

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-131



## 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 black ink that reads "Steve David".

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Steve David  
Acting Chief Justice of Indiana

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## Jefferson County Plan for Expansion of Operations

### 1. Administrative Rule 17 Components

The Courts are filing, contemporaneous herewith, a written request to extend relief under Ind. Administrative Rule 17.

### 2. Planning

The Judges met with the Sheriff, Director of the Jefferson County Emergency Management Agency, Prosecutor, County Commissioners, and other office holders on March 15, 2020 to discuss emergency plans. Communications with these individuals as well as communication with probation, court services, pretrial release, child services, pauper counsel and the county bar has continued during the emergency.

The judges met with the Emergency Management Director and the physician that heads the Jefferson County Health Department in May. Measurements of the physical space occupied by the courts and the court offices were taken and examined by these individuals who then made recommendations about the maximum occupancy of the court rooms.

The judges plan on holding a Zoom meeting with attorneys in the county to communicate ongoing court services under the Expansion of Operations Plan and address any concerns.

### 3. Employment Procedures

Staff members in high-risk categories have been identified. All full-time staff have been equipped with laptops and cell phones such that they can perform all essential duties from home. During the COVID-19 emergency, full time staff coming to work at the office have been limited to 2 at any given time. As operations expand, staffing may be increased where necessary to 3 individuals at any given time. Judges have laptops and can conduct hearings remotely.

PPE in the form of masks have been made available to all staff. Internal reporting requirements have been established such as whether a person has a fever, cough or other symptoms. Any staff person exhibiting such symptoms will be instructed to quarantine for a minimum of 14 days.

Mental health resources for employees suffering stress and depression are available through the Jefferson County employee insurance program.

Staff will report any COVID-19 exposure to the judges and are to monitor their temperature and any COVID-19 symptoms. Staff will not report in person to work if they have any exposure or any fever or COVID-19 symptoms. Staff will be encouraged not to share any equipment until after it has been properly sanitized.

#### **4. Courthouse Facility Plan**

When developing this expansion of operations plan one of the first steps undertaken by the Jefferson Circuit and Superior Courts was an assessment of our facilities to determine how we could safely work and conduct hearings within our existing offices and courtrooms. All judicial officers met with the Jefferson County Health Officer and the Jefferson County EMA Director. We toured the court facilities with those individuals and sought their input with regard to operations.

Courtrooms and offices were measured and a maximum capacity, as recommended by CDC guidelines, was determined for each courtroom, conference room, waiting area and office area.

Based on CDC guidelines and in consultation with the above individuals, we determined that two of our three courtrooms could safely accommodate no more than two people and therefore are not suitable for “live hearings.”

As a result, the Jefferson Circuit Court courtroom, which has a maximum capacity of ten (10) people, is the only courtroom that will be used for “live hearings.” Its use will be shared by all judicial officers for “live hearings” according to the schedule set forth in Section Six (6) below. The other two courtrooms will become “virtual” courtrooms and will be used by judges/court reporters for remote hearings only.

The Courts are coordinating with the Jefferson County Board of Commissioners regarding the safety of the courtrooms, court office and waiting areas for the courts. The Courts have developed the following facility safety requirements and the Board of Commissioners are working to secure necessary products and services to meet those needs:

**Routine Cleaning and Sanitizing** – In order to assure the safety of the “live hearing” courtroom for litigants, attorneys, witnesses, court staff and judges, no live hearings will be held in the Circuit courtroom until cleaning staff is secured to wipe down and sanitize surfaces between each hearing and at the end of the day. Hand sanitizer and tissue will be provided at each counsel table. In addition, court offices will be cleaned at the end of each work day.

**Mail** – The Courts are working to establish safe handling of documents and mail. The Courts are considering assigning one staff member in each court who will be responsible for receiving, opening, reviewing and sorting mail. Envelopes will be opened and mail removed wearing protective gloves.

