

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-129



## 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 courts filed an expansion of operations plan (“Plan”) on May 30, 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 courts 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 courts shall resume jury trials, subject to the health precautions proposed in the Plan, **no later than the week of August 17, 2020**. The petitioning courts may seek relief from this requirement pursuant to Administrative Rule 17 if a particularized local emergency requires suspending jury trials beyond that date. The petitioning courts 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 6/5/2020 , effective **May 30, 2020**.

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

Loretta H. Rush  
Chief Justice of Indiana

**20S-CB-129****WAYNE COUNTY CIRCUIT AND SUPERIOR COURTS****EXHIBIT “A” TO AMENDED PETITION TO THE INDIANA  
SUPREME COURT PURSUANT TO ADMINISTRATIVE RULE 17**

This Exhibit “A” is the Transition Plan prepared for expanded operations of the Wayne County Courts as required by Ind. Supreme Court order issued in 20S-CB-123 dated May 13, 2020. In providing said Transition Plan, the Wayne County Courts advise the Ind. Supreme Court that said courts have, to date, conducted what each court has determined to be essential type hearings and said hearings have been conducted in a variety of fashions, including in the courtroom, telephonically, and by audiovisual technology, including the use of Zoom.

**WAYNE COUNTY COURTS TRANSITION PLAN****1. ADMINISTRATIVE RULE 17 COMPONENTS.**

Wayne County Courts hereby request that the Indiana Supreme Court authorize and approve the following:

- A. Extend the tolling of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters before the Wayne County Courts until August 14, 2020, with all tolling under Criminal Rule 4 to begin anew on said date in each case that was pending at the time this Plan was filed.
- B. Jury trials will not be resumed until August 15, 2020 without prior approval of the Ind. Supreme Court upon the conditions established by the Court’s April 24, 2020 order in Cause No. 20S-CB-123.
- C. Specific as to criminal cases, at the election and determination of each court, the authority to do the following:
  1. Hold pre-trial and other non-dispositive hearings by counsel only;
  2. Allow counsel to appear remotely by CourtCall, conference call, or other audiovisual means as permitted by the Court and without the necessity to

comply with the requirements of Indiana Admin. R. 14 in Phases I, II, and III as defined herein. However, the State, defendant, and defendant's counsel may agree to the same even in the event that Wayne County is in Phase IV.

3. Have defendants appear via teleconference or audiovisual means from jail for any hearings, except contested sentencing hearings and jury trials in Phases I, II, and III as defined herein. However, the State, defendant, and defendant's counsel may agree to the same even in the event that Wayne County is in Phase IV.
  4. Continue trials for non-incarcerated individuals until August 15, 2020 or until Wayne County moves into Phase IV as set forth in this Plan, whichever occurs later.
  5. Continue all jury trials to a date to begin August 15, 2020 or after.
- D. Additionally, specific to civil cases, at the election and determination of each court, the authority to do the following:
1. continue all bench and jury trials to a date to begin October 1, 2020 or after.
  2. continue all non-essential matters unless Wayne County is in Phase III or IV as set forth in this Plan.
  3. utilize CourtCall, conference call, or other audiovisual means (such as Zoom) to:
    - a) conduct hearings that involve agreed issues;
    - b) allow parties to appear remotely, unless a litigant's due process rights would be violated; and
    - c) allow counsel to appear remotely by CourtCall, conference call, or other audiovisual means as permitted by the Court and without the necessity to comply with the requirements of Indiana Admin. R. 14 unless Wayne County is in Phase IV as set forth in this Plan; or
    - d) notwithstanding the above, in the event that the parties agree, any hearing may be conducted remotely as agreed upon by the parties in any Phase.
  4. allow attorney-only conferences or hearings whenever appropriate and possible without the requirement of a motion unless Wayne County is in Phase IV as set forth in this Plan, provided that the same may be done with approval of the parties.

