

# In the Indiana Supreme Court



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

Supreme Court Case No.  
20S-CB-119

## 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 DeKalb Superior Court I filed a petition on June 17, 2020, DeKalb Superior Court II filed an amended plan on June 3, 2020, and DeKalb Circuit filed a petition on May 19, 2020 with an addendum filed on June 16, 2020. Together these expansion of operations plans (“Plan”) are consolidated for consideration.

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. Judge Kevin Wallace, DeKalb Superior Court I, has confirmed that he has incorporated the other Plan provisions into the Superior Court I submission.

3. 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 6/18/2020 , **effective May 30, 2020.**



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Loretta H. Rush

Chief Justice of Indiana

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. Judge Kevin Wallace, DeKalb Superior Court I, has confirmed that he has incorporated the other Plan provisions into the Superior Court I submission. 3. 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.

## **DEKALB SUPERIOR COURT I A.R. 17 PETITION/TRANSITION PLAN**

The DeKalb County Courthouse opened to the general public June 1, 2020. Prior to that, the courthouse was open to people "by appointment". DeKalb Superior Court I considered scheduled hearings an appointment, and conducted hearings.

Superior Court I does not require added precautions not imposed by the County Commissioners. Generally, people entering the courthouse are required to wear face masks, sanitize their hands and maintain social distancing. The Superior Court I courtroom and office area accessible by the public are large enough to accommodate these requirements. Seating in the courtroom has been modified and limited to allow proper distancing.

None of the three staff employees of Superior Court I have school age children. All were willing, available, and did continue to work full time throughout the pandemic. Each have their own work area and are able to maintain social distancing.

Superior Court I has at least two jury trials expected to go in July, 2020. One is a six person jury and one is a twelve person jury. I believe that by sharing space and coordinating calendars, the three courts in DeKalb County can safely conduct jury trials on the third floor of the courthouse. Superior Court I plans to stagger the time potential jurors are to report for voir dire to avoid a large crowd, and add an extra day to the trial to accommodate an extended jury selection process.

This week the three DeKalb County Judges have discussed and agreed to seek to convert a (largely unused) law library on the third floor to a space that can be used by the courts for jurors. This area is big enough for twelve jurors plus alternates to socially distance while deliberating.

While access to the courthouse has been limited, Superior Court I held video hearings for

incarcerated individuals from the DeKalb County Jail and other penal facilities. These continue. The Court accommodates requests by parties and lawyers to appear remotely by audio and video. Such requests have increased.

I am aware the Judges of the other two DeKalb County courts have filed separate plans, and ask that the three plans be consolidated for consideration. I think at the start of the crisis, each Judge reacted and adopted policies that were best for their personal situation and court. We are, and have been, operating very differently, and, therefore, our "re-openings" are very different. Please do not interpret the manner of our response as indicative of dysfunction. I believe my colleagues and I have a good working relationship in matters of mutual concern. I am sure we will work together to ensure the administration of justice in an appropriately safe environment.

SUBMITTED THIS 12 DAY OF June, 2020.

  
Kevin P. Wallace, Judge  
DeKalb Superior Court I

**RESUMING OPERATIONS OF THE DEKALB SUPERIOR COURT II**

To all Staff:

The DeKalb Superior Court II has adopted, without reservation or exception the guidelines on Resuming Operations of the Trial Courts issued by the Indiana Supreme Court. These guidelines can be found at <https://www.in.gov/judiciary/files/covid19-resuming-trial-court-operations.pdf>

**PREPARATION TO REOPEN****General Safety Considerations**

- The staff area shall be closed to counsel and the public at all times. A prominent sign shall be placed on or near the door which will read: **“Please do not attempt to make personal contact with the court staff or the Judge.”**
- A table will be placed outside the courtroom entrance and staff/public entrance to court office. On the table outside the courtroom will be hand sanitizer, disposable towels and instructions for proper hand sanitization. A lined trash can will be placed next to the table.
- A sign will be affixed to the courtroom door instructing people as follows. **“You shall not enter the courtroom until you are invited by the court staff-no exceptions.”** In addition, a sign will be placed by the courtroom entrance containing the following advisements. “You may not enter the courtroom until you are invited by the court staff-no exceptions.” Strict social distancing is required in the Superior Court II Courtroom-do not approach anyone closer than 6 feet.” “You must wear a mask at all times in the courtroom” “If you are appearing for a scheduled hearing, you will be summoned by the court staff when we are ready to hear your case. Socially distance and wait for your call to enter.” If you are not here for a scheduled hearing do not enter the courtroom and contact the court staff for further instruction.
- Chairs will be spaced at counsel tables to allow 6’ separation, and the tables will be moved farther apart to accomplish separation as well. A sign will be affixed to each counsel table which states **“Maintain 6’ social distancing at all times. Do not remove your mask in the courtroom without court permission.”**
- The coffee area is **“Off limits to all but court staff until further notice.”**
- All notices of hearing shall contain language requesting that litigants not enter to the courthouse until five minutes prior to their hearing. Parties should further be

advised to leave children, family members and friends at home unless they are a necessary witness.

- **WHEN HEARINGS ARE NOT IN SESSION, ALL DOORS WILL BE CLOSED.**
- **Prior to coming to the courthouse each day, all staff must self-screen for illness. I am requiring you use the handy “Self-Checker” made available by the CDC in conjunction with Microsoft. <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> For convenience I suggest you pin the link to the homepage on your cell phone.**
- Masks will be sanitized daily at a minimum, and it is suggested that the masks be sanitized several times a day. In addition, all staff should familiarize themselves with mask safety protocols previously provided. Masks can, and should, be sterilized in the UVC cabinet. Sterilizing wands have been ordered for staff use.
- The UVC sterilizing cabinet will initially be installed near the court reporter’s station. The cabinet will be used to sterilize all exhibits before being handled by court staff. The court reporters and the bailiff will be the only ones permitted to touch the cabinet. The court reporter will open the cabinet and request that the person proffering the exhibit place the exhibit inside. It will then be sterilized before transmittal to the judge.
- All staff must wear a mask in the court area and sanitize hands before entering the courtroom.
- Staff shall maintain the 6’ social distancing protocol at all times.
- Before touching common items and equipment, you shall sterilize the touch areas with one of the two UVC wands. This includes printers used by more than yourself, the coffee machine, and the refrigerator door.

