

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-148



## 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 amended expansion of operations plan (“Plan”) on June 3, 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 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, and the petitioning courts shall comply with its terms through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/4/2020, effective **May 29, 2020**.

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

Loretta H. Rush  
Chief Justice of Indiana

## EXHIBIT A

## LAGRANGE COUNTY COVID-19 RESPONSE PROTOCOL and RETURN TO OPERATIONS PLAN

**Additional Relief Request**

The LaGrange County Courts filed a petition for additional relief under AR 17 which outlined the additional relief the courts are requesting. Specifically, the courts are seeking an extension of tolling on all legal deadlines, including, but not limited to those set forth in Ind. Crim. R. 4 and permission to postpone in-custody speedy trials required by Ind. Crim. R. 4 until Monday, July 6, 2020 and for all other jury trials to resume by Monday, August 31, 2020.

**Planning Process**

The LaGrange County Courts have convened various stakeholder meetings to address issues related to the health, safety, and welfare of the staff, parties, and public who frequent its court facilities throughout the County. The primary working group includes: Dr. Anthony Pechin, LaGrange County Public Health Officer; the LaGrange County Clerk; representatives from the LaGrange County Sheriff's Department, which is responsible for the safety and security of all court facilities; County Commissioners; as well as the Judges and key court staff from the LaGrange Circuit and Superior Courts.

All plans set forth in this return to work plan will continue to be evaluated with the primary working group as well as key stakeholders throughout the COVID-19 pandemic. The LaGrange Circuit and Superior Courts (the "Court") will continue to seek guidance and advice from public health and government officials to ensure it is operating responsibly and in the best interests of staff, parties and the public.

**Employment Procedures**

As outlined in additional detail under the Court Operations section, the Court will have limited hearings. All staff and judicial officers working in court facilities are encouraged to wear masks when traveling in all public spaces of court facilities and when interacting with anyone from the public. Masks have been purchased for all staff and judicial officers.

Employees who may be at greater risk of the COVID-19 virus are encouraged to work with the County's HR Office on proper accommodations for their health and safety. Employees who exhibit symptoms of COVID-19 must report them to their Department Head and will be required to remain at home until the appropriate CDC criteria for ending home isolation are met. Employees who live with an individual who exhibits symptoms of COVID-19 must disclose this information to their

Department Head and remain at home until the appropriate CDC criteria for ending home isolation are met.

If an employee or an individual with whom an employee resides is diagnosed with COVID-19 and is placed on isolation as a result, the Department Head, in conjunction with the HR Office, will inform anyone with whom the employee has had contact that they may have been exposed but the identity of the individual will not be disclosed. The HR Office will also make the appropriate referral to the Public Health Department to assist with contact tracing. All employees potentially exposed will be encouraged to get tested and be permitted to work remotely for the CDC recommended two week period.

### **Courthouse Facility Plan**

As outlined in additional detail under the Court Operations section, the Court will continue to work by conducting remote proceedings as much as possible to have the smallest in-person footprint necessary during this health pandemic. The County's cleaning staff has the opportunity to thoroughly clean and disinfect court offices and public spaces each day. The cleaning staff utilizes sanitizing solutions or wipes treated with Centers for Disease Control and Prevention (CDC) approved disinfectants.

The mail will continue to be sent to the Clerk of Courts. From there, the Clerk's staff will sort mail and deliver it to the respective court offices to limit the number of people who handle the mail.

### **Screening Procedures**

The LaGrange County Sheriff was responsible for all security screening in all court facilities in LaGrange County, prior to COVID-19. The Courts are working with the LaGrange County Sheriff's Department to provide additional screening measures in light of COVID-19. The Courts are continuing to work through all the necessary screening measures that will be put in place to protect the health and safety of individuals who either enter the Courthouse or work in the Courthouse. The screening measures currently include the three COVID-19 questions: Do you have a cough?; Do you have shortness of breath?; Have you come into contact with anyone that has been diagnosed with COVID-19 in the last 14 days? If the answer in in the affirmative to any of the questions, the individual is not allowed to enter the building. If they are at the courthouse for a scheduled hearing, the hearing will be reset.