5. suspend issuing civil body attachments and Title IV-D attachments until Wayne County is in Phase III or IV as set forth in this Plan.
  6. specific to juvenile cases, including CHINS, delinquency, and termination of parental rights, at the election and determination of each court:
    - a) conduct any type of hearing by audio or video conference (including but not limited to detention hearings, fact-finding hearings, review hearings, permanency hearings, and disposition hearings) with parties appearing remotely, unless a litigant's due process rights would be violated;
    - b) notwithstanding the above, and even when other participants may be personally present, when a parent is incarcerated, utilize audio or video conferencing for all hearings, including fact-finding hearings, for the parent(s) to participate from the Wayne County Jail, another county jail, or the Indiana Department of Correction, if possible; and
    - c) limit admittance to the courtroom to parties, counsel, and other attendees set forth by statute, such as relative/foster/kinship placements.
- E. In Phases I, II, and III, the authority to limit spectators in court to the extent deemed appropriate to provide adequate social distancing, as determined by each court,
- F. Additionally, to conduct mental health hearings that may be held in or outside of the courthouse by conference call, at the election and determination of each court.
- G. Regarding evidentiary hearings and trials, the Wayne County Courts may consider as "good cause" for any motion made to appear remotely or continue a court setting, the existence of flu or flu-like symptoms in any attorney, litigant, party, or witness expected to testify, or exposure of such individuals to anyone who has or may have COVID-19.
- H. Permit and authorize or continue to permit and authorize Wayne County Courts to do the following: In the event that a Wayne County Court determines, in good faith, that any attorney, self-represented litigant, or witness expected to testify reflects the existence of flu or flu-like symptoms, or whose appearance may expose such a person or persons to such symptoms, to appear remotely or, in the alternative and in the discretion of such court, to continue the court setting or hearing unless Wayne County is in Phase IV as set forth in this Plan.

- I. Permit and authorize or continue to permit and authorize Wayne County Courts to post signage at public entry points to judicial facilities advising individuals not to enter the building if they have:
1. 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;
  2. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
  3. Traveled domestically within the United States where the virus has sustained widespread community transmission;
  4. Been asked to self-quarantine by any doctor, hospital, or health agency;
  5. Been diagnosed with or had contact with anyone who has been diagnosed with the COVID-19 in the past 14 days, or
  6. Has covid-like symptoms, as identified by the Centers for Disease Control, in the past 14 days;
- unless Wayne County is in Phase IV as set forth in this Plan.
- J. Permit and authorize or continue to permit and authorize Wayne County Courts to direct bailiffs, Court staff, appropriate Court Employees or court security officers to deny entrance to individuals attempting to enter in violation of protocols set forth herein unless Wayne County is in Phase IV as set forth in this Plan.
- K. Permit and authorize, in the event a presiding judge of any of the Wayne County Courts is unable to serve due to COVID-19 related health issues, including quarantine or mandatory self-isolation, any judge of the judicial district of which Wayne County is a part, to exercise general jurisdiction over any and all cases in any of the Wayne County Courts, unless Wayne County is in Phase IV as set forth in this Plan.

## 2. PLANNING

- A. This Plan was developed after the Wayne County Courts met and consulted with, and/or invited input from, various local community stake holders of Wayne County, which included the following: Wayne County Government, (Commissioners and Council); Wayne County Health Department by Christine Stinson, Executive Director; Wayne County Sheriff Randy Retter; Building and Grounds Superintendent Steve Higinbotham; Wayne County Public Health Officer, Dr. David Jetmore; Wayne County Prosecutor, Michael Shipman; Attorneys with the Wayne County Public Defender’s Office; Wayne County Clerk of Courts, Debbie Berry; and Wayne County Probation Department and Community Corrections by Kory George, Chief Probation Officer. Further, the Wayne County Courts have reviewed materials from the County

Health Department and materials provided through the Indiana Office of Court Services and/or Indiana Supreme Court, and other state and local offices.

