

In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-160



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 amended 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 provide information on mental health resources to its employees. 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 1

**PULASKI COUNTY COURT TRANSITION
PLANS**

Resuming Court Operations

GUIDELINES FOR ALL PHASES

INDIVIDUAL RESPONSIBILITIES FOR ALL COURT EMPLOYEES:

Continue to practice good hygiene:

- **Wash hands with soap and water or use alcohol-based hand sanitizer, especially after touching frequently used items or surfaces**
- **Avoid touching your face**
- **Sneeze or cough into a tissue or the inside of your elbow**
- **Frequently disinfect used items and surfaces**
- **Strongly encourage using face coverings while in public**
- **Maintain 6-foot separation and other social distancing measures**

Employees who feel sick should stay home

- **Do not go to work**
- **Contact and follow the advice of your medical provider**

EMPLOYEES/ATTORNEYS

Each court employee or appearing attorney shall report any of the following symptoms to the Court immediately upon experiencing symptoms, and PRIOR to coming to work/court:

*Symptoms may change as we learn more about the virus.

- Fever greater than 100.4 degrees;
- Cough or worsening cough (excluding chronic cough due to known medical reason);
- Shortness of breath, or any two of the following symptoms:
 - o Fever
 - o Chills
 - o Repeated shaking with chills
 - o Muscle pain
 - o Headache
 - o Sore throat
 - o New loss of taste or smell
 - o **For 14 days following close contact with diagnosed case of COVID-19.**

As the court continues planning for expanded court operations, employees must continue to work remotely to the extent possible. For employees who must enter the courthouse, frequent and proper handwashing is extremely important. Employees should feel comfortable wearing masks and should feel comfortable asking others to wear a mask. Masks may be found through your local health department, emergency management agency or private companies (i.e., Lionshead in Goshen, Indiana). Any employee who needs a mask and is unable to find one should consult their supervisor.

Employees should not share space or equipment. If that is not possible, have employees wash their hands before and after using shared equipment. Clean and sanitize equipment between uses.

The court must limit capacity inside courtrooms and common areas in the courthouse to provide for social distancing between individuals and employees. This includes, but is not limited to, the use of signs, contact barriers, entrance limits, and specialized hours.

Members of the Public/Parties

Each person entering the courthouse for hearings shall be asked to review the following checklist. Any "yes" response to the screening questions above requires the individual to be excluded and set for later hearing date:

- For at least 72 hours with no fever (three full days of no fever without use of medicine that reduces fever) AND other symptoms have improved AND at least 7 days have passed since symptoms first appeared.
- For 14 days following close contact with diagnosed case of COVID-19.
- For 14 days following travel outside of Indiana, unless that travel was due to commuting from home and work on a regular basis.

PHASE ONE

Anticipated start date of June 1, 2020

EMPLOYEES

Vulnerable employees should arrange with supervisors to continue remote work. Employees who live with or provide care for vulnerable individuals should do the same to the greatest extent possible to reduce the risk of exposing those vulnerable individuals to COVID-19. Each employee who works from home will be required to execute a telework agreement.

To reduce the risk to others, employees should conduct a health self-assessment prior to coming into the office, as listed above. If an individual's temperature is greater than 100.4 degrees or if an individual is exhibiting other signs of COVID-19 infection per CDC guidance, the individual should self-report to supervisors, stay home, and call their physician. Utilize the CDC Self-Checker to assist with that assessment. The self-checker tool can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html>

Employees should maximize physical distance from others in the workplace. Six-foot distancing should be observed in all offices, meetings, court proceedings, etc. Tape or other visible means will be used to mark 6 foot social distancing measures.

Minimize personal travel (i.e., leisure travel, non-business related) and adhere to CDC guidelines, as well as local and state orders regarding travel and potential for self-isolation upon return.

The Court will continue remote work arrangements whenever possible and feasible within judicial operations and will keep initial staffing in the courthouse to a minimum, based upon the calendar, to be reviewed weekly by the Judicial Officer.

Returning employees should not include those who are in the vulnerable or high-risk categories or others who require reasonable accommodations because of COVID-19. These employees should continue to work remotely.

Judicial Officers will work with supervisors to identify employees who, due to vulnerability or other need for reasonable accommodation, need to continue to work remotely.

Judicial Officers will also consider reasonable accommodation options for those who are currently caring for school age or younger children who are unable to return to school or daycare due to COVID-19 restrictions.

Mail will be received into a basket outside of court offices and will be opened by one staff member. That staff member will practice good hygiene measures as outlined in the transition plan attached as Exhibit 1.

