

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-139



## Order Approving Expansion of Operations Plan

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 authorities 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, and the petitioning court(s) shall comply with its terms through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/9/2020, **effective May 29, 2020.**

A handwritten signature in cursive that reads "Steve David".

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Steve David  
Acting Chief Justice of Indiana

STATE OF INDIANA        )  
                                  )  
COUNTY OF BOONE        )

IN THE BOONE CIRCUIT COURT  
  
CAUSE NO. 06C01-2003-CB-375

SUPREME COURT CASE NO: 20S-CB-139

IN RE: THE MATTER OF REQUESTING  
RELIEF UNDER INDIANA ADMINISTRATIVE  
RULE 17

**AMENDED PETITION**  
**FOR RELIEF UNDER INDIANA ADMINISTRATIVE RULE 17**

Come now the Boone County Courts and submit an Amended Petition to the Supreme Court for Relief Under Ind. Administrative Rule 17 (“Amended Petition”). In support of this Amended Petition, the Boone County Courts inform the Supreme Court that the Boone County Courts have convened *en banc* and have determined:

The Judges of Boone County request the Supreme Court authorize and approve the following Amended Petition and the Boone County Courts’ Transition Plan for Extended Operations (“Transition Plan”) attached hereto and further request that such Amended Petition and Transition Plan remain in effect through 12/31/2020 unless modified by subsequent order:

- a. All jury trials shall be continued effective through July 1, 2020;
- b. Speedy trial time computation is tolled from March 17, 2020 through July 1, 2020, and days during that time shall not count towards Criminal Rule 4;
- c. Effective March 16, 2020 and extending through December 31, 2020, any attorney wishing to appear remotely for any status conference or non-evidentiary hearing is hereby given permission to do so;
- d. No motion to appear telephonically shall be required, however, attorneys wishing to appear telephonically must file a Notice of Remote Appearance 24 hours prior to hearing to provide court staff notice of the same and may be called upon to coordinate the call to the court if more than one attorney is appearing remotely on a matter;
- e. The existence of flu or flu-like symptoms in counsel, unrepresented litigants, or any witness expected to testify, or exposure of such individuals to anyone

who has or may have COVID-19, shall be considered good cause for any motion to continue an evidentiary hearing;

- f. Persons appearing in Boone County Courts who are either experiencing flu or flu-like symptoms, or persons who have had exposure to COVID-19 may be directed, by a sign or otherwise, to report the same to court staff;
- g. Issuance of new writs of attachments, civil bench warrants and body attachments may resume as of July 6, 2020 in accordance with Governor Holcomb's Indiana Back on Track timeline.
- h. Policies related to court employee safety, visitor safety, cleanliness of courtrooms, public access to Boone County Courts, jury trials and juror safety are addressed in the Transition Plan attached hereto.
- i. Policies to safely resume community supervision services, pre-trial release assessments, Boone County Family Recovery Court, GAL/CASA and JDAI Programs are addressed in the Transition Plan attached hereto.

SO PETITIONED AT LEBANON, BOONE COUNTY, INDIANA.

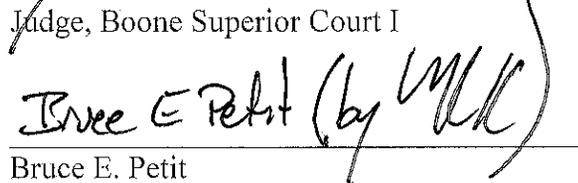
May 29, 2020.



Lori N. Schein  
Judge, Boone Circuit Court



Matthew C. Kincaid  
Judge, Boone Superior Court I



Bruce E. Petit  
Judge, Boone Superior Court II

STATE OF INDIANA        )  
  )  
COUNTY OF BOONE        )

IN THE BOONE CIRCUIT COURT  
  
CAUSE NO. 06C01-2003-CB-375

SUPREME COURT CASE NO: 20S-CB-139

IN RE: THE MATTER OF REQUESTING  
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RULE 17

## **Boone County Courts' Transition Plan for Expanded Operations**

### **Amended Petition for AR 17** **Emergency Relief and Consultation with Local Stakeholders**

Boone County Courts' Order on Petition for Administrative Rule 17 Emergency Relief filed under 20S-CB-139 dated March 18, 2020 SHALL be amended to reflect the Boone County Courts' Transition Plan for Expanded Operations ("Transition Plan") set forth below and filed herein.

In preparing the Transition Plan, Boone County Judicial Officers met with local stakeholders. On May 8, 2020, Judicial Officers meet with the Prosecutor's Office, Defense Counsel, Boone County Bar Association members, the Boone County Sheriff's Office including Jail Staff and the Boone County Clerk.

On May 11, 2020, Boone County Judicial Officers met with the Boone County Health Department and were given directives on social distancing as related to courtroom spacing, provided with face masks and hand sanitizer.

On May 27, 2020, Boone County Judicial Officers met with all of the stakeholders listed above plus members of the Boone County Probation Department, Boone County Community Corrections Department including the Pre-Trial Release staff, the local Department of Child Services Agency Director, Boone County Commissioners and the County Attorney.

