

In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-193



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**, with the exception that the petitioning court(s) shall resume jury trials on July 13 as outlined in the plan, subject to the health precautions proposed in the Plan, **but 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 29, 2020**.

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

Loretta H. Rush
Chief Justice of Indiana

Exhibit A

Grant County, Indiana Transition Plan

May 29th, 2020

1. Administrative Rule 17 Components

Grant County is requesting that its preexisting and approved Administrative Rule 17 be extended and/or modified as follows:

- Tolling until July 13, 2020 all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters before all State of Indiana trial courts.
- Suspending and/or rescheduling all criminal and civil jury trials until July 13, 2020 or after.
- Suspending new juror orientations, extending existing jury panels, and/or postponing jury service to a later date for jurors who are ill, caring for someone who is ill, or in a high-risk category.
- Suspending non-essential hearings and proceedings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases), through July 13, 2020 subject to the procedure for resuming hearings identified in Section 6 below.
- Using telephonic or video technology in lieu of in-person appearances as permitted in the Supreme Court's May 13, 2020 Order Permitting Expanded Remote Proceedings until further order of the Supreme Court
- During the calendar year 2020, considering (a) confirmed positive infection for Covid-19 or the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; or (c) status of such individuals in a high-risk category; or (d) the need to care for someone who is ill

or in a high-risk category for Covid-19; to constitute "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

- During the calendar year 2020, allowing any attorney wishing to appear remotely (e.g., through teleconference systems, etc.) for any status conference or non-evidentiary hearing without further leave of court upon filing a "Notice of Remote Appearance" in the court in which the matter will be heard or otherwise receiving permission from the court.
- During the calendar year 2020, limiting spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing.
- Until August 1, 2020, prohibiting the issuance of new writs of attachment, civil bench warrants, or body attachments, and staying any such writs or warrants not yet served.
- During the calendar year 2020, allowing non-emergency filings by unrepresented litigants (a) by mail; or (b) by depositing them in a drop box designated by the Grant County Clerk.
- During the calendar year 2020, posting signage at all public entry points to judicial facilities advising individuals not to enter the building if they have: 1) Been asked to self-quarantine by any doctor, hospital, or health agency; 2) Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or 3) Have a fever, cough or shortness of breath; and directing court security officers or law enforcement to deny entrance to individuals attempting to enter in violation of these protocols.

2. Planning

In preparing this plan to resume court operations, the following public health authorities and local justice system partners were contacted:

- Dr. David Moore, MD, Grant County Health Officer

- Pam Harris, Grant County Clerk
- Rodney Faulk, Grant County Prosecutor
- Bruce Elliott, Managing Public Defender
- Reggie Nevels, Grant County Sheriff
- Melissa Stephenson, Director of Grant County Correctional Services
- The Grant County Bar Association
- Leslie Hendricks, Director of Grant County CASA
- The Grant County Commissioners
- The Grant County Council
- Bob Jackson, Grant County EMA

3. Employment Procedures

The Courts will support and encourage compliance with mandatory preventative measures like quarantines and isolations, protect potentially vulnerable staff, and be prepared for situations such as school closings that could impact court staff.

A. Employees under official quarantine/isolation orders are authorized to work from home without further approval needed, and shall complete the Daily Self-Screening Checklist before reporting to the courthouse each day which is attached hereto and marked as Exhibit 1.

B. For employees tangentially affected by COVID-19 by actions such as school closures ,or who might be vulnerable demographics or have underlying health conditions, etc.—

who cannot or do not wish to be in the office, the presumption is that they will use benefit time to cover their absence from the office, including the available additional COVID-19 benefit time. But judicial officers will have the discretion to authorize and require those employees to work from home, considering the following non-exclusive set of guidelines:

- Age and capacity of children affected by school or childcare closures;
- Availability of additional spouse/family support;
- Underlying medical conditions or vulnerabilities;
- Evidence of symptoms;
- Nature of the employee's job and ability to be performed remotely; and
- Availability of resources to support remote work by the employee.

C. Employees are not required to work from home—they may still use benefit time if available and desired. Where necessary to the essential function of the Courts, however, judicial officers are authorized to require employees to work remotely.

D. All staff will wear a face covering in the courthouse when in a courtroom, public hallway, elevator, stairwell, or restroom. Paper masks will be made available for staff when available but staff are encouraged to utilize their own masks. Masking is not required in individual offices where appropriate social distancing is available and practiced.