JUDGES AND COURT

Judicial Officers will continue to rely on local public health and CDC guidance to inform local data-based decisions. Hearings during Phase One are substantially stayed, with **only those most critical hearings occurring and every effort made to conduct them remotely**, when constitutionally permitted. Courts will work to identify the highest priority cases to be heard, with the assistance of counsel, when the court advances to Phase Two.

Judicial Officers will continue to review current executive orders and consult with local health officials to determine how long face covering must be worn by employees and visitors inside the courthouse.

RESUME NON-EMERGENCY HEARINGS

Courts will continue to hold hearings remotely to the extent possible. The Courts may consider holding hearings during non-traditional times is necessary to elevate backlogs.

The Court may also consider ordering mediation before hearings or trials set in civil and family law cases. There are online mediation/co-parenting programs such as CoParenter <https://coparenter.com/>. They offer 24/7 mediation for co-parenting issues (parents pay monthly or annual fee). They are currently offering free mediation for COVID-19 parenting time issues. Many mediators are also handling matters remotely.

When in-person hearings resume, the Court will limit spectators. Only attorneys and litigants will be permitted in the courtroom. Witnesses should testify remotely, if possible. Witnesses must wait in designated waiting areas for their turn to testify to **keep** people socially distant.

The Courts will provide public access to court proceedings through YouTube, via Zoom technology, or the Indiana Court Technology pilot website, to any person who requests the ability to access a public hearing who is not permitted to be physically present in the courtroom.

Otherwise, remote hearings will occur utilizing Microsoft TEAMS for all participants appearing remotely and all inmates for whom a physical appearance in the courtroom is not necessary.

FACILITIES

If the courthouse is exposed to the virus, the supervising Judicial Officer will coordinate cleaning and disinfection of the facility with the maintenance department prior to allowing employees back into the building. Cleaning procedures should be consistent with CDC guidance on cleaning and disinfection.

If the courthouse or facility is physically closed to the public, it will remain so unless the local public health or safety officials have reopened public facilities. The Courts are a separate, but co-equal, branch of government, and as such trial courts must make their own determination, after consultation with local health officials and County Commissioners, about when the courts will be open to the public. The courts must implement measures to limit gatherings and to ensure minimal foot traffic in the building.

The Courts will utilize a sign-in sheet that includes the office to be visited and the times of arrival and departure to share with local health department officials who may choose to cross reference that list with known COVID-19 positive cases for contact tracing purposes and alerting the county office of exposure.

Large venues and common areas (e.g., courtrooms, jury assembly , sit-down dining, etc.) will remain closed to the greatest extent possible. If this is not possible, Courts will keep occupancy rate to 10 or less and operate under strict social distancing protocols. In addition to implementing efforts to promote social distancing, the use of face covering will be required in all instances when required under local ordinance, or when social distancing is not feasible. Tape or other visible markers will be used to mark 6-foot distances for courtroom seating and lobby areas. Only person will be allowed in the office vestibule/check-in area at a time. If social distancing cannot safely be maintained, implement additional precautions such as specific appointment times for parties to appear for in-person proceedings will be considered.

COURT SUPERVISED SERVICES

Those individuals in probation who are high risk will continue to be required to report to probation, but will be required to follow social distancing guidelines and wear a mask. Officers will sanitize between each probationer and will screen individuals prior to allowing entry into the office using those guidelines listed for all members of the public. Those probationers on low and moderate risk levels will continue to be monitored by telephone or video conference. No home visits will occur unless absolutely necessary. In those circumstances, all probation officers will be required to wear proper PPE and maintain social distancing. This should only occur after notice to the court.

Pretrial Release Program assessments will continue to occur remotely. All other components of the Pretrial Release Program will follow guidelines established for probation dependent upon risk levelS

Community Corrections/Work Release will operate at a reduce capacity and explore moving the female population into another facility to allow for quarantine of new work release inmates. The local Pulaski County Jail work release program will continue to remain suspended during phase one.

GAL/CASA will hold remote meetings with participants when it will suffice, or will meet with children/families

in an outside setting, continuing to practice social distancing guidelines and utilizing PPE when necessary.

PROBLEM SOLVING COURTS

Pulaski County Veterans Treatment Court

Staffing

- The Pulaski County Veterans Treatment Court staffing team (Judge, probation, coordinator, prosecutor, public defender, VJO, treatment, and MAT doctor), will meet via Zoom for staffing meetings prior to holding Veterans Court.
- All documentation, progress reports, updates, etc. will be shared electronically and no physical paper will be shared between staffing team members.
- All referrals for the Pulaski County Veterans Treatment Court consideration will be accepted via electronically (email to the coordinator, fax, etc.)