### **Transition Plan – Employee Safety, Visitor Safety, Cleanliness, Public Access to Courts and Jury Trials and Juror Safety**

The Indiana Supreme Court has instructed that the Boone County Courts' Transition Plan should address protections for ensuring Court employee health and safety; protections for public health and safety; plans for continued sanitized Court facilities; procedures for maintaining a record and allowing public access; and policies for selecting jurors and procedures for protecting the health and safety of potential jurors. The foregoing policies remain and are effective immediately and SHALL be in effect, unless modified, until

December 31, 2020. Not later than December 7, 2020 (and earlier and from time to time as deemed necessary) the Courts SHALL, with input from local justice partners, health authorities and emergency response professionals review the foregoing policies to consider whether changes and/or new effective dates are necessary.

**It is the policy of the Boone County Courts as follows:**

**A. Court Employee Safety, Visitor Safety and Cleanliness:**

1. Employees SHALL maintain social distancing in the workplace which is to be generally greater than six feet apart from other employees and persons.
2. When employees must intermittently come into contact with persons at closer than six feet they SHALL wear masks.
3. Employees SHALL frequently wash hands with soap and water including but not necessarily limited to upon arrival in the office for work and after returning to the office after leaving for errands, lunch breaks, etc.
4. Employees SHALL have hand sanitizer available and intermittently use it.
5. Employees SHALL be subject to the Boone County Courthouse entrance protocol, so long as the same remains in place in the discretion of the Boone County Commissioners and Sheriff, and, like all persons entering the Courthouse, must truthfully answer questions to health officials screening entrants. If an employee cannot gain entrance the employee SHALL immediately leave Boone County property and call their supervising judge to receive instructions on what to do next.
6. Employees SHALL immediately report any symptoms of COVID-19 to their supervising judge and abide by instructions which will include a requirement to go home or stay home until well and safe to return to work.
7. An employee who has developed a symptom such as a fever, severe fatigue, a headache, sore throat, cough, shortness of breath, or loss of taste or smell SHALL not come to work but instead contact their supervising judge for further instructions.
8. If a family member of an employee tests positive for coronavirus or if the employee has had contact with any person testing positive for coronavirus, the employee SHALL report that information to the supervising judge and remain away from work until further instructions and upon it being safe to return to Court offices.
9. Employees MAY, upon authority of the supervising judge, work at home.
10. Employees of the Courts SHALL abide by travel restrictions and post-return quarantine policies that the Boone County Commissioners may promulgate and adjust for other County employees.
11. Employees SHALL wipe down shared equipment (copier) after it is used.

12. Employees SHALL not share individual computer equipment, phones or other tools in the office.
13. Employees SHALL wipe down the shared telephone and computer equipment in the courtroom which supports hearing recordation before and after each use.
14. Where members of the public are permitted to step to countertops inside court offices, an employee SHALL wipe down the counter first in the morning and then each time after a person a person who approached the counter has left.
15. The courtroom and areas outside the courtroom SHALL be regularly cleaned by the County janitorial staff.
16. Areas of the courtroom where persons occupy space SHALL be cleaned after each user has occupied the space. These include the witness stand after each witness, the Counsel table after the litigants and lawyers leave (every hearing) and other locations in the courtroom.
17. Persons in the courtroom SHALL, unless in the discretion of the Court it is intermittently necessary that some person speaking to the Court lower his or her mask to be heard and evaluated by the Court, parties, lawyers or jury, be permitted to wear masks. (In many cases, persons speaking in the courtroom can do so while wearing a mask.)
18. Masks, provided a supply can be procured as they currently have been from the Boone County Health Department, SHALL be offered without charge to persons appearing who do not bring their own.
19. Persons in the courtrooms SHALL be kept six or more feet apart.
20. For the juvenile magistrate's hearing room, the maximum capacity of persons in attendance SHALL be ten (10).
21. Provided hand sanitizer can be procured as it currently has been, hand sanitizer bottles SHALL be kept at Counsel table, witness testimony locations, on the bench, within reach of the Court Reporter, and within reach of other persons required to be in the courtroom, including but not limited to jurors.
22. Judges SHALL be cognizant to identify any staff members in high risk categories and make reasonable accommodations to protect those staff members.

**B. Maintenance of a Record and Allowance of Public Access to Court Hearings Remote and Live**

23. Subject to space limitations of the size of the courtroom and the social distancing guidelines discussed herein, members of the public SHALL be allowed to attend Court hearings, including those which are in whole or part remote, which are generally open to the public.
24. Members of the public SHALL maintain a distance of six feet apart and Court staff SHALL inform their supervising Judge if members of the public are not following these social distancing guidelines.

25. Members of the public SHALL pass through the Courthouse entrance checkpoint for screening.
26. The Courts MAY exercise authority, but are not required to do so, livestream a hearing as may be permitted by the Indiana Supreme Court.
27. Some hearings MAY continue to occur remotely pursuant to Administrative Rule 14 and as may be permitted by Indiana Supreme Court rules.
28. Remote video hearings MAY occur on an application called "Blue Jeans" with a secure link sent to Counsel, parties and witnesses.

