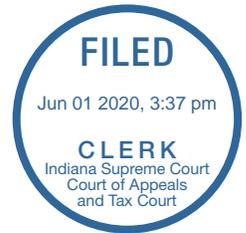


In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-157



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 30, 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 6/1/2020, **effective May 30, 2020.**



Steve David
Acting Chief Justice of Indiana

EXHIBIT 1TRANSITION PLAN FOR THE EXPANSION OF OPERATIONS
IN THE MIAMI CIRCUIT AND SUPERIOR COURTS
DURING THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC**1. ADMINISTRATIVE RULE 17 COMPONENTS**

The Miami Circuit and Superior Courts request that the relief granted by the Indiana Supreme Court in its Order dated March 18, 2020, in Supreme Court Case No. 20S-CB-157 be extended, modified, or allowed to expire as noted in bold following each paragraph below:

1. The Court authorizes the tolling, from the effective date of this order through April 30, 2020, of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters; all judgments, support, and other orders; and in all other civil and criminal matters before the courts of Miami County. Further, no interest shall be due or charged during this tolled period.

The extension of this particular provision through August 14, 2020, already has been effected by the Indiana Supreme Court in the Order Extending Trial Courts' Emergency Tolling Authority and Setting Expiration of Other Emergency Orders that was entered in Supreme Court Case No. 20S-CB-123 on May 29, 2020.

2. This Court authorizes immediate suspension of all criminal and civil jury trials, including those with a "fast and speedy" setting requested, through April 30, 2020. The courts of Miami County are directed to review no later than April 16, 2020 whether continued suspension is necessary; and if it is not, to resume jury trials no later than April 30, 2020 to allow adequate notification of the jury pool. If the courts of Miami County believe continued suspension is necessary, they may petition this Court to extend the suspension.

It is requested that this provision remain in effect through July 1, 2020, and then be permitted to expire.

3. Through April 30, 2020, this Court authorizes the Miami County courts, in their discretion, to continue all hearings they deem non-essential.

It is requested that this provision remain in effect through May 30, 2020, and then be allowed to expire.

4. Through April 30, 2020, this Court authorizes the Miami County courts to allow the use of telephone and/or videoconferencing in lieu of in-person appearances, if no litigant's constitutional rights would be violated.

It is requested that this provision remain in effect through May 30, 2020, and then be allowed to expire, with the Indiana Supreme Court's Emergency

Order Permitting Expanded Remote Proceedings in Supreme Court Case No. 20S-CB-123 still remaining in effect thereafter.

5. Through April 30, 2020, any attorney wishing to appear remotely for any status conference or non-evidentiary hearing in any of the courts of Miami County may do so without further leave of court upon filing a "Notice of Remote Appearance" in the court in which the matter will be heard.

It is requested that this provision remain in effect either until the pandemic ends or until further Order of the Indiana Supreme Court.

6. Through April 30, 2020, the courts of Miami County may consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; or (b) exposure of such individuals to anyone who has or may have COVID-19; to constitute "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

It is requested that this provision remain in effect either until the pandemic ends or until further Order of the Indiana Supreme Court.

7. Through April 30, 2020, the courts of Miami County are authorized, in their discretion and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing.

It is requested that this provision remain in effect either until the pandemic ends or until further Order of the Indiana Supreme Court.

8. Through April 30, 2020, the courts of Miami County are authorized to post signage at all public entry points to judicial facilities advising individuals not to enter the building if they have:
 - a. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the Centers for Disease Control and Prevention ("CDC") in the previous 14 days;
 - b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
 - c. Traveled domestically within the United States where the virus has sustained widespread community transmission;
 - d. Been asked to self-quarantine by any doctor, hospital, or health agency;

- e. Been diagnosed with or had contact with anyone who has been diagnosed with the virus; or
- f. A fever, cough, or shortness of breath;

and to direct bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols.

Due to a change in screening considerations, it is requested that this provision remain in effect through May 30, 2020, and then be allowed to expire.

9. Through April 30, 2020, the courts of Miami County are authorized to reduce the number of court staff members working and/or to permit working remotely if feasible; provided, however, that the courts shall maintain sufficient operations to process emergency matters.

It is requested that this provision be allowed to expire, effective immediately, with the exception that employees may be allowed to work remotely when necessary and when approved by that employee's supervisory judicial officer(s), with that exception to remain in effect either until the pandemic ends or until further Order of the Indiana Supreme Court.

10. Through April 30, 2020, the courts of Miami County are authorized to make drop boxes available for use by the public for the submission of conventionally filed documents and shall ensure that those filings, all e-filings, and all orders of the court continue to be processed and distributed in a consistent, timely fashion.