Veterans Court

- Veterans Court will take place with via Zoom for the staff by Zoom and in counsel in person, beginning with June 12, 2020 hearings, unless remote hearing is requested by counsel. Each party will continue to be participant socially distant from one another. Participants will be required to wear a mask and the court will provide a mask if the participant does not have a mask. Participants will be advised that they may request a remote hearing if necessary.
- Participants housed in the jail will appear by video and their attorney may appear via video or in person in court while following all social distancing guidelines and wearing a mask.
- Upon each person leaving the courtroom, the surfaces in the room will be cleaned and sanitized between each hearing.

BEFORE PROCEEDING TO PHASE TWO

Courts should coordinate with local public health officials and re-evaluate criteria to ensure:

- Readiness to progress to the next Phase
- Need to implement additional social distancing measures based upon resurgence of infections in the local area

PHASE TWO

Anticipated start date of July 6, 2020

EMPLOYEES

All vulnerable individuals should work with supervisors to continue remote work. Employees who live with or provide care for vulnerable individuals should do the same to the greatest extent possible to reduce the risk of exposing those vulnerable individuals to COVID-19.

Judicial Officers may stagger employees to work on alternate shifts, so that in the event of exposure to COVID-19 resulting in staff quarantine, not all employees are compelled to work at home or exposed to the virus.

To reduce the risk to others, employees should conduct a health self-assessment prior to coming into the office, such as taking their temperature. If an individual's temperature is greater than 100.4 degrees or if an individual is exhibiting other signs of COVID-19 infection per CDC guidance, the individual should self-report to supervisors, stay home, and call their physician. Utilize the CDC Self-Checker to assist with that assessment. The self-checker tool can be found at: https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testin_g/testing.html

Employees should maximize physical distance from others in the workplace. Six-foot distancing should be observed in all offices, meetings, court proceedings, etc. Tape or other visible means should be used to mark 6-foot distances where practical.

JUDGES AND COURT

Courts will be prepared for a significant increase in filings and other court proceedings that will likely occur during this phase. Courts will continue to maximize use of virtual proceedings whenever possible. Each court will begin setting hearings on higher priority cases addressed in Phase One, which may now be heard remotely, with increasing regularity, mindful of limited court staffing that may occur in this Phase. The courts anticipate cases such as custody proceedings, parenting time hearings, child support, and other criminal hearings that were not included in "essential" hearings will occur during this time period. Courts anticipate that litigants may insist or require personal appearances for these hearings, and will require these litigants/attorneys follow CDC guidelines, continue to social distance, and wear masks as necessary. Remaining cases with a lower priority will be resumed during Phase Three, prioritizing those that have been delayed the longest within the similar case types.

The courts will continue to rely on local public health and CDC guidance to inform our local data-based decisions.

The courts will continue to encourage remote work whenever possible and feasible with court operations to protect staff and court operations.

The courts will continue to consider reasonable accommodations for personnel who are members of a vulnerable population or have other personal requirements that need to be addressed.

On-site court proceedings and off-site visits to probationers and clients can be increased, though courts will continue to use video and teleconferencing to the greatest extent possible. Courts will limit gatherings during this phase and adhere to strict social distancing and hygiene protocols. Face coverings should be required for all face-to-face meetings where social distancing cannot be safely maintained. Courts will utilize ZOOM or TEAMS for any necessary meetings to eliminate exposure.

The Courts will provide public access to court proceedings through YouTube, via Zoom technology, or the Indiana Court Technology pilot website, to any person who requests the ability to access a public hearing who is not permitted to be physically present in the courtroom.

Judicial Officers will continue to review current executive orders and consult with local health officials to determine whether face covering must be worn by employees and visitors inside the courthouse.

JURY TRIALS

***Pulaski County Courts have requested an extension of AR 17 concerning authority to continue jury trials until August 1, 2020. However, if that extension is not granted, Pulaski County Courts will resume as follows in Phase Two:**

When jury trials resume, the courts will send an additional COVID-19 questionnaire to prospective jurors. See attached. The courts will maintain a list of automatic deferrals due to COVID-19 (i.e., essential workers, COVID exposure, people returning to work, etc).

Jury panels will be staggered to accommodate 25 people at a time, maximum. The courts will provide a letter to jurors explaining safety measures taken to keep jurors and others safe, as well as instructions on location of jury selection. Appropriate PPE will be provided to all jurors as necessary. (i.e., face coverings, gloves for handling exhibits, etc.) Jury selection will occur in the local high school auditorium and each potential juror **entering the building for jury selection shall be asked to review the following checklist by the bailiff. Any "yes" response to the screening questions above requires the individual to be excluded:**

- Fever greater than 100.4 degrees;
- For at least 72 hours with no fever (three full days of no fever without use of medicine that reduces fever) AND other symptoms have improved AND at least 7 days have passed since symptoms first appeared.
- Cough or worsening cough (excluding chronic cough due to known medical reason);
- Shortness of breath, or any two of the following symptoms:
 - o Fever
 - o Chills
 - o Repeated shaking with chills
 - o Muscle pain
 - o Headache
 - o Sore throat
 - o New loss of taste or smell
- For 14 days following close contact with diagnosed case of COVID-19.