- B. The Wayne County Courts have reviewed and will continue to review relevant health data provided either by the local health department or the state.
- C. The Wayne County Courts shall consult with the Wayne County Health Department and the Wayne County Public Health Officer to assist said Courts in making the determination as to the applicable Phase (I, II, III, or IV) that is in effect. Said officials have reviewed and are in agreement with the Phase definitions set forth below.
- D. The four (4) Phases, I, II, III, and IV, are generally defined as follows:  
 Phase I: Wayne County Government has closed county buildings to the public and the Wayne County Health Department and Wayne County Public Health Officer or County Executive, as applicable, has or have directed the closure of all non-essential businesses.  
 Phase II: Wayne County Government has closed county buildings to the public, however, Wayne County Health Department and Wayne County Public Health Office or County Executive, as applicable, has or have permitted non-essential businesses to open.  
 Phase III: Wayne County Government has opened county buildings to the public, however, Wayne County Health Department and Wayne County Public Health Office, County Executive, or the State of Indiana, has or have required or imposed more restrictions than those provided for in Stage 5 of Indiana Back on Track.  
 Phase IV: Wayne County Government has opened county buildings to the public, and Wayne County Health Department and Wayne County Public Health Office, County Executive, or the State of Indiana, has or have required or imposed more restrictions than those provided for in Stage 5 of Indiana Back on Track.

By having the above definitions, beyond a definition referencing only a particular Stage of Indiana Back on Track, it permits the infusion of the local County Executive and local health officials as to Wayne County's particular health related circumstances and data to assist in a localized "Phase" determination.

- E. The following definitions shall apply:  
 "County Executive" or "Commissioners" means the Wayne County Commissioners.  
 "Court Employees" or "court employees" means persons who work for the Wayne County Courts and are court employees pursuant to definition of the Court Employees Handbook (for Wayne County Courts).

“Court Offices” or “court offices” means offices which house court employees and the Courts.

“COVID-19 symptoms” means, as adopted by the CDC at the time of this Plan or later modified by the CDC:

- 1) Fever (100.4 that day or in the preceding 3 days).
- 2) Shortness of breath or difficulty breathing
- 3) Chills
- 4) Muscle and body aches
- 5) Sore throat
- 6) New loss of taste or smell

“High Risk” or “high risk” shall refer to a person who:

- 1) has experienced COVID-19 symptoms in the past 2-14 days;
- 2) has tested positive for COVID-19 in the past 14 days;
- 3) has been in contact with a person in the past fourteen (14) days, that tested positive for COVID-19; or
- 4) has been ordered to quarantine or self-isolate by a medical professional or local health officer.

“Social Distancing” or “social distancing”, also called physical distancing, shall mean keeping space between yourself and other people outside of your home. To practice social or physical distancing:

- 1) Stay at least 6 feet (about 2 arms’ length) from other people, and
- 2) Do not gather in groups (in excess of stated capacities).

“Visitors” or “visitors” shall mean any person coming to the Court Offices, who is not an employee of the Court, including but not necessarily limited to attorneys, litigants, spectators, individuals on probation, and witnesses.

### **3. EMPLOYMENT/EMPLOYEE PROCEDURES**

#### **A. Relevant Information To Date**

To date, Wayne County Courts have had court employees: 1) working remotely; 2) working in-person; and 3) working part remotely and part in-person.

On or about March 23, 2020, Wayne County Commissioners closed the Wayne County Administration Building (which houses Wayne County Probation and Wayne County Community Corrections) and the Wayne County Courthouse to the public. However, said buildings have continued to permit individuals to enter who have scheduled court hearings and/or appointments with appropriate county departments. During the time of closing the building to date, the Wayne County Courts have made good faith efforts to practice appropriate measures to reduce risk and exposure, given the nature of the uncharted waters and lack of initial availability of supplies, which

included but was not limited to having courthouse security administer temperature checks to all entering the courthouse.

It should be noted that Wayne County Commissioners authorized the limiting or reduction of all county employees working in person and to permit county employees to work remotely as directed by the department heads. Further, said Commissioners requested that the Courts attempt to have court employees work remotely when possible.

Further, consistent with prior Administrative Rule 17 orders from the Indiana Supreme Court, the Wayne County Courts have been limiting the days on which said courts have been conducting hearings (to mostly Mondays, Tuesdays, and Thursdays), have held some hearings remotely (either telephonically or by audiovisual means, such as Zoom), continued hearings, and each court has made a determination of the manner of limiting hearings to those that each court has deemed to be of an essential nature.