### Social Distancing -

1. Pro se litigants and attorneys will be advised that they will not be admitted to the courthouse any more than fifteen (15) minutes prior to their scheduled hearing. They will be required to access the third floor (location of Circuit Courtroom) by use of the elevator or central stairwell and must proceed directly to the courtroom.
2. Hearings will start and conclude promptly within the allotted time period. If a hearing has not been completed within the allotted time period, it will be continued for conclusion at a later date.
3. Participants will exit the courtroom by the west stairwell (unless a physical condition requires use of the elevator, in which case court staff or security will manage the individual's exit) in order to prevent crossing paths with participants in the next hearing.
4. All participants will be required to wear some type of facial covering over the nose and mouth. If the courts can secure masks, then masks will be provided to participants by courthouse security when they enter the courthouse. If the court is not able to provide masks, then the participants must provide their own facial covering and wear it at the time of entry and until they exit the courthouse. Information regarding these requirements will be provided in the Order setting hearing.
5. Case negotiation may not be permitted at the time of the scheduled hearing, as the hearing and sanitizing schedule does not allow for negotiation time. In addition, there is no conference room large enough to safely accommodate negotiations. Any negotiations must be completed before coming to court.
6. Plexi-glass barriers have been requested for installation on the judge's bench between the judge and the court reporter, around the witness chair and at the entrances to the court offices. Hand sanitizer and other sanitizing cleaners will be provided for post-use cleaning of copiers and other equipment. Approximately 50% of the court staff will work remotely at all times. This is further described in Section 3.
7. In addition to the "live hearing" courtroom, two "virtual" courtrooms have been created. Their use and scheduling is described in greater detail in Section 6 below.

## 5. Screening Procedures for the Public

Members of the public will be encouraged to utilize telephone and email for routine questions. For individuals who must visit the courts in person, screening will be conducted at the security checkpoint to the Jefferson County Courthouse. For all individuals who indicate to security that they are visiting the Circuit or Superior courts, the following screening procedures will be employed:

1. A forehead non-touch temperature screen will be performed. Any individual with a temperature above 100.4 will not be admitted to the courthouse. Courts will be advised if an individual has a temperature above 98.6 and decisions whether to allow the individual to enter the courthouse will be made on a case by case basis.

2. Three screening questions will be asked:
  - a. Have you been diagnosed with or tested for COVID-19?
  - b. Within the past fourteen (14) days have you had contact with anyone who has been diagnosed with or tested for COVID-19?
  - c. Within the past fourteen (14) days have you had a cough, fever, or shortness of breath?
3. Individuals who answer yes to any of these questions will not be permitted to enter the building.
4. Individuals visiting the courts will be required to wear a mask or other facial covering that covers the mouth and nose
5. Individuals will be required to use hand sanitizer upon entry to the courthouse.

## 6. Resuming Non-Emergency Hearings

The Jefferson Circuit and Superior Courts' plan for resuming non-emergency hearings is limited by the safety of physical space and the availability of court reporting equipment. Given those limitations the three judicial officers will share one "live" courtroom and two 'virtual' courtrooms. The use of the three courtrooms is guided by a "block" schedule, depicted below.

**Jefferson County Courts**  
**COVID-19 Expansion of Operations Schedule**

Court Session	Monday	Tuesday	Wednesday	Thursday	Friday
A. M. Live Circuit Courtroom	Jacobs PO/JP	Sr./ Special	<b>Hensley Criminal (Custodial)</b>	Mote CHINS	<b>Mote Criminal (Custodial)</b>
A. M. Remote #1	Hensley Civil	<b>Hensley Criminal Remote (Custodial)</b>	Jacobs Criminal Non- Custodial	Hensley Criminal Non- custodial	Hensley Civil/Crim.Non- Custodial
A. M. Remote #2	Mote JD/JC Detention	Mote Civil	Mote Civil	Jacobs JP/IV-D	Jacobs JP/PO Overflow
P. M. Live Circuit Courtroom	Jacobs IV-D	Sr./ Special	<b>Hensley Criminal/Civil (Custodial)</b>	Mote CHINS	Mote CHINS FF
P. M. Remote #1	Hensley Civil	<b>Jacobs Crim. Init. (Custodial)</b>	Jacobs Criminal Non- custodial	<b>Jacobs Crim. Init. (Custodial)</b>	Jacobs Criminal Non- Custodial
P. M. Remote #2	<b>Mote Criminal Initial (Custodial)</b>	Mote Civil	Mote Civil	Hensley Civil	Hensley Civil / criminal non- custodial

Remote 1 = Superior Courtroom recording equipment

Remote 2 = 3<sup>rd</sup> Courtroom recording equipment

As is noted on the block schedule and discussed in Section 4 above, the Circuit Court Courtroom will be shared by all judicial officers, including any senior or special judges who need to conduct in-person hearings.