## **RESUMPTION OF HEARINGS**

### **Courthouse Facility**

1. Prior to June 1, 2020, by order of the DeKalb County Commissioners, the courthouse was closed to the general public except by appointment made in advance with a particular office. A list of names associated with the appointments was provided to security each day for admittance. Pursuant to the Commissioner’s order, all persons entering the courthouse were required to submit to screening by a touchless thermometer and being required to wear a mask and to sanitize hands at the courthouse Security entrance.

2. Beginning June 1, 2020, the County Commissioners have opened the courthouse to the general public without appointment but all persons entering are required to wear a mask and sanitize their hands.

## Hearings

1. Throughout the time the courthouse has been closed without appointment, Superior Court II has conducted emergency/necessary hearing remotely by a combination of telephone and/or Microsoft Teams. This process will continue until June 15, 2020.
2. Beginning June 15, 2020, hearings will resume on a regular but limited basis. All persons entering the courtroom shall be required to wear a mask, sanitize their hands at the courtroom door, and screened by a touchless thermometer. Tables, chairs, etc., will be sanitized between hearings.
3. As hearings resume, and until any backlog is resolved, the Court will prioritize scheduled hearings such that priority will be given to:
  - (a) Incarcerated individuals;
  - (b) Provisional child support and custody issues;
  - (c) New Guardianship cases, many of which are time sensitive;
  - (d) CHINS and juvenile hearings, very few of which are heard due to the local caseload allocation plan; and
  - (e) Once backlogs are eliminated hearings will be scheduled largely in the order filed and as the calendar permits. Sanitation protocols will continue between hearings until deemed unnecessary by County Health Officer, Dr. Mark Souder.
4. The Title-IV Attorney has agreed to prioritize all matters for which a hearing is requested.
5. Initial hearings, status and scheduling hearings (civil and criminal) will be conducted remotely by Microsoft Team or telephone whenever possible. Other hearings may be held remotely when agreed upon by the Court, counsel and/or the parties.
6. Public access to the courtroom during hearings will be limited to the space available, taking into consideration social distancing requirements and courtroom size limitations.
7. All exhibits offered during a hearing shall be sanitized in the UVC cabinet before being handled by the Judge or staff. The person offering the exhibit will be instructed to place the exhibit in the cabinet which should be opened, closed and operated by court staff only.
8. The County Health Officer, Dr. Mark Souder, shall determine when masks and sanitation at the courthouse entrance may be dispensed with. Due to space limitations in DeKalb Superior Court II, dispensing with masks and hand sanitizing shall be made by the court after consultation with Dr. Souder.

## **Jury Trials**

1. Jury trials may begin August 14, 2020, unless the Supreme Court authorizes a further extension.
2. All sanitation requirements referenced under the heading “Hearings” shall apply to jurors and jury trials.
3. All 3 Courts in DeKalb County are located on the third floor of the courthouse. Except for the court staff offices, no other offices are located on the third floor. The Judge of DeKalb Circuit Court will turn age 60 in June of this year and the other 2 Judges are each 67 or older. The Judge of DeKalb Superior Court II, and the author of this plan, is an insulin dependent diabetic and thus has a significant increased risk of complications from a COVID-19 infection.
4. The 3 Courtrooms differ significantly. The DeKalb Circuit Court was the first and original court in the county and has a large and spacious courtroom. Social distancing can be reasonably obtained. DeKalb Superior Court I, while smaller than the Circuit courtroom (probably half the size) is still reasonably spacious and some social distancing can be obtained. DeKalb Superior Court II is very small (probably half the size of DeKalb Superior Court I) and opportunities for social distancing are difficult. The courthouse was built between 1911 and 1913 and does not have a negative airflow system. Thus, recirculation of air in the colder and hotter months of the year is a problem and a concern.
5. Under the present circumstances, jury trials cannot be held and completed solely within the Superior Court II courtroom. DeKalb Circuit Court Judge, Kurt B. Grimm, has offered the use of his significantly larger courtroom for jury trial purposes. Prospective jurors will be called on a staggered basis to provide for proper social distancing. As the trial continues, the DeKalb County Commissioner’s Court on the 2<sup>nd</sup> floor of the courthouse and 2 different meeting rooms in the Courthouse Annex are sufficient in size to serve as a jury room for deliberations and during breaks and recesses.

## **Court Supervised Services/Probation**

1. Probation has continued well but on a limited basis. Home visits will not resume until approved by the County Health Officer and other necessary contact will be completed remotely or in rooms larger than a Probation officer’s office on a more limited and restricted basis. PPE’s and screening are presently being utilized and will continue until advised by the County Health Officer such measures are no longer necessary.
2. Community Corrections, like Probation, has continued to operate on a limited and restricted basis. Judge Wallace, DeKalb Superior Court I, recently

- authorized the re-opening of the Community Corrections work release facility with PPE's and screening being utilized. Home visits, whether for Defendants on home detention or otherwise, are presently restricted and limited and will continue as such until advised otherwise by the County Health Officer. DeKalb County is fortunate to have a recently constructed Community Corrections facility with reasonable large meeting/conference rooms where contact with persons can be completed all while maintaining proper social distancing. When possible remote meetings can be conducted.
3. CASA and GAL Services, particularly home visits, shall proceed as permitted by their supervisors.