The Courts also note that the Wayne County Commissioners notified that Courts just prior to the submission of this Plan (by email dated May 27, 2020) that after consultation with appropriate Wayne County health officials, said Commissioners intend to call for the return to the workplace of all county employees on June 15, 2020 and for the re-opening to the public on July 6, 2020 the county buildings that house the Court Offices. Further, between now and those dates, Wayne County Commissioners are working on preparing protocols and procedures for the safeguard of both internal staff and public and that further information regarding the same will be made available prior to said dates.

#### B. Transition from May 30, 2020

As the Courts move toward returning court employees to a greater degree than currently practiced, and as Wayne County Commissioners look to re-open the aforementioned buildings to the public, the Wayne County Courts intend to take or have taken steps to:

- Attempt to identify and work with court employees who may be deemed to be high-risk (Phases I, II, & III);
- To continue to permit some court employees to work remotely when practical and/or needed for safety purposes (Phases I, II, & III);
- Practice social distancing (Phases I, II, & III);
- Changed practices regarding visitors being in the offices of the Courts (Phases I, II, & III);

- Have and make available, in conjunction with officials of Wayne County Government (Commissioners and Council), to court employees appropriate PPE in conjunction with Wayne County Government (Commissioners and Council), such as but not necessarily limited to face masks, gloves, sanitizer and/or cleaning related supplies (Phases I, II & III);
- Directing court employees to take measures to keep their individual work areas clean (all Phases);
- Direct court employees to exercise frequent hand washing (all Phases);
- Direct court employees to open windows when weather permits to increase air circulation (Phases I, II, & III);
- Direct court employees to periodically wipe down surfaces commonly touched, such as door knobs or handles (Phases I, II, & III);
- Directing court employees to self-report to his or her supervisor any COVID-19 symptoms or High Risk that he or she has or is experiencing (all Phases);
- Take or implement measures deemed appropriate by the Courts that may be recommended or required by local health authorities (Phases I, II, & III);
- When court employees come within six (6) feet of another person in the scope of their employment, court employees may of their own volition or shall as may be requested by a visitor with whom the court employees is required to come within six (6) feet of in the scope of their employment, wear appropriate PPE (Phases I, II, & III);
- Take appropriate and common sense steps to maintain social distancing whenever possible (Phases I, II, & III);
- During Phases I & II, when the buildings that house court offices remain closed to the public, continue to have court security personnel conduct screening for admission into the courthouse which includes verbally screening visitors and taking temperatures to attempt to prevent appearance or admission of High Risk visitors.
- During Phase III, have court security personnel conduct screening as is considered appropriate by Wayne County Commissioners who are in charge of such facilities, as Phase III would, by the above definition, be permitting members of the public into the buildings;
- Continue to require court employees be temperature screened with all other persons entering the applicable buildings (as is appropriate depending on Phase I, II, & III protocol);
- Advising court employees that local agencies, such as Centerstone and Meridian, provide mental health services should a court employee want to access or consider the same (all Phases).
- Advise court employees that information is available at ISDH COVID-19 Call Center (877-826-0011) or by visiting [www.bewellindiana.com](http://www.bewellindiana.com), or calling 2-1-1

from a mobile phone, or texting the employee's zip code to 898-211 (all Phases, as remains applicable).

- Direct the Wayne County Probation Department and Wayne County Community Corrections to conduct appointments, home visits and other monitoring or supervisory related activities using appropriate and reasonable social distancing practices and when appropriate, with PPE. Further, said departments will be authorized to utilize written, video, or telephonic reporting except when in person interactions are deemed, by said departments, to be appropriate and necessary to protect the community. (Phases I, II, & III);
- Considering appropriate changes based on information or input being provided by appropriate local or state health authorities throughout Phases I, II, and III.