When determining the number of days each week that the “live” courtroom will be available to each judge, the type of caseload handled by each judicial officer as well as the ease and authority for converting the caseload (or portions of it) to remote hearings was considered. In the end it was determined the “live” courtroom would be available to the Jefferson Circuit Court Judge two days each week, the Jefferson Superior Court Judge one day each week, and the Magistrate serving both courts one day each week.

As there is a standing Senior Judge appointed for conflicts in criminal matters initiated/investigated prior to 1/1/19, it was determined that the “live” courtroom should be set aside for use by senior/special judges one day each week. If the “live” courtroom is not fully booked on those days, it can be used for emergency hearings by each of the three judicial officers.

If a sitting judge or magistrate is on vacation, a senior judge will be utilized to aid with recovery of the docket and assure that hearings continue in the regular judicial officer’s absence.

With only one courtroom capable of safely accommodating more than two people, it is anticipated that the use of the block schedule and remote hearings will continue indefinitely. It will be up to each judicial officer to prioritize individual hearings and bench trials in the “live” courtroom based on a number of factors, looking in part on those listed in Ind. Administrative Rule 14(B), which include but are not limited to:

1. Is the litigant guaranteed a legal or constitutional right to an in-person hearing that they are not willing to waive?
2. Are the facts or issues involved in the case particularly complex and better suited to in-person testimony than to remote testimony?
3. Whether effective cross-examination of the witness is possible, considering the availability of documents and exhibits to counsel and the witness;
4. The importance of presenting the testimony of the witness in open court, where the fact finder may observe the demeanor of the witness and impress upon the witness the duty to testify truthfully;
5. Any other factors a trial court may determine to be relevant in an individual case.

Hearings involving incarcerated litigants will vary according to the nature of the hearing. Initial hearings, misdemeanor pleas and any other hearing which does not require the presence of the defendant or does not implicate a defendant’s right to be present or right of confrontation will continue to be conducted remotely. Hearings that implicate a defendant’s right to be present or right of confrontation will only be conducted remotely if the parties consent and the defendant has specifically waived those rights; in all other cases the hearing will be scheduled in the “live” courtroom.

The public's right to access will be assured as follows: any member of the public may contact the court for instructions on how to access remote proceedings, including receiving a phone number and pin to access Zoom hearings. The courts are actively working on YouTube channels to broadcast proceedings live, and will seek authority and assistance from Court Technology to broadcast hearings on the Court Services Website for Trial Court Remote Video Hearings.

## 5. Jury Trials

Until a suitable alternative venue can be secured or the virus subsides to the point the health department says it is safe to conduct trial in circuit courtroom, we are unable to conduct trials at this time.

The Courts are exploring options for conducting jury trials off-site in light of insufficient space within the courthouse to safely convene a venire with current health conditions. These options include seeking the use of a larger, technology equipped facility in neighboring Switzerland County (with a waiver of venue).

The Courts are also in communication with the local school superintendent and are discussing whether it is possible to convene a venire in one of the local school gymnasiums. Approval from the Jefferson County School Board is necessary to move forward. Upon receiving such approval, the Courts will meet with both members of the Health Department and the Sheriff's Department to assess specific safety and security concerns. If health conditions continue to improve, jury trials may resume as early as late summer.

The Courts will place heavy priority on criminal cases where defendants are in custody. Currently the Courts are setting jury trials in civil cases well beyond January 2021 in anticipation of the need for court time to address criminal custodial cases.