### **Court staff during resumption and going forward.**

- Staff will wear masks at all times until further instruction is issued.
- Staff should sanitize their hands before entering the court environment and regularly during the day and after touching common items.
- All masks should be sterilized at the beginning of the day and again prior to leaving. You are encouraged to sterilize your mask during the day as well.
- All staff should have two (2) appropriate non-disposable cloth masks available at all times.
- Staff shall use the UVC cabinet to sterilize the masks and other appropriate items such as cell phones and keys as well as common touch office items.
- Each morning the staff shall sanitize all areas that may have been touched by non-staff individuals. Use the UVC wands and appropriate provided disinfectant. Wear gloves when sanitizing. When done sanitizing, wash your hands thoroughly with soap and water for at least one minute and then follow after drying with sanitizer.
- Know and follow the proper mask protocol contained in the handout previously provided.
- Thoroughly read and study the Indiana Supreme Court guidelines referenced in the beginning-we will be following those protocols exactly.
- Do not have direct personal contact with people outside our staff family. Arrange for contact between others such as clerk's office, staff of other courts, etc. to be by video or telephone whenever possible.
- Wear gloves when handling incoming mail. Sanitize it in the UVC cabinet or follow the Supreme Court guidance as to resting in a box. Be especially careful with DOC mail since there is considerable COVID-19 infection in the Indiana prison system.
- Mental health resources have been identified for employees. Employees have been instructed to stay home and report if they have had COVID-19 symptoms or have been exposed to someone with COVID-19. Employees will be allowed to return to work in accordance with Health Department instructions or guidance.

- Senior Judges will continue to be utilized as needed and when available. Senior Judges shall be permitted and are encouraged to conduct hearings remotely in those cases and circumstances referenced in the “Hearings” and “Jury Trial” provisions included above and particularly with incarcerated persons.
- Should conditions worsen and/or safety concerns arise, the Court may, with proper notice, order a resumption of remote protocols.
- All staff should maintain their remote equipment at home so that in the event working remotely becomes necessary, they are prepared for that transition.

## **Collaboration**

- The plans herein addressed have included consultation with numerous people and agencies on multiple occasions, including the following: DeKalb County Health Officer, Mark Souder; DeKalb County Prosecuting Attorney’s Office; DeKalb County Public Defender’s Office; DeKalb County Sheriff, David Cserep; Title IV-D Attorney, Kelly Morris; DeKalb County Probation Department; DeKalb County Community Corrections; DeKalb County Council (liaison); DeKalb County IT Department; miscellaneous members of the local Bar Association; DeKalb Circuit Court Judge, Kurt B. Grimm and staff; and the DeKalb County Maintenance staff.

## **Conclusion**

If you have any ideas, concerns, or other appropriate comments, please share them with me. Thank you for your advice and your understanding in these difficult times.

Judge,

\_\_\_\_\_/S/\_\_\_\_

Monte L. Brown

DeKalb Superior Court II

## **REPORT AND REOPENING PLAN FOR THE DEKALB CIRCUIT COURT**

### **Prefatory Information.**

This report has been prepared by Kurt Grimm, Judge of the DeKalb Circuit Court. Due to the caseload allocation of DeKalb County and the significant differences between the Circuit Court docket and the Superior Court dockets, a separate plan for Circuit Court is being submitted. The Circuit Court does not exercise criminal jurisdiction except in conflict situations, outside the ambit of the two problem solving courts.

### **BACKGROUND:**

#### **DeKalb County Indiana.**

DeKalb County is a primarily rural community in northeastern Indiana. As of 2019 the population was approximately 43,500 individuals. The county seat is located in Auburn, Indiana, and the three courts are located in a traditional and historical courthouse in the center of town. All three courts are on the third floor of the courthouse, and no other county offices are on the third floor. The courthouse building houses diverse other county governmental departments, and the courthouse houses the Clerk of Courts and the Prosecutor's office. The Prosecutors office (with the exception of IV-D which is in a remote annex) is on the first floor and the Clerk's office is on the second floor. Access between floors is by both stairs and elevator. The existing courthouse was built in 1914.

#### **Judicial Makeup of DeKalb County.**

Two of the current judges are over the age of 65, and the remaining judge, the Judge of the DeKalb Circuit Court, will turn 60 in June of this year.

#### **Physical Properties of the Three Courts.**

The Circuit Courtroom is large and imposing, the Bailiff/Court Administrator has her workstation in the courtroom proper. The remaining office space for the two court reporters is very small and of the three courts, offers the smallest space for staff operations. There is no separation between the staff and the public absent closing a single access door. There is no counter for public approach, and those having court business must enter the main courtroom and approach the Bailiff station.

The Superior I Courtroom is smaller than the Circuit Courtroom, yet still of considerable size. All staff work in an adjoining office area and that space is large and separated from the public by a counter barrier.

The Superior II Courtroom is very small and more modernized. Opportunities for social distancing in Superior II are all but non-existent. All Superior II staff work in a spacious adjoining office area and are separated from the public by a counter barrier. One of the

Superior Court II staff has a severely immune compromised grandchild residing in her home.

The Judge of DeKalb Superior Court II is 66 years old, is an insulin dependent diabetic, and has an increased risk for negative outcome as compared to other men in the same age category.

All three judges have private chambers with limited access.

Ventilation and air circulation in the courthouse is as might be expected in a traditional courthouse built in a prior century. There is no possibility of negative airflow and recirculation is a persistent theme, especially during heating and cooling months, which predominate the year.

None of the Courts have counter shields which would prevent the transmission of airborne particulate or aerosolized virus.

### **DeKalb County Probation.**

The Probation Department is housed in an annex building approximately one block from the courthouse. It is not believed that any of the existing probation officers are over the age of 60. However, some probation officers do have underlying health issues which have been identified as risk factors in regard to averse outcomes in COVID-19 infections. Perhaps more, or at least equally important, some probation officers have spouses or significant others who are medically fragile and therefore vulnerable to the impact of COVID-19 infection. Some of the officers also have school age children at home.

