

In the Indiana Supreme Court

In the Matter of the Petition of the Courts
of Adams County for Administrative Rule
17 Emergency Relief.

Supreme Court Case No.
20S-CB-142



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 29, 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 permit the public to observe courtroom proceedings, either in person or virtually, subject to public health recommendations and applicable Constitutional limitations;
 - (b) The petitioning court(s) shall require employees to report if they have been in contact with someone who has contracted COVID-19; and
 - (c) The petitioning court(s) shall sanitize shared equipment after use and, if possible, permit employees who exhibit symptoms, or who have been in contact with someone who has contracted COVID-19, to work remotely.

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 6/8/2020 , **effective May 29, 2020.**

A handwritten signature in black ink, appearing to read "Loretta H. Rush", is written over a horizontal line.

Loretta H. Rush
Chief Justice of Indiana

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ADAMS SUPERIOR COURT AND DRUG COURT TRANSITION PLAN

The Superior Court and Drug Court transition plan is as follows:

As the Adams County Courts transition back to a new normal routine, the Adams Superior Court has identified the following portions of the existing Emergency Measures Order that need to be extended:

Planning

The Courts have reached out to local stakeholders (including but not limited to: the Prosecuting Attorney and Public Defender, the Clerk, Chief Probation Officer, Community Corrections Director, Drug Court Coordinator, the Sheriff, President of County Council, President of County Commissioners, County Health Department, Director of County Emergency Management, Director of Child Services, President of the local County Bar Association, the County attorneys and the Health Department attorney) for input and assistance regarding the Courts' transition plan for re-opening.

Employment Procedures

Court staff have already returned to the court in full force with measures in effect to provide for work safety.

All Court staff are required to take their temperature at home or upon arrival to Court daily.

Court staff shall notify the Administrator by telephone or text if the answer to any of the following questions is "yes":

- Do you have a fever?
- Do you have a cough not related to a known health issue?
- Do you have symptoms of COVID-19?

Court staff shall not report to work in person if feeling unwell or experiencing symptoms of COVID-19.

Any Court staff unable to report to work in person shall be able work remotely, if able*.

Court staff suffering from other health issues or who fall within a high-risk category may be allowed to work remotely* with Administrator or Judge approval.

Hand sanitizer, gloves, N-95 masks, and cleaning supplies will be available to all Court staff.

As the building design allows, work stations will be 6 feet apart.

The Court Administrator and Judge are routinely observing staff for signs and indicators of stress and depression and the Judge or Court Administrator shall discuss options such as contacting the Adams Memorial Hospital Behavioral Health Center and/or the Park Center organization for stress, depression, or other mental health resources available to staff.

***Note:** The Court possesses no laptops or tablets at this time to allow staff to work remotely. However, the Court has made repeated requests to the County Information Technology (IT) department for laptops or tablets to allow staff to work remotely. As of this date, no such laptops or tablets have been provided by the local IT department. (Office of Court Services intervention may be necessary and is requested.)

Superior Court Building Plan

Door handles and knobs, used gallery benches, counsel and witness tables and chairs, plus microphones will be sanitized after each hearing by building maintenance or court staff.

Conference rooms, the jury room tables and chairs, and the hallway waiting bench will be sanitized a minimum of twice daily by building maintenance.

Restrooms and the drinking fountain will be sanitized a minimum of twice daily by building maintenance.

The Court has identified the conference room of the Adams County Community Corrections Department and the training room of the Adams County Sheriff's Department as potential alternate venues to conduct court hearings.**

****Note:** The Court does not possess COOP laptop computer and portable court recording equipment and, as a result, has limited ability to move to potential alternate venues. However, the Court has made repeated requests to the County Information Technology (IT) department for a COOP computer and portable court reporting equipment to allow Court to operate from alternate venues. As of this date, no such COOP computer or portable court reporting equipment have been provided by the local IT department. (Office of Court Services intervention may be necessary and is requested.)

Screening Procedures for the Public

The public entrance to the court is locked and potential visitors are screened by the Court security officer.

Only parties, alleged victims, witnesses and attorneys in the case will be allowed to attend hearings.

The Press may attend hearings.

Court vestibule (entryway) will be used for courtroom check-in.

Check-in is advised no earlier than 10 minutes prior to the scheduled start of hearing.