Jury questionnaires will be sent out no later than two (2) weeks prior to a scheduled trial date. These questionnaires will include a message from the Courts identifying the specific steps being taken to ensure safety and eligibility for deferral based on COVID-19. The questionnaires will also include an opportunity for prospective jurors to identify any individual health concerns.

The specific gymnasium currently under consideration has bleacher seating and can safely accommodate a large number of individuals practicing appropriate social distancing. A health screen will be conducted at a single entry point where jurors will be asked health questions as recommended by the Health Department and subject to a non-invasive, touchless temperature check. Any individuals with a temperature of over 100.2 or who indicates affirmative answers to the applicable health questions will be deferred and denied access to the building.

Jurors will then be sat in bleacher seating 6 feet apart. The first fourteen (14) jurors will be seated in chairs such that they can be addressed by the parties. The Courts have not yet determined how recesses will be implemented in order that the parties may conduct hearings outside the presence of the jury, nor is it clear how jurors will receive meals and conduct deliberations.

## 6. Court Supervised Services

Jefferson County Probation

May 18 – June 30

1. Door will be unlocked HOWEVER a table will be placed right inside the door with a bell and sign in sheet.
2. At the door the Probationer (and parent(s) if juvenile) MUST fill out the COVID-19 questionnaire.
3. If any questions are answered YES they cannot be admitted – please reschedule them for at least 2 weeks out and instruct them to call before appearing to go over the questions again before they come to the office.
4. Signage is posted outside the probation department office indicating anyone with fever, cough or shortness of breath shall not enter the building.
5. The Probation Officer should wear gloves (changed for each appointment). Wear masks if you wish. Have the probationer use hand sanitizer and escort them directly to your office for the appointment. **NO ONE IS TO BE IN THE WAITING AREA.**
6. Probationer chairs are to be as far away from your desk as possible.
7. Bathrooms are currently not open to the public per commissioners.
8. Only drug screen high risk – if a person will admit no need to test – just use the administrative agreement.
9. Once appointment is completed, escort the probationer to the door and throw gloves away in the large trashcan that will be located in the hallway until this madness ends.
10. Spray sanitizing spray on the door and wipe the pens and the table w/bleach wipe.
11. Everyone should wash their hands after each appointment and sanitize your office after each person leaves.
12. On-going policies will be re-evaluated in late June, 2020
13. Probation Officers directives
  - a. If you feel sick – stay home
  - b. If you want to work from home and can – do it
  - c. Masks are available for employees

- d. Wear gloves and change them after each appointment
- e. Low risk can continue to do phone appointments

#### Jefferson County Court Services

##### Public information and notice to clients:

1. Court Services will have notices on the door as to the warning signs of COVID and who is allowed to enter the building. The sign will instruct clients if they display any of the warning signs they are not to enter the building and they are to call their case manager.
2. Hours of operations will change to end at 4 pm on Wednesday instead of the regular 7 pm closure. Employee hours and updated contact information will be kept on the website and on social media
3. Clients will be notified of contact information and procedures by their assigned case manager.

##### Office procedures for entry/exit and waiting:

1. Screening measures prior to building entry, such as taking a temperature, questions related to COVID-19 symptoms will be completed on staff before work and on clients being brought back for appointments. Staff will have a screening form to complete and turn into the Director before each workday. If someone indicates a high temperature (over 100.4) or conveys COVID-19 symptoms, they will not be allowed to enter the building and will be sent home and advised to contact their health care provider.
2. Family members or members of the public (people other than clients) will not be allowed into the office unless approved by court services staff.
3. The Court Services Office lobby has been configured to promote social distancing so that all seats are at least six feet apart. This allows for 2 people to be in the lobby at a time.
4. The documentation passed between client and staff will be limited. The sign in sheet, writing utensils, clipboards, etc. be passed from staff to client and client to staff will be sanitized between each contact.
5. Gloves and masks will be worn when accepting payments from clients to mitigate risk of exposure for both the client and staff.
6. The lobby area will be cleaned and sanitized once in the morning, once in the middle of the day and once before leaving. All staff are responsible for helping out with this. A check sheet will be hung on the lobby door to indicate it has been completed. This goes for the bathrooms, the copy machine area, door handles and light switches, and kitchen as well.