#### **4. COURTHOUSE SECURITY PLAN**

- A. Employees and visitors to the Court Offices should be advised to practice good hygiene, designed to minimize the spread of viruses, including these admonishments:
- Wash your hands with soap and water or use 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.
  - Disinfect frequently used items and surfaces as much as possible.
  - Strongly consider using face coverings while in the Court Offices. Each court may determine whether face coverings will be required in court and court offices.
  - Avoid physical contact, such as shaking hands.
  - People who feel sick shall stay home.
  - Do not enter the Court Offices if you are at high-risk of infecting others.
  - Visitors should not bring personal items to Court Offices, such as hand bags, purses, backpacks, and the like, which would require searching and add increased surfaces for cross-contamination.

Signage may be posted throughout the buildings and/or court offices which contain such advisements.

- B. Each court should take appropriate measures to promote social distancing, including:
- Posting floor markings to promote social distancing and create visual awareness of 6' spacing.
  - Modifying seating capacity, specify a traffic flow, and restrict certain areas, all to further ensure social distancing and capacity limitations are met.

- C. Courtroom staff will take steps to reduce exposure or risk associated with the current public health concern by doing the following:
- Spot clean or wipe down appropriate courtroom areas after use, such as tables or chairs, handrails, door handles, and the like. (Phases I, II, & III).
  - When appropriate, avoid closing doors, to increase air circulation and reduce the need to handle door knobs or latches; and open windows when weather permits to increase air circulation. (Phases I, II & III)
  - Request of County Executive and then provide wipes or napkins in any kitchen type area with sanitizing spray, for use when handling microwaves, refrigerator and cabinet doors, and cleaning handles of coffee makers or drink dispensers. (Phases I, II & III)
  - Mail coming from the jails, prisons, work release centers, or other confinement facilities, shall be placed in storage for 36 hours before processing. (Phases I & II).
- D. Wayne County Courts will request of the Wayne County Commissioners that custodial or maintenance staff of the county provide or conduct the following:
- Regular disinfecting of common and high-traffic areas (Phases I, II & III).
  - Spot clean contact areas during recess and breaks, in the courtrooms and access areas. (Phases I, II & III)
  - Install anti-virus film for elevator/handicap buttons and kiosks, as available. (Phases I, II & III)
  - Deep clean court facilities on an appropriate periodic basis as recommended by county health officials and conduct otherwise routine cleaning and sanitizing of court facilities as recommended by county health officials.
- E. Wayne County Courts will request of the Wayne County Commissioners that public access to the Wayne County Courthouse and Wayne County Administration Building, which house Court Offices, be limited to one (1) entrance with appropriate and suggested screening practices being implemented (Phases I, II, & III).
- F. In order to assist in minimizing numbers of individuals gathered within Court Offices, each court and any court office (including probation and/or community corrections) may work with courthouse security to limit admission of visitors and require visitors to provide contact, case and cell information to staff and directed to wait outside or in their vehicle to be contacted to come in for hearing.
- G. The Courts, with prioritization and conducting of audiovisual hearings, hopes to avoid alternative venues. However, in the event that the same are needed, including for jury trials or jury selections, the Court will seek out potential venues or alternative jury selection methods (see 7. Jury Trials). Wayne County Commissioners recently

purchased a large former retail facility that is approximately two (2) blocks from the courthouse and there have been some very preliminary discussions regarding the WC Courts' potential use of said facility as needed due to the COVID-19 virus.