It is requested that this provision remain in effect through May 30, 2020, and then be allowed to expire.

11. Through April 30, 2020, the Court authorizes each of the judges of the courts of Miami County to exercise general jurisdiction over any and all cases in each other's courts.

The judges of all three of Miami County's courts have previously entered a general order authorizing each other to sit as a judge in each other's courts pursuant to IC 33-29-1-10. Accordingly, the Supreme Court's emergency orders in this regard can be permitted to lapse, with the judges thereafter continuing to sit as a judge in each other's court pursuant to IC 33-29-1-10.

2. PLANNING

The Miami Circuit and Superior Courts have developed this plan after having conferred with Miami County's Health Officer, Sheriff, Clerk, Chief Probation Officer, Community Corrections Program Director, CASA Program Director, Prosecuting Attorney, and Chief Public Defender, as well as other members of the Miami County Bar. This included a

meeting that took place via Zoom videoconferencing on May 13, 2020, and numerous other small-group consultations and discussions.

3. EMPLOYMENT PROCEDURES

In large part, employees of the Miami County Courts and court-related offices (Probation, Community Corrections, and CASA) have returned to working in person on a fully staffed basis. This is because the Miami County Board of Commissioners reopened the Miami County Courthouse and the Miami County Courthouse Annex to the public at large on May 5, 2020. As of the time of the filing of this Plan, Miami County has not seen an elevated number of COVID-19 diagnoses in over a month.

With that being said, employees who are at increased risk will work remotely, to the extent that that is possible. Those who are at increased risk are persons who are over the age of 65 or who have any of the following underlying medical conditions:

- Chronic lung disease or moderate to severe asthma;
- Serious heart condition;
- Immunocompromised from any disease such as cancer or AIDS or from any medications that compromise immunity;
- Severe obesity (BMI of 40 or higher); or
- Chronic kidney disease requiring dialysis.

If working remotely is not possible for such an employee, the Courts will consider other reasonable accommodations, including locating the worker away from the public, permitting the use of medical-grade personal protective equipment, and/or instituting increased social distancing requirements.

The Courts are ensuring that appropriate policies, based upon COVID-19 response “lessons learned,” are in place regarding:

- Social distancing and protective equipment;
- Notification, isolation, and contact tracing procedures for courthouse employees and visitors;
- Sanitation and disinfection of common and high-traffic areas; and
- Reasonable accommodations for employees (e.g., children’s schools or daycare closed, fear or actual risk of exposure when using mass transit, caring for ill or vulnerable persons in the household).

Employees will continue to practice good hygiene in the following ways:

- Wash hands with soap and water or use alcohol-based hand sanitizer, especially after touching frequently used items or surfaces;
- Avoid touching their faces;
- Sneeze or cough into a tissue or the inside of the elbow;
- Frequently disinfect used items and surfaces;

- Use face coverings in keeping with any directives made by the Miami County Commissioners after consultation with the Miami County Health Department; and
- Maintain 6-foot separation and other social distancing measures.

The Courts are directing all employees to self-monitor for indicative symptoms of COVID-19 and to stay home if they exhibit symptoms or feel ill. Employees also are required to report to their supervisor if they are experiencing or have experienced in the last three days any symptoms of COVID-19, including:

- Fever of 100.4 degrees or higher;
- Chills;
- Muscle and body aches;
- Headache;
- Sore throat;
- Cough, chest tightness, or shortness of breath; and/or
- New loss of taste or smell.

Likewise, employees are required to report to their supervisor if they and/or someone they live with or have been with in the past 14 days have tested positive for COVID-19. Any such employee will be prohibited from entering the workplace and will be home on leave or working remotely for as long as the Miami County Health Department advises.

In the event that an employee is suffering from stress or depression due to the COVID-19 pandemic and the supervisor becomes aware of that, the employee will be encouraged to seek out mental health services. If that employee is uncertain what services are available, the employee should discuss the matter with his/her supervisor in order that such services can be identified.

4. COURTHOUSE FACILITY PLAN

The Courts have installed plexiglass barriers at all counter areas to separate the public from employees. Those barriers will remain in place for as long as they are deemed necessary due to the pandemic.

Court facilities will be cleaned by janitorial staff on a daily basis. When there is a need for deep cleaning, the janitorial staff will be called upon to do the same. Staff will wipe down surfaces in high-traffic areas on a regular basis throughout the day, as well as between hearings. With respect to the opening of mail, staff will avoid touching areas where the envelope may have been sealed with saliva and, if desired, will utilize a face covering and gloves.