Recently two probation officers were exposed to COVID-19 positive clients and a total of five officers were within less than 6 feet of the individual. Neither are displaying symptoms and therefore cannot be tested.

### **DeKalb County Prosecutor's Office.**

There is a diversity in age of the individuals making up the Prosecutor's office. One deputy is mid-60's with underlying health issues which make exposure to COVID-19 particularly dangerous. That deputy primarily functions in juvenile matters in the Circuit Court. The Prosecutor's office is separated from the main rotunda by double doors and the public are separated by a counter barrier. There is no counter shield which would prevent the transmission of airborne particulate or aerosolized virus. The work area for prosecutor staff is spacious and each deputy has an individual office.

The Title IV-D office is located in a separate annex which also houses Veteran's Affairs. The IV-D office is currently closed and some employees are working remotely. The Prosecutor has security concerns upon reopening due to threats made from individuals who have had stimulus checks stopped or seized for back support.

### **DeKalb County Clerk's Office.**

The Clerk's office is separated from the second floor rotunda by double doors and there are two such entrances to the various divisions. Work separation is adequate for normal business, but not spacious. There is no counter shield which would prevent the transmission of airborne particulate or aerosolized virus.

### **DeKalb County Public Defender.**

The Chief Public Defender in DeKalb County is now, beginning in 2020, a full time employee. The remainder of the attorney staff is part-time. The Public Defender's office is located in the same annex as the Probation Department.

The office layout of the Public Defender cannot be described as spacious. It is adequate for its purposes under normal circumstances. There is a barrier to the public.

It is not believed that any member of the Public Defender's office is over the age of 60, and underlying health issues are unknown and unexplored.

### **Available Personal Protective Equipment (PPE).**

The Courts currently have no independent source and rely upon the county. The county has stated that they will provide each employee with one cloth mask and the sanitizing of that mask is the responsibility of the employee. No formal directions as to sanitizing procedures have been provided, and the wearing of one mask throughout the day is contrary to current best practices which require that the mask be change once it becomes moist.

The County has stated that court staff are responsible for sanitizing and cleaning the courtroom and work areas, a process some staff are not comfortable with but which they will perform if required. Having only one mask for each employee greatly increases the risk of infection since there will be times throughout the day the mask will need to be removed, and that will greatly increase the risk of spread of filtered material being spread to the mouth, nose and eyes of the employee.

### **Current Courthouse Access Restrictions.**

Access to the courthouse is by appointment only. All entering must wear masks. The County has placed no restrictions as they relate to court business. There is no health screening upon access and temperatures are not monitored remotely. *The commissioners have announced that the appointment only restriction will cease at the end of May.*

### **RECOMMENDATIONS OF DR. MARK SOUDER:**

The DeKalb County Judiciary consulted with Dr. Mark Souder, a longtime local physician and the County Health Officer. His recommendations are as follows;

- Public hearings and in-court appearances should not resume until the beginning of the third week of June, absent further negative downturn.
- Resumption of in-court hearings should be gradual and prioritized.

- Upon resumption of in-court hearings all present should wear masks. To observe facial reactions of witnesses a clear plastic shield could be substituted during the testimony phase. This shield must then be sanitized.
- Upon resumption of in-court hearings all people entering should sanitize their hands at a station immediately outside the courtroom entrance.
- Upon resumption of in-court hearings strict social distancing should be observed.
- Hearings should be continued if any necessary participant is manifesting symptoms associated with COVID-19 infection.

## **THE DEKALB CIRCUIT COURT:**

### **Current Operation.**

The DeKalb Circuit Court and its staff have been working remotely since the Indiana Supreme Court first approved the Court's Administrative Rule 17 petition.

All staff can process documents, notice hearings and access odyssey remotely. The Court rapidly transitioned to conducting video hearings utilizing the Microsoft Teams application.

The DeKalb Circuit Court presides over the County's two problem solving courts. There is a Veterans Court (VC) and a Family Restoration Court (FRC) (involved parents have both pending CHINS and criminal cases). Because the requirements of those Courts are that the participants be both "high risk" and "high needs", the Court has continued to conduct sessions remotely in both VC and FRC.

The majority of the cases pending were rescheduled upon the granting of the Court's AR 17 petition.

The Court has transitioned to holding video hearings in Juvenile Delinquency Cases.

The Court has begun to transition to holding video hearings in CHINS cases where the matter is non-confrontational and there is no objection.

Out of concern for the DeKalb County Probation staff, the Court is deferring at this point probation intake and new supervision in all cases where that is possible. Increasing supervision duties at this point is unwise in this Judge's opinion at a time when every such incident of increased supervision increases the risk of exposure to valuable and necessary employees.

The Circuit Court has authorized remote supervision of juveniles in the probation officer's discretion and mandated that strict social distancing be observed if an in-person interview or appointment is deemed necessary.

### **Reopening.**

The Circuit Court places high value on all those who operate within its jurisdiction. The Court will not unnecessarily place anyone at risk.

The Circuit Court recognizes that in-person court attendance is not necessarily an individual choice and that many of those who would attend would do so under actual or effective compulsion. Even those who are not required to attend by order may suffer adverse results by non-attendance, a circumstance which is known and appreciated by all, including pro se litigants.

Based upon the advice of Dr. Mark Souder, the Circuit Court intends to begin in-person hearings, limited at first, beginning June 16, 2020. The Court has no countervailing information available and the Court recognizes that trained medical professionals have more expertise in this area. The Court intends to implement all of the safety protocols recommended by Dr. Souder upon resumption of in-person hearings.

Between now and the third week of June the Circuit Court will continue to expand video operations and conduct more and more remote hearings.

The Court is committed to seeing the rights of no individual are unduly harmed during this ongoing pandemic, carefully balancing necessity over risk as the situation continues to evolve.