4. Courthouse Facility Plan

- The Clerk's office will be open for early voting, and will be open to the Public beginning June 8, 2020 with regular hours. Visitors to the Clerk's Office will be asked to be masked. Masks will be provided, if available. Visitors will also be subject to non-invasive temperature testing. All mail to the Courthouse will be first handled by the Clerk's office. If related to a case, the document will be scanned to Odyssey by Clerk's employees using appropriate glove and mask precautions. Other mail will be sanitized or held for an appropriate period of time to ensure it does not provide a risk of virus transmission before being delivered to Courthouse offices.

- The Grant County Courthouse has been open on a limited basis since March 2020. During this time a cleaning service contracted by the Grant County Commissioners has cleaned the building each business day. This regular cleaning schedule shall continue as use of the courthouse returns to normal.
- All courtrooms have been measured and marked to identify seating that complies with social distancing requirements and may be utilized when the courtroom is in use.
- Court staff have been instructed to avoid sharing workstations and equipment.
- Court staff will use disinfectant to clean work areas in the courtroom, including the witness stand after each use.

Courthouse maintenance staff will continue its practice of disinfecting door handles and door push plates throughout the building at least once per day.

5. Screening Procedures for the Public

It is currently anticipated that one or more county employees will test temperatures of employees and courthouse visitors using a non-invasive instrument. If an individual tests greater than 100.4 degrees, that individual will be excluded from the courthouse, and any hearings involving that person will be continued at least 14 days, or if an emergency exists, will be addressed by remote proceedings if available. If available, masks will be provided to all visitors to the courthouse and all visitors will be directed to use hand sanitizer before entering. If masks are available, all members of the courthouse will be directed to wear masks while in the courthouse.

6. Resuming Non-Emergency Hearings

Non-emergency hearings will resume on June 3, 2020. To reduce the risks of exposure to COVID-19, the following safety precautions will be taken:

- Hearings in criminal proceedings will be in person. However, hearing times will be sufficiently staggered to allow for appropriate social distancing, and to allow

adequate time for court staff to sanitize counsel table and seats that have been utilized.

- Hearings in civil proceedings will be staggered and may be conducted in person. However, attorneys will be encouraged to conduct the hearings remotely. Each court shall determine the priority of hearings, giving higher priority to hearings held remotely. Recommended social distancing will be monitored by the bailiff.
- The courtrooms will be open to the public, but spectators will be seated at least six feet apart. Spectator seating will be on a first-come-first-served basis and the court bailiff will monitor social distancing.
- Spectators may wear face coverings, but coverings will not be provided by the court.
- Hand sanitizer will be available at counsel tables.

7. Jury Trials

Jury trials will resume on July 13, 2020, pursuant to the following protocols:

- An additional COVID-19 questionnaire will be sent to members of the jury pool. A representative copy of this questionnaire is attached hereto and marked as Exhibit 2. Essential workers, individuals who have been exposed to COVID-19, individuals in a higher risk category for COVID-19, and individuals returning to work after furlough will all receive automatic deferrals.
- Prospective jurors will be sent a letter from each court which will preview what to expect upon arriving for jury duty. This letter will also outline steps the court will take to minimize the risks of exposure to COVID-19 throughout the trial. A representative copy of this letter is attached hereto and marked as Exhibit 3.
- Jury selection will take place in the gymnasium of the Grant County Family YMCA, the auditorium located on the Marion campus of Ivy Tech State College, or other public venue large enough to allow for safe social distancing.

- Anticipating that fewer jurors than normal will appear for jury service, each court will issue more jury summonses than pre-COVID-19.
- Upon arriving for jury selection, prospective jurors will pass through security screening and social distancing will be monitored by the bailiff. In addition to usual screening for metal objects, each juror's temperature will be taken by means of a non-invasive, no-contact thermal device. Jurors with a temperature in excess of 99 degrees will be excused.
- After clearing security jurors will be permitted to take seats in chairs or on bleachers marked in such a manner as to maintain safe social distancing.
- Each juror will be required to wear a face covering. Jurors will be permitted to bring their own; however, coverings will be provided by the court, if necessary.
- Gloves will be made available by the court for those who wish to wear them, but they will not be required.
- Hand sanitizer will be made available throughout the jury selection area.
- The initial panel of 6-12 jurors will be seated near the front of the room and required to remove their face coverings while answering questions from the court and counsel. This will allow for their answers to be heard, and allow for the court and counsel to better evaluate nonverbal cues,
- Jurors will be excused as necessary and additional jurors will be seated only after the vacated seats and area are sanitized.
- After the jury is selected, jurors will be required to transport themselves to the Grant County Courthouse. The balance of the trial will be held in a courtroom.
- During the trial jurors will be seated throughout the courtroom pursuant to a seating arrangement that maintains safe social distancing.
- The jury room in the courthouse will not be used for jury trials. Instead, the courtroom will serve as the jury room. Only jurors will be permitted to remain in the courtroom during recesses and while the jury is deliberating.