Court staff and court security staff will direct people congregating outside a courtroom and/or entering a courtroom to engage in social distancing. Sanitizer will be made available, as well.

5. SCREENING PROCEDURES FOR THE PUBLIC

Through the use of signage, the public will be directed to refrain from entering the Courthouse or the Courthouse Annex if they and/or someone they live with or have been with in the past 14 days have tested positive for COVID-19 or if they are experiencing or have experienced in the last three days any symptoms of COVID-19, including:

- Fever of 100.4 degrees or higher;
- Chills;
- Muscle and body aches;
- Headache;
- Sore throat;
- Cough, chest tightness, or shortness of breath; and/or
- New loss of taste or smell.

In that event, the public will be directed to call the Court or court-related office that they were going to visit in order to apprise staff of the issue.

For as long as the Miami County Commissioners direct that face coverings be worn in the Courthouse and Courthouse Annex, litigants and other visitors to the Courts and court-related offices will be expected to bring face coverings. When needed, face coverings will be made available to them.

Hand sanitizer will be made available to the public at the entrance to the Courthouse.

6. RESUMING NON-EMERGENCY HEARINGS

The Courts will expand the holding of non-emergency hearings beginning on Monday, June 1, 2020. Hearings will begin to be held in cases of all types, with priority being given to emergency matters and cases for which there is a statutory deadline for the holding of such hearings. After that, priority will be given to matters that have been awaiting a hearing the longest. To the extent that it is feasible to hold such hearings remotely in keeping with the Indiana Supreme Court's Emergency Order Permitting Expanded Remote Proceedings, the Courts will do so. For example, the Courts will regularly hold remote hearings with offenders and jail inmates. As much as possible, the Courts will seek to hold fewer than ten in-person hearings per hour. The Courts will also encourage parties in more contentious cases to resort to mediation before the holding of a hearing or a trial.

As long as the Indiana Supreme Court permits it, the only persons who will be physically present in the courtroom for hearings will typically be parties to a case, their attorneys, and members of the media. For matters of great public interest, seating will be made available to the public while maintaining social distancing. Where possible, the Courts will consider permitting witnesses to testify remotely.

To the greatest degree possible, litigant and attorney seating areas, doorknobs, and other commonly touched surfaces will be cleaned between hearings. For as long as the Miami County Commissioners direct that face coverings be worn in the Courthouse, the Court

will direct litigants and their attorneys to wear such coverings during in-person hearings and court staff and the Court will do the same.

Provided that Senior Judges are available and willing to assist the Courts in catching up on any hearing backlog that exists, the Courts will utilize them for that purpose, with the Senior Judges holding hearings in person and/or utilizing Zoom for hearings held remotely.

When necessary, the Courts will make remote hearings held via Zoom available to the public through the utilization of any platform that may be created by Trial Court Technology. If no such platform is available, then the Courts will instead utilize YouTube to stream the proceedings, being careful to notify the public that the proceeding may not be recorded or broadcast and to delete the video of the hearing from YouTube promptly after the conclusion of the hearing.

7. JURY TRIALS

Unless a rise in local COVID-19 cases takes place in the Miami County area, thereby necessitating the filing of a request with the Indiana Supreme Court for an extension of the deadline to begin holding jury trials, the Courts will begin holding them on July 1, 2020. Priority will be given as follows:

- a. First: Criminal jury trials in cases in which a fast and speedy trial request has been made or in which a Criminal Rule 4 deadline is swiftly approaching.
- b. Second: Criminal jury trials in cases in which there is no fast and speedy trial request or other Criminal Rule 4 deadline, with priority typically being given to those cases that have been pending the longest.
- c. Third: Civil jury trials, with priority typically being given to those cases that have been pending the longest.

The Courts will utilize an additional COVID-19 questionnaire, which will be delivered to prospective jurors along with their notice to appear for jury duty for a particular trial. A letter will also be provided to prospective jurors, notifying them of the measures being taken by the Courts for the purposes of promoting public health during the holding of the jury trial.

If counsel for the parties are agreeable to utilizing remote jury selection, the Court will consider utilizing the Zoom videoconferencing platform to do the same. Otherwise, in-person jury selection will be utilized.

The Courts will direct prospective jurors and those who are selected to serve on a jury to report to court staff before entering the Courthouse if they or someone they live with or have been with in the past 14 days has tested positive for COVID-19 or if they are

experiencing or have experienced in the last three days any symptoms of COVID-19, including:

- Fever of 100.4 degrees or higher;
- Chills;
- Muscle and body aches;
- Headache;
- Sore throat;
- Cough, chest tightness, or shortness of breath; and/or
- New loss of taste or smell.

