courtroom, or the county fairgrounds as a possible alternate location for jury selection. Both courtrooms could be used for a jury trial, if necessary, with only enough seating for the jury, but no additional observers. Staggered summons times would be necessary, in order to accommodate social distancing. Deliberations would

need to be conducted in the courtroom. In the Delaware Circuit Court 1 courtroom only three jurors could be safely seated in the jury box. The remaining jurors would be seated in the gallery seating area, which would be behind counsel and counsel's backs would be facing those jurors. The county fairgrounds could be utilized for remote jury selection and/or conduction of a trial, but the moveable recording equipment would be needed and would, therefore, limit the Courts to just one trial at a time.

- ii. The Courts will ensure expanded access for live streaming and public notice, due to no additional seating available for the public during jury trials, and making improvements to infrastructure as needed.
- f. Phase IV
- i. Operations will resume to pre-pandemic best practices, with signage removed.
 - ii. Employees and Courts will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.

5. Screening Procedures for the Public

- a. Phase I
 - i. Courthouse deputies will provide surgical type face masks to jurors, litigants, attorneys and subpoenaed witnesses through Phase III, to those who fail to bring their own masks. The County Executive and the Courts are mandating all persons entering any of the Delaware Circuit Courts to wear a mask. Accommodations will be made during criminal cross examinations to balance confrontation clause challenges with public safety.
 - ii. The Courts will avoid any hearing, trial, or proceeding that may attract more people than Court capacity will allow, by increasing the use of remote hearings for all or most parties; inquiring of parties as to expected witnesses to appear; waiving initial hearings on infractions and misdemeanors; holding video guilty pleas and encouraging consent to remote felony sentencing, especially where limited or no testimony will be heard (i.e. agreed sentences); use of queuing or text notification practices; live streaming court proceeding; enforcing prompt arrival and departure by litigants and attorneys; prohibit courtroom negotiations and conferencing; and limiting courtroom seating to essential individuals, by excluding appearance of personal supports, spectators, media, and others, when necessary.

- iii. Encourage county government partners to continue to screen visitors at the entrance, including a sign-in sheet for visitors that logs the office(s) visited and name, to be shared with local health officials for contact tracing.
 - iv. Through Phase III, visitors to the Courts who are vulnerable or high-risk will be: encouraged to stay home and seek remote hearings or continuances, or where appearances are required, to wear face coverings, social distance, and alert court staff at the time of the hearing so others can wear face coverings; and when feasible seek continuances to less busy times on the Court's docket or to allow short delay for high risk individuals to recover.
 - v. Through Phase II, Court staff will verbally screen visitors coming to court to confirm to prevent appearance by high risk individuals.
- b. Phase II
- Verbal screening of visitors will continue, and signs will remain, advising of restrictions upon high-risk persons entering the building and promoting good hygiene.
- c. Phase III
- i. Court staff will continue to provide surgical type face masks to jurors, litigants, attorneys, and subpoenaed witnesses in Phase III, to those visitors who fail to bring their own masks.
 - ii. Employees will no longer be required to take their temperatures daily, unless a fever is suspected or other COVID-like symptoms present to the employee or those in close contact with them.
 - iii. As Jury Trials resume, masks will be made available to take to any remote location, if used, to promote social distancing and markings at those locations while used by the Court.
- d. Phase IV
- i. Court facilities return to normal operations.
 - ii. Courthouse deputies, County Executive, employees and Courts will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.

6. Resuming Non-Emergency Hearings

- a. Phase I
 - i. All vulnerable individuals should continue to avoid the Court Offices or seek reasonable accommodations, if avoidance is not feasible. Members

of households with vulnerable residents should be aware that when coming to Court Offices, where distancing is not practical, they could carry the virus back home. Vulnerable members of the public should continue to self-isolate, including appear remotely for hearings or seeking continuances. Parties seeking continuances should include in motions if they are vulnerable or high-risk members of the community, which may be considered good cause in the most critical matters.