Due to caseload allocation and the current calendar, the Circuit Court did not have to reschedule any jury trials and there are currently none scheduled upon the calendar and so the Circuit Court will not address that issue.

#### **Particularized Concerns of the DeKalb Circuit Court.**

- At the time of the preparation of this report the Court has had and reviewed the reopening guidance developed in committee and published by the Indiana Supreme Court.
- The Court perceives that DeKalb County is at least three weeks behind larger counties in terms of COVID-19 infections.
- The number of infections in Indiana have not significantly lessened. In fact the number of infections continues to increase significantly in rural areas. The perceived “flattening of the curve” is not in fact a reality in rural Indiana. The overall numbers are being skewed by the larger counties, which happen to still be under more heavy restrictions, and which began dealing with infectious outbreak weeks before the emergence in rural areas. This same phenomena occurs nationwide as can be seen by removing the New York numbers from the national data.
- The Court currently lacks adequate PPE and face shields, which must be sourced and financed.
- Sanitization protocols must be established and standardized with health professional input and the materials to accomplish that must be acquired. Ideally, courtroom sanitation would not be the obligation of existing court staff.<sup>1</sup>

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<sup>1</sup> Mandating that court staff socially distance from proceeding participants and then require them to immediately move into a potentially contaminated area after a hearing and begin cleaning and touching surfaces seems problematic.

- The Court is particularly mindful that it is not necessarily aware of the individual circumstances of those who appear before it, be they lawyers, parties or witnesses. The Court does not necessarily know the age, or underlying health conditions of these individuals and therefore gives great consideration to the effect of ordering these possibly vulnerable individuals into public situations which they would otherwise avoid.
- The Court is particularly concerned with the health and welfare of its probation officers which are the front line of supervision under court orders. It is unwise and unfair to expose officers beyond what is absolutely necessary during a time when COVID-19 numbers continue to rise in this locale. New assignments for intake and supervision should be delayed until in person contact is safe.
- The Court is also very cautious in terms of this virus and its long term impact on individuals. Complications and variations seem to emerge daily, such as the advent of Kawasaki Disease (or a condition similar in its manifestation) in children infected with COVID-19.
- The Court is cognizant that available statistical data is unreliable in terms of accessing community infection expansion. A case in point would be the adjoining county of Steuben. Over two weeks ago 800 individuals at a poultry processing facility were tested for COVID-19 and 137 individuals tested positive...statistics which, both in terms of tests administered and positive results, still are not reflected upon the State of Indiana's COVID-19 Dashboard.
- Very little is known about this virus, its transmission, and its long-term impact on individuals. A cautious approach is warranted to the extent that justice can continue to be administered under reasonable restrictions.

## **Timeline.**

Present until June 16, 2020-

The Court will continue with remote hearings on a prioritized basis utilizing the Microsoft Teams application. The DeKalb Circuit Court started video hearings very early in the pandemic window. Expansion has occurred regularly. The two problem solving courts (Family Restoration Court and Veterans Court) continue to operate remotely with team meetings and participant group hearings taking place by video.

Video hearings have expanded to uncontested guardianships, the majority of non-evidentiary or "light evidentiary" delinquency cases, the majority of non-evidentiary or "light evidentiary" CHINS hearings, and scheduling hearings in family law cases which include referral to mediation.<sup>2</sup>

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<sup>2</sup> The DeKalb Circuit Court has long scheduled mediation during a hearing with the bailiff making the contact with the selected mediator and issuing a mediation order contemporaneously with the hearing.

Video hearings will continue as feasible into the future and depending on the way Administrative Rule 14 develops, may become a regular feature of the court process. In many cases video hearings save tremendous time and money for both the court, the parties and their lawyers. The advent of video hearings and the modification of Administrative Rule 14 have been perhaps the only positive thing to result from this otherwise catastrophic pandemic event, a process of evolution that would have most likely taken years to accomplish.

June 16, 2020 going forward-

The Court will begin resuming in person hearings, the details of which can be found in the Court's attached staff protocols.

It remains unknown when normal operations in the "pre-covid" sense will resume...or for that matter if things will ever return to prior days.

Respectfully submitted,

Kurt B. Grimm

Judge, DeKalb Circuit Court

## RESUMING OPERATIONS OF THE DEKALB CIRCUIT COURT

To all Staff:

The DeKalb Circuit Court has adopted, without reservation or exception the guidelines on Resuming Operations of the Trial Courts issued by the Indiana Supreme Court. These guidelines can be found at <https://www.in.gov/judiciary/files/covid19-resuming-trial-court-operations.pdf>

### Preparation to reopen.

- **Prior to coming to the courthouse each day, all staff must self-screen for illness. I am requiring you use the handy “Self-Checker” made available by the CDC in conjunction with Microsoft.**  
<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> **For convenience I suggest you pin the link to the homepage on your cell phone.**
- Courtroom and staff area preparation shall be according to the “deep cleaning” guidelines published by the United States Center for Disease Control. Deep cleaning will occur prior to June 2, 2020, and will be preceded by the recommended 24 hour airing process with the use of fans.  
<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>
- Once deep cleaning has occurred, all staff may enter the Circuit Court area at will, using appropriate social distancing protocols (minimum 6’ separation) and all staff will be required to wear a mask.
- Masks will be sanitized daily at a minimum, and it is suggested that the masks be sanitized several times a day. In addition, all staff should familiarize themselves with mask safety protocols that can be found in the appendix. Masks can, and should, be sterilized in the UVC cabinet.
- The UVC sterilizing cabinet which was ordered should arrive on May 20, 2020. It will initially be installed near the court reporter’s station. The cabinet will be used to sterilize all exhibits before being handled by court staff. The court reporters and the bailiff will be the only ones permitted to touch the cabinet. The court reporter will open the cabinet and request that the person proffering the exhibit place the exhibit inside. It will then be sterilized before transmittal to the judge.
- On the first day back in the courtroom all staff must wear a mask. You will also need to sanitize your hands outside the courtroom at the sanitizing station.
- Staff must maintain the 6’ social distancing protocol at all times.