Any prospective jurors reporting any of those things will receive a deferral. The Courts will also consider granting deferrals from jury duty to essential healthcare workers, particularly if there is an elevated number of COVID-19 cases in the Miami County area at that time. Likewise, the Courts will consider granting deferrals from jury duty to jurors who are vulnerable due to a health condition or who live with someone who is.

During jury selection and the trial itself, face coverings will be utilized by jurors in keeping with any directives made by the Miami County Commissioners. In that event, jurors will be encouraged to bring their own face coverings, with the Court providing additional ones on an as-needed basis. The Court in question will confer with counsel for the parties regarding the propriety of having the parties, attorneys, witnesses, and/or judge wear a face covering. If they are not agreeable to the same, then proper distancing between counsel, any witness, the judge, and the jury members will be maintained.

Because some prospective jurors may be unwilling to serve, the Courts anticipate calling significantly more jurors than usual and then having them arrive at the Courthouse for orientation and *voir dire* on a staggered basis. In order to maintain social distancing, the Courts will utilize both the GAR Room and the Assembly Room on the first floor of the Courthouse to marshal prospective jurors. After such jurors have watched the orientation video, they will be conducted to the courtroom for *voir dire*, with social distancing being employed.

Because of the small size of the Miami Superior Court 2's courtroom, any jury trials held by that court will take place in either the Miami Circuit Court's courtroom or the Miami Superior Court 1's courtroom. The Courts will seek to arrange for the parties and their counsel to be seated in such a way as to maintain social distancing.

The Courts will require attorneys to provide a number of copies of exhibits to permit each juror to receive his or her own copy. Physical objects that are exhibits will be displayed to members of the jury by the bailiff while maintaining proper social distancing.

Once a jury has been selected, they will meet in a room that is large enough to permit them to engage in social distancing. This may mean that they will use the GAR Room or the Assembly Room on the first floor of the Courthouse instead of the traditional jury room on the third floor of the Courthouse both during recesses in the trial and during final

deliberations. In that event, they will use the public restrooms located on the first floor of the Courthouse, with the bailiff ensuring that they do not come into contact with other people while they are in the restrooms.

Meals will typically take place in the jury's meeting space, with each juror to receive his or her own separately ordered and packaged meal.

8. COURT-SUPERVISED SERVICES

Beginning on May 31, 2020, the following provisions will apply with respect to court-supervised services:

- a. CASA. CASA visits with children will resume while maintaining social distancing. CASA staff and volunteers will utilize face coverings for as long as that is deemed appropriate. Sanitizer will be utilized, as well. Any volunteer CASA who is more vulnerable to COVID-19 (as described in the employee section above) may be excused from visiting with children. In that event, a CASA staff member or another CASA volunteer will be assigned to conduct such visits.
- b. Probation. While remote visitation with probationers will continue as much as possible, probation officers will begin making off-site visits, on an as-needed basis while maintaining appropriate social distancing. Probation officers are authorized to utilize face coverings and to require the wearing of face coverings by probationers during any meetings. Sanitizer will be utilized, as well.
- c. Pretrial Release Program. For as long as the Sheriff's Department will permit it, probation staff will conduct interviews with inmates at the Miami County Jail for purposes of the Courts' pretrial release program remotely through the use of the Zoom videoconferencing platform.
- d. Community Corrections. In Miami County, the Community Corrections Program is separate from the Probation Department and has a much smaller number of clients. Face-to-face meetings between staff and clients at the Community Corrections Office will resume, with face coverings being utilized for as long as that is deemed appropriate. Social distancing will be used during those meetings, and sanitizer will be utilized, as well.

Drug screens will continue to be given, with social distancing taking place. Sanitizer will be utilized, as well.

For the time being, home visits will typically be done from the vehicle or at least outside the residence itself, with social distancing taking place. Face coverings will be utilized for as long as that is deemed appropriate. Sanitizer will be utilized, as well.

For purposes of conducting evaluations of offenders and inmates, Community Corrections staff will typically accomplish that through the use of the videoconferencing equipment that is located in the Miami County Public Defender's Office.

- e. Drug Court. Since shortly after the Courts' emergency period under Administrative Rule 19 began, the Miami Circuit Court has been holding Drug Court hearings remotely using the Zoom videoconferencing platform. The Court has also suspended new admissions to the Program. That will continue for now. However, unless there is a significant rise in COVID-19 cases in the Miami County area, new admissions to the Program and in-person hearings will resume on July 1, 2020. When in-person hearings resume, social distancing will take place, face coverings will be utilized for as long as that is deemed appropriate, and sanitizer will be utilized. The Court will also consider holding hearings in smaller groups in order to promote social distancing.