All parties, victims, witnesses and attorneys will be logged in by Court staff with name, time, temperature check, questioned regarding sore throat, cough, new shortness of breath, close contact with confirmed COVID-19 patient, traveled 100 miles away from Adams County, Indiana within the last 14 days and purpose for entering courtroom. Court staff completing check-in will be protected by a mask.

Parties, victims, witnesses, and attorneys will be required to wear a mask and use the hand sanitizer station located by the courtroom before entering.

The Court security officer will wear a mask and instruct individuals entering the courtroom to designated seats marked with colored tape and located six feet apart. (Under current restrictions, the Superior courtroom can accommodate no more than 25 individuals, excluding Court staff, to comply with social distancing requirements.)

If at any point, any member of the Court staff, Judge, party, victim, witness or attorney who has been present in the courtroom and has a positive COVID-19 test, it will immediately be reported to the Adams County Health Department for further instructions.

Resuming Non-Emergency Hearings

The Court utilizes remote/virtual proceedings using Polycom for individuals incarcerated in the local jail and the Department of Correction and Microsoft Teams*** for non-incarcerated court participants. The Court intends to continue to utilize remote/virtual proceedings for non-emergency hearings as parties request or as circumstances dictate, and in person hearings as social distancing allows.

*****Note:** the County Information Technology (IT) department has advised the courts not to use ZOOM (including the enhanced version provide by the State). Microsoft Teams does not integrate with the court's recording software and hardware (DCR). (Office of Court Services intervention may be necessary and is requested.)

Non-emergency proceedings will be prioritized on the court's docket as follows:

- Hearings previously canceled or continued will be reset for hearing upon written request of the parties;
- Hearings requested during the COVID-19 pandemic but previously not given a hearing date will set for hearing upon further written request of the parties; and
- New filings will be set for hearing as needed.

While the Governor's Executive Orders and social distancing requirements are in effect, witnesses will be allowed into the court to testify, then asked to leave the court facility. Spectators will not be allowed into the Court without Administrator or Judge approval.

The Court desires and intends to allow for hearings to be aired live for viewing by the public and spectators. However, the Court does not possess the skill or technology necessary to broadcast hearings at this time. ****

******Note:** The Court has made repeated requests to the County Information Technology (IT) department to provide the technology necessary to broadcast court hearings to the public. As of this date, the court has received no response or assistance in this regard from IT. (Office of Court Services intervention may be necessary and is requested.)

Upon expiration of the Governor's Executive Orders and when social distancing requirements are eased, spectators and witnesses will be allowed to physically enter and remain in the courtroom for the duration of the hearings.

Senior judges who may conduct hearings in Superior Court may preside either in person or remotely, at the discretion of the senior judge*****.

*******Note:** See prior notes.

Incarcerated individuals will automatically be allowed to appear by video from jail or prison facilities to participate in Initial, Bond, Pretrial, and other non-evidentiary hearings. Incarcerated individuals will be allowed to appear by video from jail or prison facilities to participate in evidentiary hearings such as suppression hearings, change of plea hearings, sentencing hearings, and trials. However, evidentiary hearings will be conducted only after the incarcerated individual is advised, on record, of his or her right to be physically present in the courtroom and the incarcerated individual verifies on record that he or she consents to participating by video.

Collection hearings and proceedings supplemental will be set for cattle call in groups of 10 cases or less and subject to social distancing requirements while the court is subject to the Governor's Executive Orders.

Evictions and Mortgage Foreclosures

Evictions and mortgage foreclosure matters will be stayed until July 1, 2020. Commencing July 1, 2020, the court will, at the request of the plaintiff, set a hearing as soon as practical for eviction and foreclosure proceedings. The court will give priority to the oldest cases first and/or casing involving damage or threatened damage to the property by the defendants.

Protective Orders

Protective Order proceedings have and will continue to be given priority hearing on the court's calendar.

Mental Health Commitments

Mental health commitments have and will continue to be given priority hearing on the court's calendar.

Writ of Attachments, Civil Bench Warrants, Body Attachments

The Court will neither issue nor lift stay of writs of attachment, civil bench warrants, or body attachments until after August 15, 2020. Stayed writs, warrants or attachments will be reissued upon the written request of the parties.

Jury Trials

The court intends to conduct jury trials as follows:

Jury trials will recommence as of July 1, 2020. Due to the court's lack of cameras and other equipment necessary to conduct jury trials remotely, all trials will be conducted in the courtroom.