- The court bailiff will escort jurors to restrooms in the courthouse. The general public will not have access to these restrooms.
- Spectators will be permitted to enter the courtroom and observe trials, provided seats are available and safe social distancing can be maintained. Spectators will be seated on a first-come-first-served basis.
- Witnesses will not be permitted to wear face coverings to better permit jurors to hear answers to questions and to fully observe the witnesses as they testify.
- All exhibits will be pre-marked by counsel, and counsel will only be permitted to approach the witness stand to hand a witness an exhibit. When doing so, counsel will be required to wear a face covering and gloves.
- When approaching the court reporter after an exhibit is admitted into evidence, counsel will be required to wear a face covering and gloves.
- Counsel will be required to wear a face covering when approaching the bench.
- Jurors will be required to wear gloves when handling exhibits.
- Individual lunches will be provided to jurors selected to minimize travel in and out of the courthouse.
- The courtroom will be sanitized appropriately during overnight recesses.

The judges of the Grant County Circuit and Superior Court shall meet periodically to discuss the most recent safety protocols and request permission to amend this plan when appropriate.

8. Court Supervised Services

During the calendar year 2020, Probation services shall occur as follows:

Contacts – Not seeing clients with symptoms

- Clients with symptoms shall not be seen on a face-to-face basis until the expiration of the quarantine period. Remote contacts may occur if permitted by the health care provider.
- Face to face Intakes/Assessments resume
- Face to face supervision contacts for moderate and high risk clients resume (no more than once a month)
 - Additional contacts will be made via telephone or video conferencing
- Low risk clients report in via telephone or video conferencing
- Field visits will be completed on the front porch with social distancing
- Drug screens collected on the first floor for PSCs (as usual), HD (as usual), Probation moderate and high risk (1X/month)

Measures

- Limited seating to promote Social Distancing in the waiting areas
- Temperatures taken at the security checkpoint
- If over 99.9 degrees, the client will be instructed to leave the department and make contact with their PO/Case Manager
- Extra Cleaning shall occur of all areas where probationers visit

Problem Solving Courts:

- Problem Solving Court sessions will be scheduled in waves of 15 people or less appropriately socially distanced, or held via Zoom, Webex or other remote technology.
- Supervision appointments shall be held over the phone or through Zoom. Staff will continue to provide interventions and cognitive restructuring opportunities.

- Intakes are still done face to face in a classroom to allow for staff to have enough distancing. Clients who are experiencing symptoms do not report for 14 days or until medically cleared, whichever comes first. Clients who are incarcerated and eligible for CTP or participation in problem-solving courts who test positive, will have their release date postponed until cleared.
- Graduations will occur by allowing the graduates to invite two people to attend in person and zoom will be offered to the remaining participants.

DONE at Marion, Indiana, this 29th day of May, 2020.

/s/ Mark E. Spitzer
MARK E. SPITZER, JUDGE
GRANT CIRCUIT COURT

/s/ Jeffrey D. Todd
JEFFREY D. TODD, JUDGE
GRANT SUPERIOR COURT NO. 1

/s/ Dana J. Kenworthy
DANA J. KENWORTHY, JUDGE
GRANT SUPERIOR COURT NO. 2

/s/ Warren Haas
WARREN HAAS, JUDGE
GRANT SUPERIOR COURT NO. 3

/s/ Brian McLane
BRIAN MCLANE, MAGISTRATE
GRANT COUNTY JUVENILE COURT

EXHIBIT 1
GRANT COUNTY COURT STAFF

Daily Self-Screening Questions

For the safety of our staff and guests, please answer the 8 questions below daily before reporting to work:

	<u>NO</u>	<u>YES</u>
1. Do you have muscle pain?	<input type="checkbox"/>	<input type="checkbox"/>
2. Do you have a headache?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you had a fever greater than 100.4 in the last 24 hours without the use of fever reducing medicine?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do you have shortness of breath or difficulty breathing?	<input type="checkbox"/>	<input type="checkbox"/>
5. Do you have a new cough or sore throat?	<input type="checkbox"/>	<input type="checkbox"/>
6. Are you experiencing shaking or chills?	<input type="checkbox"/>	<input type="checkbox"/>
7. Have you experienced a new loss of taste or smell?	<input type="checkbox"/>	<input type="checkbox"/>
8. Are you ill or caring for someone how is ill?	<input type="checkbox"/>	<input type="checkbox"/>

If you answered “Yes” to question #1 or #2, extreme care should be taken before reporting to work.