- Before touching common items and equipment, you should sterilize the touch areas with one of the two UVC wands. This includes printers used by more than yourself, the coffee machine, and the refrigerator door.
- The steel door to the staff area will be closed at all times. The existing buzzer/intercom will be covered so as to make it non-accessible. A prominent sign shall be placed on the door and also in the freestanding sign holder, which will read: **“Please do not attempt to make personal contact with the court staff or the judge. Use the intercom outside the entrance to the courtroom.”**
- A table will be placed outside the courtroom entrance. On that table will the intercom and laminated instructions for its use affixed to the table next to the intercom device. Also on the table will be hand sanitizer, disposable towels and laminated instructions for proper hand sanitization (affixed to the table). A lined trash can will be placed next to the table.
- A sign will be affixed to the Courtroom door in large and prominent fashion instructing people as follows. **“You may not enter the courtroom until you are invited by the bailiff-no exceptions.”** In addition, a free standing sign holder will be placed by the courtroom entrance containing the following advisements. “You may not enter the courtroom until you are invited by the bailiff-no exceptions.” Strict social distancing is required in the Circuit Court-do not approach anyone closer than 6 feet.” “You must wear a mask at all times in the Circuit Court” “If you are appearing for a scheduled hearing, do not use the intercom-you will be summoned by the bailiff when we are ready to hear your case. Socially distance and wait for your call to enter.” “If you are not here for a scheduled hearing and need to talk to court staff, use the intercom.
- Chairs will be spaced at counsel tables to allow 6’ separation, and the tables will be moved farther apart to accomplish separation as well. A laminated sign will be affixed to each counsel table which states **“Maintain 6’ social distancing at all times. Do not remove your mask in the courtroom.”**
- If and when the judge allows public spectators, no more than eight individuals (public) shall be in the gallery at one time, and ideally less. Only the parties and their lawyers are encouraged to be present in the courtroom. Separate instructions shall be forwarded to the local bar association for distribution which state that lawyers should keep their witnesses socially distanced outside the courtroom until they are summoned to testify.
- All candy dishes shall be removed.
- The coffee area, which has been traditionally available to counsel shall be signed on the door stating **“Off limits to all but court staff until further notice.”**
- During the first week of June, court staff will develop an effective protocol to insure that no individual, other than court staff enters the staff area or approaches within 6’ of the bailiff and reporter station.
- When leaving their station each employee will cover their keyboard and mouse with a provided plastic sheet to which is affixed a sign which says “please do not

touch without prior authorization”. This policy shall be communicated to the IT staff and they will be requested to honor the policy. Protective sheets and signage for keyboards should be made during the first week of June and utilized until further notice.

- The bailiff shall develop a form of hearing notice which contains language telling people they will not be admitted to the courthouse until five minutes prior to their hearing. Parties should further be advised to leave children, family members and friends at home unless they are a necessary witness.
- The bailiff shall coordinate and put in place a protocol with security staff regarding daily transmission of scheduled hearings and the names of the parties.
- While you (staff) will be allowed to be in the courthouse when you choose, I am requesting that until the beginning of the third week in June you try to limit your presence there to a time when only you will be there, please coordinate these times among yourselves. I do not need to be consulted.
- All facility and procedural preparations should be completed by the end of the second week in June.
- Beginning Monday, June 16, 2020, we will begin limited in person hearings.
- **WHEN HEARINGS ARE NOT IN SESSION, ALL DOORS WILL BE LOCKED.**

#### **Video streaming of public hearings.**

**A streaming link is now available on the DeKalb County Courts website. I will begin experimenting with live streaming through our webpage sometime during the May 18-22 time period. The initial streams will be “mock” hearings and I will be requesting various individuals to view from their computer as if they were a member of the public. Video streaming will ultimately be used for non-confidential hearings where we are conducting the hearing remotely or where the public continues to be excluded from the courtroom.**

#### **Resumption of limited in person hearings-June 16, 2020.**

- Only essential hearings as determined by the judge will be held beginning June 16, 2020.
- No hearings shall be scheduled before 8:30 am to allow for proper sanitization.
- Attendance in court will be limited to the parties and their counsel. Witnesses will remain socially distanced in the common area outside the courtroom. The public is excluded unless the judge orders otherwise.
- We will continue to work remotely when possible. We will definitely work remotely on Fridays.
- No individuals other than staff may enter the staff area, judge’s chambers, or approach within 6’ of the court reporter and bailiff stations.