- ii. The Courts will prioritize cases to be heard, with incarcerated defendants, CHINS/TPR Initial and Detention Hearings, Protective Orders, and emergency provisional family law matters continuing to have priority. Low priority cases, such as final hearings on divorces without children, proceedings supplemental, civil jury trials, and estate matters may not be heard until Phase IV, and at the very least will be given low priority. Within similar priority cases, the Court will address a first in – first out basis (“FIFO”), hearing those cases which were first to be stayed/continued at the start of the pandemic, being the first to come out of the stay and set for proceedings.
- iii. Problem Solving Court treatment team will be held virtually through Phase III, followed by all participants meeting either remotely or in person (staggered times) during this Phase. The Courts appreciate the unique benefit afforded to all participants and treatment team members when all parties are present during each participant’s court session, such that these matters may require accommodations throughout Phase III, to insure all participants are present, remotely or in person, for the entire duration of Court, without offending court capacity and social distancing limits.
- iv. The Courts will incentivize priority settings to those attorneys and litigants who agree to appear remotely, by setting hearings dedicated to remote sessions.
- v. Senior judges and *pro tems* will be used more liberally to address remote hearings, when the presiding judge is unavailable. The Courts and senior judge have worked in test hearings through Zoom, to enable a smooth transition and prepare the senior judge for the new platform and local practices.
- vi. Through Phase III, the Courts will maximize remote hearing for DOC and jail inmate, exercising great care to minimize the movement of incarcerated individuals to the Court Offices and strive to minimize movement of inmates between jailing facilities.
- vii. During any hearing, throughout this Plan, where the public is excluded from the Courtroom, the Court will: (1) publish the Zoom hearing information in the order setting the hearing or by docket entry, which will be available on mycase.IN.gov; and/or (2) live stream the court proceedings to YouTube or another similar platform.

b. Phase II

- i. All vulnerable individuals should continue to avoid the Court Offices, unless reasonable accommodations can be made. Members of households with vulnerable residents should be aware that when coming to Court Offices, where distancing is not practical, they could carry the virus back home. Vulnerable or high-risk members of the public should continue to self-isolate, by appearing remotely for hearings or seeking continuances. Parties seeking continuances should include in motions if they are vulnerable or high-risk members of the community, which will generally be considered good cause in most matters.
- ii. Court dockets will resume with in person hearings being staggered, avoiding any “cattle call” type hearings that would violate social distancing considerations and ISDH or local health department’s recommended maximum capacities. Remote hearings shall continue to be utilized and encouraged.
- iii. Through Phase III, Problem Solving Court participants will continue meeting remotely, but with an increasing number of staggered in person hearings occurring during the sessions on a rotating basis, or as needed based upon each individual therapeutic participant’s needs and team recommendations. Remote hearings may be offered as incentives and to assist with social distancing at the same time.
- iv. The Court will continue to closely prioritize cases to heard, with incarcerated defendants, CHINS/TPR’s of all types, Protective Orders, and emergency provisional family law matters continuing to have priority. More moderate level cases will be scheduled, including contested custody matters, IV-D and family law matters, pretrial hearings on civil cases and infractions, and all remaining criminal cases. Within similar priority cases, the Court will address a FIFO basis, hearing those cases which were continued at the start of the pandemic.
- v. The Court will incentivize priority settings to those attorneys and litigants who agree to appear remotely, by setting hearings sessions dedicated to matters that can be resolved remotely.
- vi. Most hearings occurring during this phase will be held remotely, including evidentiary hearings. Only those with the highest concerns for constitutional protections and timeliness, or those having complex issues, should be conducted in person during this Phase, unless scheduling permits otherwise.

c. Phase III

- i. Vulnerable individuals can resume regular visits to Court offices, but should practice social distancing, avoiding visits during congested times where distancing may not be practical, unless precautionary measures

are observed, as greater groups may be expected during this phase. The Court may consider the need to have occasional settings reserved for vulnerable litigants. High risk individuals will still be required to appear remotely or seek continuances.