## Client contacts:

1. Appointments will need to be completed in a designated staff person's office or in the one of the back group rooms if the office is not large enough to promote social distancing and keep the client and staff at least six feet apart.
2. Staff will be required to wear masks (personal protective equipment) during the appointments along with gloves for GPS hook ups, drug screens, and DNA collections. Hand sanitizer, gloves, masks, and disinfectant will be in each office and in common areas.
3. Staff and clients are to wash/sanitize their hands before, during, and/or after the appointment.
4. After appointments, staff are to sanitize the office, chairs, and anything that may have been used by the client and officer.

## General concerns:

1. The department will obtain adequate amounts of PPEs for staff and clients, sanitizing and cleaning supplies.
2. A supply list will be completed weekly to ensure supplies do not run out.

## COVID-19 Response:

Persons with COVID-19 who have symptoms and were directed to care for themselves at home may discontinue isolation under the following conditions:

- At least 3 days (72 hours) have passed since resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath); and,
- At least 10 days have passed since symptoms first appeared.

Persons with laboratory-confirmed COVID-19 who have not had symptoms and were directed to care for themselves at home may discontinue isolation under the following conditions:

- At least 10 days have passed since the date of their first positive COVID-19 diagnostic test assuming they have not subsequently developed symptoms since their positive test.
- If they develop symptoms, then the symptom-based or test-based strategy should be used.

## COVID-19 RESPONSE TO STAFF:

If a client or staff person has a confirmed case of COVID-19:

- If they were a "close contact" defined as "within 6 feet for 10 minutes or longer" they should quarantine for 14 days. And they'll be told about that as part of the investigation.
- If they weren't a close contact, there's nothing to be done.

Phase 1: March 16th through May 11th:

1. Phone appointments only
2. GPS hook ups are only face to face contact
3. Working from home is permitted as it PTO
4. Maximum of 5 staff people working in the building at a time
5. Meetings/Court are held virtually
6. No jail entry

Phase 2: May 11- May 18

1. Jail entry for pretrial
2. Staff are permitted back to the office
3. All conditions of above remain with the exception of limitations of staff in building

Phase 3: May 18th through June 30th:

1. High risk only people will be seen face to face as needed. Staff will wear masks and be at least 6 feet apart from clients. Clients are to be screened and use hand sanitizer before entering the building. Staff will wash hands and spray offices after the client has left.
2. Intakes will be done face to face with individual orientation with the same procedures as above
3. Moderate and Low risk will continue to be seen via phone and video - of course, if they are not doing what they need to be doing, they can be seen in the office - but should probably be put on monitor and risk level changed if appropriate
4. Clients will be doing schedules via phone
5. Clients on monitor should have their movements limited

6. Drug Screens for drug court clients will resume
7. Drug screens should be given for high risk people only or for those who are suspected of using and are not admitting to using. If they are admitting to using they may not be screened
8. If staff are willing to use their own computer, phone and internet, they may work from home and do appointments over the phone - files can be taken home if needed – creativity in scheduling is encouraged-the need for people at the office remains
9. Home visits are to be done with case managers - it is ok to do home visits via phone from the person's driveway or on their porch
10. Groups will continue to be done virtually - or this may be done creatively like in a park where social distancing can be accommodate.
11. Case managers should be checking in with their entire case load every other week for the moderates and low
12. Most defendants will continue to be put on monitor upon release from court (felonies only)

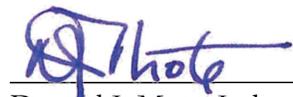
Phase 4: July and August

1. All conditions above will remain
2. Moderate risk clients can be seen face to face
3. Increase drug screens
4. Working from home will be limited

Phase 5: September

1. Face to face will be expanded to low-risk
2. Groups can resume face to face
3. Drug Screening will be on a normal schedule

Respectfully submitted,



05/29/2020

Donald J. Mote, Judge  
Jefferson Circuit Court