## **5. SCREENING PROCEDURES FOR THE PUBLIC**

- A. To Date. Court security, which processes individuals' and visitors' admissions into the courthouse, have been conducting screening for admission to the courthouse, which includes taking temperatures of all visitors and employees. However, as addressed above (see 3. EMPLOYMENT/EMPLOYEE PROCEDURES, A. Relevant Information To Date), the buildings that house court offices have been closed to the public since March 23, 2020. During that time, court employees and visitors with hearings have been admitted to the courthouse, subject to screening. Further, court security (which is comprised of deputies overseen by Wayne County Sheriff) has placed a deputy in the Wayne County Administration Building, which houses court offices by way of Wayne County Probation and Wayne County Community Corrections. Typically, there is not a deputy at or screening admissions into the Wayne County Administration Building. At this time, the Courts are uncertain as to the measures and requirements that County Executive intends to implement when the buildings are re-opened to the public. However, the Courts are requesting that such screening stay in place in Phases I, II, and III in both buildings that house court offices.
- B. Screening Procedures. The Courts request that County Executive maintain the current screening processes in place subsequent to the re-opening of the buildings until such point that Phase IV has been steadily maintained for a period of 60 consecutive days.
- C. Personal Protective Equipment (PPE). Notwithstanding any requirements of County Executive:
  - 1. During any Phase, a court may mandate visitors to wear face masks and if required, and a visitor does not have his or her own, provide the same.
  - 2. During Phase I, II, or III, courts shall encourage visitors to wear face masks and offer the same, to the extent that they remain reasonably available, if a visitor does not have his or her own.
- D. General.
  - 1. During Phases I, II, & III, each court will attempt to avoid any hearing, trial, or proceeding that may attract more people than the court's capacity will allow, by increasing the use of remote hearings for all or most parties; inquiring of parties as to expected witnesses to appear; waiving initial hearings on infractions and misdemeanors; holding video guilty pleas and encouraging consent to remote felony sentencings, especially where limited or no testimony will be heard (ie,

agreed sentences); use of queuing or text notification practices; live streaming or other methods of sharing court proceeding; enforcing prompt arrival and departure by litigants and attorneys; prohibit courtroom negotiations and conferencing; and limiting courtroom seating to essential individuals, by excluding appearance of personal supporters, spectators, media, and others, when necessary.

2. Encourage county government partners to continue to limit public access to buildings housing court offices to one entrance through Phase III with screening at this entrance, including a sign-in sheet for visitors that logs the office(s) visited and name, to be shared with local health officials for contact tracing.
3. Through Phase III, visitors to the Court who are vulnerable or high-risk will be encouraged to stay home and seek remote hearings or continuances, or where appearances are required to wear face coverings, social distance, and alert court staff at the time of the hearing so others can wear face coverings; and when feasible seek continuances to less busy times on the Court's docket or to allow short delay for high risk individuals to recover.
4. Also see above screening related protocol under "3. EMPLOYMENT / EMPLOYEE PROCEDURES."

## **6. RESUMING NON-EMERGENCY HEARINGS**

- A. During Phases I, II, and III, vulnerable individuals should continue to avoid the Court Offices or seek reasonable accommodations, if avoidance is not feasible. Members of households with vulnerable residents should be aware that when coming to Court Offices, where distancing is not practical, they could carry the virus back home. Vulnerable members of the public should continue to self-isolate, including appear remotely for hearings or seeking continuances. Parties seeking continuances should include in motions if they are vulnerable or high-risk members of the community, which may be considered good cause in all but the most critical matters.
- B. During Phases I, II, and III, each court will prioritize cases to be heard, with incarcerated defendants, CHINS/TPR Initial and Detention Hearings, Protective Orders, and emergency provisional family law matters continuing to have priority. Low priority cases, such as final hearings on divorces without children, proceedings supplemental, civil jury trials, and estate matters are not required to be heard until Phase IV. Within similarly prioritized cases, the Courts will attempt to address matters on a first in – first out basis ("FIFO"), hearing those cases which were first to be

stayed/continued at the start of the pandemic, being the first to come out of the stay and set for proceedings.