- ii. Criminal bench trials will begin, with witnesses staggered to avoid capacity limits. Paging and queuing will continue. Remote civil bench trials may resume, if scheduling permits, with priority given to remote hearings.
- iii. The Court will continue to strongly encourage remote hearings, when constitutionally appropriate, but more traditional hearings in person may resume to improve court access and case resolutions.
- iv. To improve case resolutions, the Court may relax restrictions on Courtroom lawyering, allowing attorney-client conferencing to occur, so long as social distancing and capacity limits are observed, but avoiding pre-pandemic practices. Courtroom negotiations and conferences should be kept to a minimum until Phase IV.
- v. In later stages of Phase III, the Court will begin to examine any cases that have been delayed since the start of the pandemic to consider docket priority in the early stages of Phase IV.

d. Phase IV

- i. All cases will resume on a FIFO basis, as the backlog from the pandemic is addressed.
- ii. Court, staff, and local bar will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.

7. Jury Trials

a. Phase I

- i. Criminal Jury Trials remain stayed until Phase III (October 1, 2020). Civil Jury Trials will remain stayed until Phase IV (January 1, 2021).
- ii. Final Pretrial Hearings should be held during Phase II on those cases anticipated for Phase III settings, and summons jurors. Court will discuss with State and Defense counsel new practices to be used for jury selection and trials, to seek input and prepare them for trial, encouraging only the most serious to set firm trial dates, and strongly discourage setting trials where a resolution is expected. The Court will further discuss with State and Defense counsel the possibility of using remote jury selection. If counsel agree to remote jury selection, the Courts will consider scheduling jury trials for Phase II.

- iii. The Court will review Jury Trials set for Phase III and IV, to identify whether additional panel members should be summonsed. The Court will revise its current jury questionnaire to include appropriate COVID-19 questions and prepare literature for prospective jurors on the new selection process and the Court's practices. The Court will communicate information to prospective jurors who may develop symptoms of COVID-19 in the 14 days prior to reporting for jury duty, of the best practices for high risk individuals and manner in which to notify the Jury Administrator.
 - iv. The Court is exploring web-based jury questionnaire submission, to minimizing document handling and allow for more rapid and increase responses, as a supplement to traditional mail-in processes.
- b. Phase II
- i. Revised jury questionnaires will be reviewed to determine best estimates for jury appearance rates, to make final adjustments to panel size.
 - ii. Final review of Administrative Rule 17 concerns should occur to confirm all local data and best practices supports the safe and practical commencement of Jury Trials on October 1, 2020, as expected without further extensions or Criminal Rule 4 concerns.
- c. Phase III
- i. Criminal Jury trials will resume first. The Courts will determine which cases will be tried first and in which order, taking into consideration certain factors, including, but not limited to the following:
 - 1. Whether the defendant is incarcerated.
 - 2. The level felony of the case.
 - 3. The age of the case.
 - 4. The seriousness of the offense(s).
 - 5. Whether a request for early trial was made pre-COVID or during Phase I.
 - 6. Whether victim(s) are involved.
 - 7. Readiness of counsel for trial.
 - 8. The number of jurors required for the trial.
 - a. The Court may consider the use of remote jury selection where appropriate and by agreement.
 - b. If jurors are provided with meals during the proceedings, the Courts will acquire those meals from local restaurants who agree to comply with health department procedures limiting contact with the foods, or be given the opportunity to leave for lunch, at each juror's discretion. Court staff picking up the food will handle only the exterior baggage, wearing gloves and wear PPE.