### **C. Juror Safety**

29. Prospective jurors SHALL be summoned to Court in smaller than traditional batches to preserve social distancing.
30. Additional interaction of Court staff, greater than under ordinary circumstances with prospective jurors by telephone or email to assess risk and potential hardship deferrals/excuses, MAY occur. The Courts will exercise principled discretion under the Indiana Jury Rules in excusing or deferring prospective jurors for circumstantial undue hardship which may include, but not necessarily be limited to:
  - a. A prospective juror, or member of his/her household, being or having recently been ill;
  - b. A prospective juror being at a heightened risk for COVID-19 exposure or consequences and/or being a close contact caregiver of a high-risk person;
  - c. A prospective juror being an emergency or health care worker involved in the care and treatment of coronavirus patients;
  - d. A prospective juror having an unusual individualized hardship related to COVID-19 such as:
    1. Prolonged unemployment;
    2. Recent re-employment after a period of unpaid unemployment and the prospective juror is considered by his/her new employer to be on a probationary status;
    3. Only recently having been able to fully operate a business or pursue a trade due to government restrictions; and/or
    4. Other situational factors amounting to an undue hardship from jury service for a particular juror.
31. Communications to prospective jurors SHALL include information about safety measures being taken and prospective jurors will be instructed that they are encouraged to bring their own masks.
32. In the event of a large trial the Courts MAY select a jury in a larger venue on County property or other large venue location that can be procured.

33. Upon agreement in a civil matter a Court MAY, but is not required, to conduct some jury selection remotely.
34. Potential jurors on the first day of trial and impaneled jurors throughout the trial MUST pass through Courthouse entry screening.
35. Jurors SHALL be kept six feet or more apart.
36. Deliberations of juries SHALL occur in rooms which are large enough to accommodate social distancing.

**Transition Plan – Community Supervision Services, Pre-Trial Release Assessments, Family Recovery Court, GAL/CASA and JDAI Programs**

**A. Probation and Community Corrections**

The Boone County Probation Department and Boone County Community Corrections Department SHALL resume all in-person and in-office visits immediately and SHALL follow all employee safety, visitor safety and cleanliness policies set forth above including directives on screening, social distancing (probationers/participants and employees at least six feet when possible); providing masks and hand sanitizer to office employees and probationers/participants.

**B. Pre-Trial Release**

Pre-trial services, including pre-trial assessments, SHALL resume via secure video application “Blue Jeans” immediately in coordination with the Boone County Jail. In person assessments at the Boone County Jail MAY resume on July 6, 2020 pursuant to Governor Holcomb’s Indiana Back on Track timeline, which is subject to change and subject to local conditions at the Boone County Jail. The continued use of GPS monitoring devices is recommended and encouraged. Pre-Trial Release employees and participants SHALL follow all employee safety, visitor safety and cleanliness policies set forth above in addition to any safety directives of the Boone County Sheriff’s Office once in person assessments at the jail resume. Peer Recovery Coaches, if assigned as part of a pre-trial release order, MAY meet with participants remotely.

**C. Family Recovery Court**

The Boone County Family Recovery Court SHALL resume in person hearings immediately and SHALL follow all employee and public safety guidelines discussed above including screening of participants and availability of masks and hand sanitizer for participants. Treatment Team pre-staffing SHALL continue via video conference format and Family Recovery Court staffing and hearings SHALL take place in the Circuit Court Courtroom in order to maintain proper social distancing among participants, providers and staff.

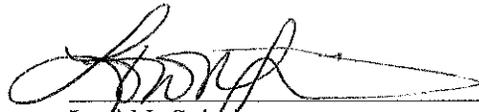
**D. GAL/CASA Program**

The GAL/CASA Program and services SHALL follow the timelines set out by the Indiana Supreme Court State CASA Office and the Indiana Office of Court Services timelines for resuming in-home meetings with families. All GAL/CASA employees and volunteers shall adhere to the safety and cleanliness policies set forth above including directives on screening, social distancing and the use of masks and hand sanitizer.

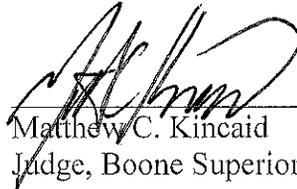
**E. Boone County Juvenile Detention Alternatives Initiative (JDAI) Program**

The JDAI Program SHALL resume in person training and programming following all employee and public safety guidelines discussed above. JDAI SHALL resume in person committee and Stakeholder meetings following all public safety guidelines, or in the alternative may hold meetings via video conferencing.

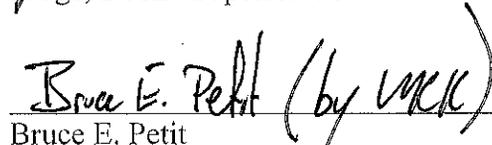
May 29, 2020.



Lofi N. Schein  
Judge, Boone Circuit Court



Matthew C. Kincaid  
Judge, Boone Superior Court I



Bruce E. Petit  
Judge, Boone Superior Court II