- C. During all Phases, the Court may incentivize priority settings to those attorneys and litigants who agree to appear remotely, by setting hearings dedicated to remote sessions.
- D. To the extent available, senior judges and pro tems may be used more liberally to address remote hearings, when the presiding judge is unavailable. The Court will attempt to assist the senior judge or pro tem in having familiarity with conducting audiovisual hearings, such as through Zoom, to assist in preparing such persons and senior judges have worked in test hearings through Zoom, to enable a smooth transition and prepare the senior judges for the new platform and local practices.
- E. Through Phase III, the Court may attempt to maximize remote hearing for DOC and jail inmates, exercising great care to minimize the movement of incarcerated individuals to the Court Offices and strive to minimize movement of inmates between jailing facilities.
- F. During any hearing throughout this Plan where the public is excluded from the courtroom, the Court will: (1) publish the Zoom hearing information in the order setting the hearing or by docket entry, which will be available on mycase.IN.gov; and/or (2) live stream the court proceedings to YouTube or another similar platform; and/or (3) make accommodations to broadcast such hearing at a location that the public is not excluded; and/or (4) make accommodations to permit a requesting member of the public to hear the recording of the proceeding after it is conducted.
- G. Through Phase III, Courts should avoid “cattle call” type hearings that would prevent social distancing considerations and ISDH or local health department’s recommended maximum capacities.
- H. Through Phase III, criminal bench trials should be conducted with witnesses staggered to avoid capacity limits. Remote civil bench trials may resume, if scheduling permits, with priority given to remote hearings.
- I. Most hearings through Phase III may occur remotely, including evidentiary hearings. Courts should prioritize hearings with the highest concerns for constitutional protections and timeliness, or those having complex issues, for in person hearings through Phase III, as scheduling permits.

- J. In Phase III, vulnerable individuals may resume regular visits to Court offices, but should practice social distancing, avoiding visits during congested times where distancing may not be practical, unless precautionary measures are observed, as greater groups may be expected during this phase. The Court may consider the need to have occasional settings reserved for vulnerable litigants. High risk individuals may still be required to appear remotely or seek continuances.
- K. Through Phase III, Courts will continue to encourage and conduct remote hearings, when constitutionally appropriate, however, traditional hearings, with appropriate precautions followed as outlined in this Plan, may be conducted in person to improve court access and case resolutions.
- L. To improve case resolutions, the WC Courts may relax restrictions on courtroom lawyering, allowing attorney-client conferencing to occur, so long as social distancing and capacity limits are observed, but avoiding pre-pandemic practices.
- M. In later stages of Phase III, the WC Courts may examine cases that have been delayed since the start of the pandemic to consider docket priority in the early stages of Phase IV.
- N. In Phase IV, cases will resume more on a pre-COVID-19 basis, although the WC Courts may continue to hold remote hearings as deemed appropriate and in compliance with orders of the Ind. Supreme Court and/or Administrative Rule 14.

## **7. JURY TRIALS**

- A. Wayne County Courts have requested that Jury Trials remain stayed as set forth above (See “1. Administrative Rule 17 Components” above). This request is made, in part, to address the WC Courts’ belief that potential jurors are clearly reluctant to participate as jurors until at least such date due to COVID-19 virus concerns.
- B. Between the submission of this Plan and the conducting of jury trials, the WC Courts will attempt to do the following:
  - 1. Review potential options available for jury selection and trials which makes accommodations for social distancing;
  - 2. Discuss with the State and Defendant’s counsel new practices that will be used for jury selection and trials.
  - 3. Prepare revisions to current jury questionnaires to make accommodations for COVID-19 related questions.
  - 4. Prepare literature for prospective jurors on the selection process and WC Courts’ practices. This will include communications to prospective jurors who

may develop symptoms of COVID-19 in the 14 days prior to reporting for jury duty, best practices for high risk individuals, and the manner in which to notify the Court regarding jury service concerns.

5. Consider the merits of potential web-based jury questionnaire submission to minimize document handling and allow more rapid and increased response as a supplement to traditional mail-in processes.
  6. Make good faith attempts to make adjustments to jury panel size due to matters related to COVID-19.
  7. Revise procedures regarding jury deferrals to be more liberal to: vulnerable jurors; high risk jurors; front line and essential workers; previously furloughed workers just returning to work; employees of long term care facilities; those without childcare due to COVID-19; and others most impacted by COVID-19.
  8. Criminal Jury trials will resume first, to include those with pending Early Trial motions under Criminal Rule 4, on a FIFO basis. Other criminal jury trials with incarcerated defendants will follow, with priority given to Level 6 felony and misdemeanor jury trials, requiring fewer jurors and smaller panels. The Court may consider the use of remote jury selection where appropriate and by agreement.
  9. In the event of larger juries requiring greater capacity, the Courts may discuss, consider and make accommodations for any of the following:
    10. Using block/staggered panels for jury selection, with parties arriving at staggered times in groups;
    11. Consider the merits of conducting jury selection at an off-site location if necessary, to maintain social distancing;
    12. Make accommodations to courtrooms for jury seating to comply with social distancing guidelines, with court staff monitoring group size;
    13. Consider the importance of liberty interests in disposing of criminal jury trials timely before accommodating civil jury trials on FIFO basis, encouraging ADR in cases to minimize unnecessary trials;
    14. Jurors will be provided with meals as per prior pandemic methods, however, jurors shall be permitted to bring his or her own food.
- C. During Phase IV, the Court may conduct jury trials without social distancing and under pre-pandemic practices.