- c. Masking will be required with all jurors and PPE provided, while social distancing is also mandated.
 - ii. Juror deferrals will be granted liberally to: vulnerable jurors; high risk jurors; front line and essential workers; previously furloughed workers just returning to work; employees of long-term care facilities; those without childcare due to COVID-19; and others most impacted by COVID-19.
 - iii. The Courts will primarily use block/staggered panels for jury selection, with parties arriving at staggered times in groups; or at an off-site location if necessary, to maintain social distancing. Accommodations have been made to courtroom and jury seating to comply with social distancing guidelines, with court staff monitoring group size. The Courts are exploring the ability to mail to jurors advanced information concerning social distancing, which will include the jury video and an admonishment to view the same.
 - iv. The Court is developing a COVID-19 Jury Questionnaire, and is exploring an option to complete and submit it online, to avoid handling paper. Jury instruction may be shared by power point to avoid coming in proximity to the jury.
 - v. The Jury room is not capable of providing for social distancing. The Courtrooms will be used for deliberations, the jury will be split into separate rooms for jury breaks.
 - vi. If all pre-Phase I criminal jury trials are disposed of and current criminal jury trials addressed timely, the Court will begin addressing civil jury trials on FIFO basis, encouraging ADR in cases to minimize unnecessary trials.
- d. Phase IV
- i. All jury trials will resume without social distancing and under pre-pandemic practices.
 - ii. The Courts, Court Administrator, staff, and local bar will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.

8. Court Supervised Services

- a. Phase I
 - i. Court Appointed Special Advocates (“CASAs”) may resume home visits in the critical cases needed to assure the safety of children, including in-home CHINS, but are encouraged to continue to conduct most visits virtually. CASA shall: call first (exigent circumstance excepted) to conduct high risk and vulnerable occupant screening

questions; maintain social distancing; and wear appropriate PPE during any on-site visits. CASAs who are vulnerable themselves, should not be used for home visits, and the Court authorizes continued remote visit in lieu thereof. Homes where vulnerable individuals may be found, should be avoided during this Phase, as much as possible, and high-risk homes avoided completely by CASAs. CASAs shall comply with the same self-screening practices as court employees (Section 3), concerning self-assessments to determine risk of COVID-like symptoms, reporting the same to the CASA Director through Phase 3.

- ii. The Court will provide pretrial services with PPE. CASA is providing volunteers with PPE. Both should use remote appearances for testimony during hearings, family team meetings, and the like, using free Zoom licenses or other platforms.
- iii. Pretrial services will resume with all but the highest risk and seriously non-compliant clients posing a risk to the community, while others continue to be monitored by remote means (call-in, write-in, web portals, or virtual applications). It will be a reasonable rule of supervision during the pandemic to require compliance with remote reporting and monitoring.

b. Phase II

- i. CASA may resume more liberal home visits. Homes with vulnerable individuals, should be visited only in higher risk cases and with advance notice, so that those individuals may practice greater social distancing from the CASA, including going to another location in the home. Social distancing must be maintained with occupants of these homes, including all children, who may not appreciate social distancing guidelines.
- ii. Pretrial services will continue with some expanded face-to-face visits occurring with moderate to high risk, non-compliant offenders, while still promoting remote check-in for all compliant and low risk offenders. Pretrial Services should continue to be considerate of vulnerable clients and weigh heavily the need for face to face reporting. If a vulnerable client must come to the office, the employees shall wear face coverings, in addition to social distancing.

c. Phase III

- i. CASAs may resume home visits as needed, adhering to social distancing and masking recommendations. Vulnerable CASAs should still avoid performing home visits. Visits may be alternated between virtual and face-to-face, with non-vulnerable CASAs. Remote appearances in court will continue to be strongly encouraged.

- ii. Pretrial services resume with more liberal face to face visit of moderate to high risk offenders for compliance, but less frequent than pre-pandemic levels, using remote access as a substitute.
- d. Phase IV
- i. CASA resumes pre-pandemic best practices for visits and CASA operations.
 - ii. Pretrial Services resumes best practices and court's pretrial matrix guidelines for moderate to high risk defendants and non-compliant defendants, of face to face meetings.
 - iii. Courts, CASA Director, and pretrial services administrator will staff best practices and technology of lessons learned from the pandemic to apply to the Delaware County COOP plan.