- For 14 days following travel outside of Indiana, unless that travel was due to commuting from home and work on a regular basis.

20S-CB-160

The State, Attorney for the Defendant, and Defendant will appear in person at the auditorium for jury selection. Each will be subject to the same requirements of the public. Recordings will best occur by purchasing additional recording equipment that can be transported for jury selection. If this is not possible, jury selection recording will be done by computer which will be remotely connected to the recording equipment from the courtroom. The Court Reporter will remain in the courtroom with the recording equipment and access to a cell phone to report any issues or concerns with recording quality or sound.

***Parties may agree under Supreme Court 20S-CB-123 to use audiovisual communications, consistent with the Order under 20S-CB-123, to select a jury.**

After jury selection, the jury will be ordered to appear in the courtroom, where the trial can continue adhering to social distancing guidelines. When it is necessary for the jury to be excused to the jury room, or for deliberation, PPE will be required of each juror, and social distancing shall be followed to the furthest extent possible. The Court will provide sanitizing spray, hand sanitizer, and wipes for use of the jury. Further, court staff shall spray the table and chairs between jury sessions in order to further prevent the spread of germs.

The public will not be allowed to attend jury trials in person until Phase Four, but courts will live stream court proceedings to accommodate the public's access by utilizing YouTube or the Indiana Court Technology pilot website.

FACILITIES

Courts will continue use of enhanced screening procedures to mitigate possible employee exposure. Cleaning and disinfection for newly exposed areas will continue. Sanitizing spray will be utilized for all services between guests of the public.

Large venues and common areas (e.g., courtrooms, jury assembly, sit-down dining, etc.) can operate under moderate 6-foot physical distancing protocols. Tape or other visible means will be used to mark 6-foot distances where practical. While maximum capacity for gathering may fluctuate based upon CDC and State recommendations, actual capacity of courtrooms, jury rooms and waiting spaces will continue to be limited by the 6-foot social distancing restrictions.

COURT SUPERVISED SERVICES

Those individuals in probation who are high risk will continue to be required to report to probation, but will be required to follow social distancing guidelines and wear a mask. Officers will sanitize between each probationer and will screen individuals prior to allowing entry into the office using those guidelines listed for all members of the public. Those probationers on low and moderate risk levels will continue to be monitored by telephone or video conference. No home visits will occur unless absolutely necessary. In those circumstances, all probation officers will be required to wear proper PPE and maintain social distancing. This should only occur after notice to the court.

Pretrial Release Program assessments will continue to occur remotely. All other components of the Pretrial Release Program will follow guidelines established for probation dependent upon risk level.

Community Corrections/Work Release will operate at a reduced capacity and explore moving the female population into another facility to allow for quarantine of new work release inmates. The local Pulaski County Jail work release program will continue to remain suspended during phase one.

GAL/CASA will hold remote meetings with participants when it will suffice, or will meet with

PROBLEM SOLVING COURTS

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- The Pulaski County Veterans Treatment Court staffing team (Judge, probation, coordinator, prosecutor, public defender, VJO, treatment, and MAT doctor), will meet via Zoom for staffing meetings prior to holding Veterans Court.
- All documentation, progress reports, updates, etc. will be shared electronically and no physical paper will be shared between staffing team members.
- All referrals for the Pulaski County Veterans Treatment Court consideration will be accepted via electronically (email to the coordinator, fax, etc.)

Veterans Court

- Veterans Court will take place with via Zoom with each participant assigned a time to call in via video and/or phone for court.
- Participants will appear in person when so ordered by the Judge. If appearing in person, the participant will be provided a mask which they must wear in court and social distancing will be followed by all in the courtroom.
- If appearing in person, participants will be appearing per a scheduled time and no other individuals will be in the courtroom to reduce risk. Participants are separated via their risk levels for court appearances.
- Participants that are being housed in the Jail, will appear by video and their attorney may appear via video or in person in court while following all social distancing guidelines and wearing a mask.
- Upon each person leaving the courtroom, the surfaces in the room will be cleaned and sanitized between each hearing.

BEFORE PROCEEDING TO PHASE THREE

Courts will coordinate with local public health officials and re-evaluate criteria to ensure:

- Readiness to progress to the next Phase
- Need to implement additional social distancing measures based upon any resurgence of infections in the local area.