While subject to the Governor's Executive Orders and social distancing requirements, and due to the design and layout of Superior Court, the Court will only be able to conduct jury trials that involve a maximum of 8 jurors (6 regular jurors and up to 2 alternates). For the same reasons, jury pools will be restricted to a maximum of 25 potential panelists at a time.

Upon arrival at court, panelists will be screened as to their health. Those panelists indicating symptoms of COVID-19 or who are at risk will be excused. Panelists not excused will be provided masks and gloves for use in the courtroom.

Panelists will be directed and ordered to view the State Trial Court Jury Trial Orientation video on the Superior Court page <https://www.co.adams.in.us/187/Superior-Court> prior to the date of trial, and panelist will be questioned as to whether the video has been viewed. Any panelists who have not viewed the video upon arrival at court will be required to view the video immediately arriving at court and prior to being subject to voir dire. Panelist subject to voir dire will be seated six feet apart as directed by the jury bailiff and/or court security bailiff.

If a jury pool of more than 25 individuals is required for a particular trial, the first 25 panelist to arrive at court will be admitted to the courtroom and voir dired. The remaining panelists will be required to provide court staff with telephone contact information and ordered to remain outside the court building until notified by staff that they may enter the courtroom or be excused.

Witnesses will be questioned in the witness box. During the trial, a plexiglass divider will be placed between the witness box and the judge's bench for the safety of both the witness and the judge. The witness box will be sanitized between each witness. All exhibits will be handled while wearing gloves. Witnesses awaiting testimony will be sequestered in the prosecutor's conference room or the commissioners room until called

to testify. If possible, witnesses indicating symptoms of COVID-19 or at risk should be allowed to testify remotely if possible. This may require use of one of the local jail's video conferencing rooms. If a witness is unavailable to testify in person or remotely due to COVID-19 illness, the witness may be deemed unavailable and prior testimony or statements may be admitted into evidence.

In order to comply with the Governor's Executive Orders and to observe social distancing, following the selection of the jury, a maximum of 13 spectators, including members of the press, may be allowed into the courtroom to observe the trial.

Jurors will be sequestered in the Superior Court jury room during all recesses from trial, including meals.

Criminal trials

Superior Court primarily addresses Level 6 felony and misdemeanor level cases and as such does select juries of more than 6 regular jurors and a maximum of 2 alternates. Jury trials will be set and/or reset, prioritized as follows:

- Incarcerated individuals exercising their right to a fast and speedy trial, taking into consideration the Supreme Court's Order issued May 29, 2020;
- Incarcerated individuals incarcerated for 180 days or more; then
- Un-incarcerated individuals.

Within each category, the court will prioritize trials with the oldest cases being given the earliest trial dates.

If the Court has jurisdiction of a case involving charges more serious than a Level 6 felony, the Defendant will be advised of his or her right to a 12 member jury and the impossibility of conducting such a trial of that nature at this time. If the defendant consents in writing to a jury of 8 members or less then the court shall schedule a trial pursuant to the procedure set forth above. If the defendant refuses to consent to less than 12 member jury, the trial will not be scheduled until the expiration of the Governor's Executive Orders and the lifting of social distancing requirements, or until alternate arrangements can be made to conduct such a trial in the courtroom the Adams Circuit Court.

Civil Trials

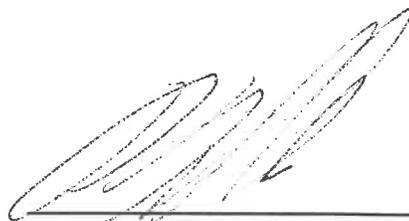
The court will schedule or reschedule civil jury trials as the court's calendar allows. However, criminal jury trials will take priority over civil jury trials.

Court Supervised Services

In Adams County, Drug Court has continued uninterrupted but with modifications for staff and participants safety concerns throughout this pandemic. The Probation Department and

Community Corrections Department have already returned to full services with modifications placed into effect for the safety of probationers, offenders, and staff.

DONE at Adams County, Indiana, this May 29, 2020.

A handwritten signature in black ink, appearing to read 'P. Miller', written over a horizontal line.

**Patrick R. Miller, Judge
Adams Superior Court
Adams County Drug Court**