- If a chambers conference is desired or necessary, the courtroom will be cleared of all but the involved individuals (ideally, if timing is optimal, nobody would yet be in the courtroom, but this presumes knowledge that a chambers conference will be requested) and the conference will be conducted in the courtroom with counsel at the tables and the judge at the bench.
- Most pretrial conferences, status conferences and non-evidentiary matters will continue to be conducted by Microsoft Teams. Almost all scheduling will be done by phone or video.
- Many JD and CHINS hearings will continue to be remote. There is no necessity for exposure in relation to review and permanency hearings where the ultimate result will be a status quo order.
- **EACH MONDAY COUNSEL FOR THE DCS, THE PROSECUTOR ASSIGNED TO HANDLE JD CASES, AND THE IV-D PROSECUTOR SHALL EMAIL THE BAILIFF INDICATING THE CASES FOR THE FOLLOWING WEEK THEY BELIEVE CAN BE DONE REMOTELY OR IN THE ALTERNATIVE NEED NOT TAKE PLACE (indicating the length of continuance deemed appropriate). OPPOSING COUNSEL, IF INVOLVED, MUST BE CONSULTED BEFORE FILING THE REPORT, SO START EARLY ON THIS. TRY TO WORK A FEW WEEKS AHEAD.**
- Everyone will wear a mask.
- Exhibits will be sanitized in the UVC cabinet before being handled by the judge or staff. The person proffering the exhibit will be instructed to place the exhibit in the cabinet which should be opened, closed, and operated only by court staff. Do not let anyone else touch the cabinet.
- Title IV-D hearings will resume on June 26, 2020, and thereafter be conducted on Thursday mornings and Tuesday afternoons. We will not be using the former “en masse” process. Hearings will be scheduled in 20 minute intervals. The same protocols as to building and courtroom admission will apply. An attempt should be made to prioritize the IV-D hearings by critical nature. Establishment of paternity, modifications which appear to need immediate attention, and RTC which have a reasonable likelihood of resulting in compliance should be prioritized. Standard reviews of RTC cases is not a priority and the use of a jail sanction is not appropriate at this time. Rather than traditional RTC review, the bailiff shall check the schedule and the court will issue an order requiring the Prosecutor and obligor/ (Counsel if appointed) to file a status report with the court-we will then use that to determine when the RTC review should be rescheduled. The order requiring a status report will be a standardized form developed by the judge. It will require certain information as to payment history and amounts as well as current arrearage status. The obligor will be required to provide current employment and residence information.
- The DCS will be requested to limit their staff present in all hearings. Ideally there would be only the FCM and Counsel. If the Department believes it is necessary to have other individuals present, such as a supervisor or ancillary FCM, they

should communicate with the bailiff the Friday prior to the scheduled hearing. The department or the GAL/CASA should request to exclude the children during the pendency of the COVID-19 pandemic if they determine that the child's presence is not necessary and that it is in the child's best interest to be excluded. While the Court will respect the rights of all foster parents, the department should suggest they not attend if they do not intend to participate and feel that they can be adequately advised by telephone contact with the FCM after the hearing.

- On June 26<sup>th</sup>, 2020, live problem solving court sessions will resume. Strict social distancing will be required and so will the wearing of a mask. For all problem solving court sessions, the microphone shall be placed so that the participant is more than 6' from all others and the bailiff and court reporter station. All team members shall socially distance and wear a mask.

### **Court staff during resumption and going forward.**

- Staff will wear masks at all times until further instruction is issued.
- Staff should sanitize their hands before entering the court environment and regularly during the day and after touching common items.
- All masks should be sterilized at the beginning of the day and again prior to leaving. You are encouraged to sterilize your mask during the day as well.
- All staff should have two (2) appropriate non-disposable cloth masks available at all times.
- Staff should use the UVC cabinet to sterilize the masks and other appropriate items such as cell phones and keys as well as common touch office items.
- Each morning the staff shall sanitize all areas that may have been touched by non-staff individuals. Use the UVC wands and appropriate provided disinfectant. Wear gloves when sanitizing and know how to properly don and doff protective gloves. If you don't know, ask. When done sanitizing, wash your hands thoroughly with soap and water for at least one minute and then follow after drying with sanitizer.
- Know the proper mask protocol contained in the appendix.
- Thoroughly read and study the Indiana Supreme Court guidelines referenced in the beginning-we will be following those protocols exactly.
- Do not have contact with people outside our staff family. Arrange for contact between others such as clerk's office, staff of other courts, etc. to be by video or telephone.
- Wear gloves when handling incoming mail. Sanitize it in the UVC cabinet or follow the Supreme Court guidance as to resting in a box. Be especially careful with DOC mail since there is considerable COVID-19 infection in the Indiana prison system.

**Ramping up.**

Towards the end of July I will review the whole situation and determine where we are at in terms of resuming a normal and regular hearing load. I will need to consider the County's coronavirus numbers, advice of many individuals and what we learned in June during limited operations. Ultimately, the phase conditions contained in the Indiana Supreme Court reopening guidance will control.

**If things go sideways.**

If I determine worsening conditions and increasing safety concerns I will immediately order a resumption of the April-May remote protocols.

**ALL STAFF SHOULD MAINTAIN THEIR REMOTE EQUIPMENT AT HOME SO THAT IN THE EVENT YOU ARE ORDERED TO IMMEDIATELY GO REMOTE YOU ARE PREPARED TO TRANSITION INSTANTLY WITHOUT THE NECESSITY OF RETURNING TO THE COURTHOUSE.**

**In the end.**

You are all tremendously valuable to me and the community. My goal is to keep you and others we work with safe. If you have any ideas, concerns, or just comments, be sure to express them. I went to law school, not medical school. The current pandemic is forcing all of us to work outside our depth.

Judge,

Kurt B. Grimm

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### World Health Organization

## How to put on, use, take off and dispose of a mask

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1 Before putting on a mask, wash hands with alcohol-based hand rub or soap and water
- 

2 Cover mouth and nose with mask and make sure there are no gaps between your face and the mask  
Avoid touching the mask while using it; if you do, clean your hands with alcohol-based hand rub or soap and water
- 

3 Replace the mask with a new one as soon as it is damp and do not re-use single-use masks
- 

4 To remove the mask: remove it from behind (do not touch the front of mask); discard immediately in a closed bin; wash hands with alcohol-based hand rub or soap and water

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**ADDENDUM TO THE DEKALB CIRCUIT COURT RESUMPTION OF  
OPERATIONS PLAN**

**Consultation with local stakeholders-**

As can be noted by comparison, Judge Kurt Grimm of the DeKalb Circuit Court and Judge Monte L. Brown of the DeKalb Superior Court II worked in close concert in developing the plans for their respective courts.

Either Judge Monte L. Brown or Judge Kurt Grimm (and in many cases both) consulted with most or all of the major stake holders in developing the submitted plans.

Prosecuting Attorney Clara Mary Winebrenner was consulted on numerous occasions.

Chief Public Defender Mark Olivero was consulted.

DCS Local Director Wes Hussleman and DCS attorney Kay Landweir were both consulted.