## **8. COURT SUPERVISED SERVICES**

### **A. Court Appointed Special Advocates (“CASAs”)**

1. Through Phase II, Court Appointed Special Advocates (“CASAs”) and Guardians Ad Litem (“GALs”) may resume home visits in the critical cases

needed to assure the safety of children, including in-home CHINS, but are encouraged to continue to conduct most visits virtually. CASAs and GALs shall: call first (exigent circumstance excepted) to conduct high risk and vulnerable occupant screening questions; maintain social distancing; and wear appropriate PPE during any on-site visits. CASAs and GALs who are vulnerable themselves, should not be used for home visits, and the WC Courts authorize continued remote visits or substitute CASAs and GALs in lieu thereof. Homes where vulnerable individuals may be found, should be avoided during this Phase, as much as possible, and high-risk homes avoided completely by CASAs and GALs. CASAs and GALs shall comply with the same self-screening practices as court employees (Section 3), concerning self-assessments to determine risk of COVID-like symptoms, reporting the same to the CASA Director (for CASAs) or the Courts (for GALs) through Phase III.

2. In Phase III, CASAs and GALs may resume more liberal home visits. Homes with vulnerable individuals, should be visited only in higher risk cases and with advance notice, so that those individuals may practice greater social distancing from the CASA or GAL, including going to another location in the home. Social distancing must be maintained with occupants of these homes, including all children, who may not appreciate social distancing guidelines. Vulnerable CASAs and GALs should still avoid performing home visits. Visits may be alternated between virtual and face-to-face, with non-vulnerable CASAs. Remote appearances in court will continue to be strongly encouraged.
3. Through Phase III, the Court will provide CASAs and GALs with PPE. Both should use remote appearances for testimony during hearings, family team meetings, and the like, using free Zoom licenses or other platforms when possible.
4. In Phase IV, CASAs and GALs resume pre-pandemic best practices for visits and CASA and GAL operations, although they shall assess those best practices and technology that materialized from the pandemic to determine whether some should continue. Remote visits may still be used.

B) Wayne County Probation Department, Wayne County Community Corrections

1. Pre-trial services, probation and community corrections supervision or monitoring (collectively “Supervision Services”) shall continue in all Phases. However, during Phases I and II, only high risk for supervision and seriously non-compliant clients posing a risk to the community should be seen face-to-

face (in the discretion of the officers), while the Courts encourage others to be monitored by remote means (call-in, write-in, kiosks, web portals, or virtual applications). It will be a reasonable rule of supervision during the pandemic to require compliance with remote reporting and monitoring. The departments will use similar protocol to the WC Courts relative to the wiping down of work areas, etc., as may applicable to the particular Phase (see “3. EMPLOYMENT / EMPLOYEE PROCEDURES”).

2. In Phase III, Supervision Services will continue expanding face-to-face visits occurring with moderate to high risk, non-compliant offenders, while still promoting remote check-in for all compliant and low risk offenders. Supervision Services should continue to be considerate of vulnerable clients and weigh heavily the need for face-to-face reporting. If a vulnerable client must come to the office, the employees shall wear face coverings, in addition to social distancing. More liberal face-to-face visits of moderate to high risk offenders for compliance should occur, but less frequent than pre-pandemic levels, using remote access as a substitute.
3. In Phase IV, Supervision Services may return to pre-pandemic protocol and operations, although they shall address those best practices and technology from pandemic to continue. Remote visits may still be used.