If you answered “Yes” to any other question (or otherwise showing symptoms that may be related to COVID-19) please stay home and take care of yourself.

You may be asked to self-quarantine for 14 days unless you have a doctor's clearance for work or a negative COVID-19 test.

Thank you for your commitment to the daily self-reporting screening.

EXHIBIT 2
JUROR QUESTIONNAIRE

Juror Name: _____

Juror #: _____

ADDITIONAL JUROR QUESTIONNAIRE REGARDING COVID-19
3rd Quarter – July through September 2020

1. Are you an essential healthcare worker:

_____ YES

_____ NO

2. If yes, where are you employed and in what capacity?

3. Have you been exposed to COVID-19?

_____ YES

_____ NO

4. If yes, approximate date of exposure: _____

5. Have you tested positive for COVID-19?

_____ YES

_____ NO

6. If yes, approximate dates of positive test: _____

7. Are you currently experiencing any symptoms of COVID-19 and been told to quarantine?

_____ YES

_____ NO

EXHIBIT 3

June 22, 2020

To All Prospective Jurors
Summoned to Appear for
Jury Selection at the
Grant Circuit and Superior Court
in Marion, Indiana
On Monday, July 13, 2020

RE: Your Upcoming Jury Service in the Era of Coronavirus

Dear Prospective Jurors:

This letter is attached to the Summons directing you to appear for Jury Service at 8:00 a.m. on Monday, July 13, 2020, for Grant Circuit/Superior Court. As you will note on the Summons, you are directed to appear at the Grant County YMCA/Ivy Tech State College Auditorium, not at the Grant County Courthouse. Jury selection will take place at the Grant County YMCA/Ivy Tech State College Auditorium. If you are selected to serve on the jury, the trial will be held at the Courthouse and further information will be provided.

This will be among the first jury trial which I have undertaken since the advent of the Coronavirus pandemic. I want to assure you that every reasonable precaution will be taken to enhance the health and safety of the jury, the parties, the lawyers and the Court staff during jury selection and the jury trial to follow.

So that you won't be surprised when you arrive, please be aware of the following:

1. Each prospective juror will have their temperature taken through a non-invasive, no-contact thermal camera, as they enter the Grant County YMCA/Ivy Tech State College Auditorium, to ensure that no one with a fever or an elevated temperature is admitted;
2. Each prospective juror will also pass through a security screening as they enter the building;
3. Once you enter the building and pass through the initial temperature and security screening you will be seated by Court Staff to achieve the maximum distancing possible;

4. Face coverings will be required to everyone entering the building. You may wear your own face covering; however, if you do not have your own, one will be provided for you;
5. Gloves will be available for those who wish to wear them; however, they are not required;
6. Smartphones, iPads or similar electronic devices should be left outside the building;
7. Hand sanitizer (alcohol based) will be available to you at multiple locations;
8. Those selected for this jury should know that the eight (8)/fourteen (14) jurors will be spaced throughout the courtroom to achieve maximum distancing between jurors during the trial;
9. The courtroom will be deep cleaned each evening when the Court recesses and this will continue throughout the trial;
10. Individual lunches will be provided to all jurors during each day of the trial to minimize any travel in and out of the Courthouse and to minimize juror's interaction at local restaurants.

If you:

- a. have been diagnosed by a licensed physician as having Coronavirus anytime within the past 30 days;
- b. are actively caring for a family member or loved one who has tested positive for the Coronavirus; or
- c. are now in self-quarantine status and that status will continue on July 13th;

then you should immediately advise the Court Bailiff. She may ask you to furnish documentation regarding such from your physician for the Court's records.

Please be aware that the right to trial by jury is one of the cornerstones of our democracy, and jury trials necessarily involve sacrifice from those citizens called upon to serve. This has always been true, but it is especially true during these unique and trying times. It is my personal belief that jury service is the second highest form of public service that any American can perform (second only to service in the Armed Forces). The right to trial by jury has been enshrined within the U.S. Constitution since 1791, and it was one of the stated principles in the Declaration of Independence which fueled our struggle to become an independent nation. Only those with extreme hardships should seek to be excused from jury duty.

It is important that you appear and present yourself for jury service on July 13th, and I want you to know that I am mindful of these challenging times and will take every reasonable precaution to maintain your health as well as that of the parties, lawyers and Court staff during this upcoming trial. I hope this personal letter is helpful and informative. I look forward to seeing you at the Grant County YMCA/Ivy Tech State College Auditorium on Monday, July 13th.

Respectfully,

_____, Judge