DeKalb County Health Officer Dr. Mark Souder was consulted on several occasions, these conversations were initiated by Judge Monte Brown, and the substance of those conversations and the resultant advice were discussed between Judges Brown and Grimm numerous times, and in fact continue to be a topic of frequent conversation.

Members of the bar were consulted, in particular Attorney Stephanie Hamilton, who regularly functions as a GAL in the Circuit Court, is the team defense attorney for the Family Restoration Court, and a regularly assigned CHINS attorney. In addition, Adam Squiller, a member of the DeKalb County Public Defender's office, the Veterans Court team attorney, and the presumptive judge of the DeKalb Superior Court I beginning in January of 2021, was consulted repeatedly.

DeKalb County Sheriff David Cserp was consulted informally on several occasions.

DeKalb County Clerk Holly Albright was consulted.

President of the DeKalb County Commissioners, William Hartman, was involved in various planning issues and provided invaluable help in streamlining the process of obtaining the UVC cabinet and sterilizing wands.

The Court would also note the helpful input of Attorney Kevin L. Likes, provided on an informal basis.

Because the DeKalb Circuit Court has been conducting remote hearings for a considerable period of time, hearings which regularly involve the stakeholders mentioned above, the Court frequently, during breaks and at the beginning or end of video hearings, solicits input as to the ongoing pandemic and its effects on various court and justice partner operations. This process is ongoing and very productive, and the Court intends to continue with the ongoing conversation as long as there appears to be a need.

### **Reporting of symptoms or contact-**

#### **Employment procedures:**

The Court's reopening protocols already require daily self-screening.

Staff are directed to immediately report to the presiding judge any onset of COVID-19 symptoms or exposure to any person who may have COVID-19. Upon the immediate reporting, the involved staff member shall not come to work until that is authorized by the judge. Reporting can be done by email or Cisco Jabber, however, the court prefers,

for the sake of immediate notification, that the involved employee send a text message to the Judge's personal cell phone. All three Court employees have this number.

Any probation officer or probation employee who is displaying symptoms or who has had contact shall immediately report that fact to Chief Probation Officer Michael Lapham or Deputy Chief Probation Officer Ryan Hull, who shall then immediately report to the judge. These two individuals also have the Judge's personal cell phone number.

**Mental health resources:**

All employees are covered by health insurance. An employee suffering from mental health issues shall discretely inform the judge to the extent they feel comfortable. All reasonable accommodations shall be made to allow for counseling or mental health services. The Court does not believe that it is its proper role to direct where an employee should receive counseling or mental health services. Local available service providers include the Bowen Center, the Northeastern Center, and Parkview Behavioral Health.

**Authorization to work remotely if quarantined.**

At the present time, all employees are required to work remotely with limited exceptions which provide for one person at a time in the court environment. If an employee is ordered to quarantine they shall be allowed to work remotely.

**Resuming non-emergency hearings-**

These procedures were addressed in the Court's reopening protocols to staff. To state the procedure briefly, the Court will require witnesses to remain outside the courtroom and socially distanced until called. At the present time spectators will not be allowed,

but may access open court proceedings by streaming on the Court's website. Many of the Circuit Court's cases are confidential due to case allocation. Incarcerated persons will not be transported in the foreseeable future. Incarcerated individuals will appear via Microsoft Teams video link or other method as required.

### **Jury Trials-**

There are no jury trials scheduled or anticipated, due largely to case allocation. Because of the Court's calendar it is unreasonable to believe that a jury trial could be scheduled until fall and of course that is highly unlikely. In the event of a conflict appointment, the Judge of the Circuit Court will utilize the protocols approved for the court in which he sits as special judge. Due to case allocation, any jury trial that could be imagined would not involve Constitutional implications as to speed of occurrence and therefore could be scheduled at a time when it is deemed safe to conduct such a trial.

The Circuit Court is very large, and social distancing could be accomplished if it ever became necessary. The "white room" in the annex building is spacious and could be used for deliberation.

With the alarming recent increase of positive cases in DeKalb County, it would probably be difficult to assemble an adequate pool of prospective jurors at this time.

### **Court supervised services-**

The Court is fortunate to be blessed with extremely competent and intelligent Chief and Deputy Chief probation officers. The line of communication is superb and the contacts with probation are almost daily in occurrence. This Court will not authorize in home visits or office visits at this time. The positive case count in DeKalb County has almost

doubled in the last two weeks. The Court has requested that probation begin making use of Microsoft Teams for supervision contact rather than phone contact. The current protocol for oral swab drug testing will continue at this time. Such testing is done in a manner to avoid all contact between the probationer and the probation officer.

New placement in the two problem solving courts is delayed until the beginning of July. This is largely due to nationwide advice concerning intake during the pandemic and the Court's early and limited experience that taking someone into the program when the program is functioning remotely via video is setting a participant up to fail.

In regard to the Court's juvenile offenders, the Court is delaying placing juveniles on supervision unless absolutely necessary. This is due to the fact that the same issues occur as with problem solving courts, the necessity of in person and hands on supervision is paramount at the beginning of the supervisory period in order to give the supervised juvenile the best chance of success.

The Court's use of probation supervision is largely limited to Family Restoration Court (FRC), Veterans Court (VC) and all juvenile cases. FRC and VC are currently being conducted remotely via Microsoft Teams and these sessions have gone surprisingly well.

In sum, the Court does not have a crystal ball. Since the original resumption plan was filed, the situation in DeKalb County has deteriorated not improved. The numbers reported on the State Dashboard are demonstrably inaccurate at the present, although recent State level orders concerning reporting times may significantly address that.

Resumption of normal supervision is contemplated when the numbers for this county show a defined decrease in positive cases over a fourteen day window and a concomitant increase in testing. Once in person supervision is authorized, the Court will still require

the use of masks and social distancing and this may well carry through all of the year 2020, and possibly beyond.

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Judge Kurt B. Grimm, DeKalb Circuit Court.