The Courts and the LaGrange County Sheriff's Department will work to provide adequate signage and direction related to social distancing recommendations set forth by the CDC and the LaGrange County Health Department. Masks or facial coverings will be recommended for all individuals entering the Courthouse. For individuals who arrive without a mask, they will be provided with one. For those who cannot wear a mask due to ADA requirements, accommodations will be made for remote access if they request same. The Court provides the LaGrange County Sheriff's Security Detail with a daily calendar listing the hearings that are scheduled in both courts. Security will

only allow essential witnesses and individuals scheduled to appear in those courts on their specified day to enter the building.

Appointments will be made with the Clerk's office for the filing and processing of Protective Order proceedings by pro se litigants. Likewise, the number of people entering the building for pro se filings and payment of court obligations will be limited by Security and those individuals will be encouraged to utilize the U.S. Mail, when possible.

## **Court Operations**

### **General**

All cases that can be held with the litigants appearing remotely will continue to be held remotely indefinitely, as the LaGrange County Courts have done since March 23, 2020; however, from June 1, 2020 forward, the courts will evaluate this practice on a weekly basis based on guidance and advice from public health and government officials.

Based on guidance from public health officials, the size of the courtroom will dictate the capacity of individuals. The Court will ensure compliance with the six feet social distancing recommendations set forth by the CDC. Attorneys, parties, staff and judicial officers will also be expected to comply with the six feet social distancing requirements.

The Court's website has a listing with the contact information for the essential court staff member of each judge. The Court will also continue to update its website with relevant information related to its operations.

The Court will attempt to work with the LaGrange County IT Department to work towards broadcasting of all remote court proceedings, but this will take additional time. In the interim, if a member of the public has an interest in viewing a specific remote hearing, he or she should contact the essential court staff member to request an invitation to the hearing. Information related to this process will be listed on the Court's website.

### **Civil/Criminal/CHINS/Family Law/Probate/Traffic**

We have created a plan to minimize the large cattle call dockets by scheduling no more than 6 hearings per hour. This will help to comply with six foot social distancing and to reduce the in-person foot print necessary during this public health pandemic. Additionally, litigants have been provided, and will be continued to be provided, the opportunity to submit their contact information with the Court in advance of their hearing date and may then appear telephonically or by video conferencing for their scheduled hearing.

Contested evidentiary CHINS and JD hearings will be conducted in-person as directed. Trials in the termination of parental rights matters will not be conducted any time prior to July 31, 2020. Whether witnesses, parties and their counsel will be present for in-person hearings will be dependent upon the needs of the case, the positions of counsel and the discretion of the judge. Bailiffs and deputies will assist in the flow of traffic in and out of the building to further encourage social distancing. Any witnesses who can wait in their vehicles, weather permitting, will be encouraged to do so.

Most traffic cases are resolved by a hallway hearing between the Defendant and the Prosecuting Attorney. The Prosecuting Attorney has been contacting as many of these Defendants as possible, in advance of their scheduled hallway hearing, to hold the meeting telephonically and then reporting the results to the Court. The same process is being used by Plaintiff's counsel in civil cases for proceedings supplemental hearings. Pro se litigants are encouraged to contact the court staff in advance of their scheduled proceedings supplemental hearings, in order to direct the parties to communicate via telephone, with Plaintiff reporting the results thereof in writing to the Court. This process has reduced the foot traffic in the courthouse tremendously since its implementation on March 23, 2020.

Most non-emergency/essential hearings, along with emergency hearings, will be heard remotely. The priority of remote hearings will follow the dates of the hearings already scheduled and emergency hearings will be scheduled with priority as they are filed. Beginning June 1, 2020, the courts will resume evidentiary proceedings in the courtroom, only when deemed necessary. In-person hearings will be held on a limited basis, with only the parties, counsel and essential witnesses being allowed in the smaller Superior Court courtroom. Both courts will comply with the six-foot social distancing requirements at all times. Masks or facial coverings will be encouraged for the Probation Officer and the probationer in all face to face appointments or contacts.

### **Probation Operations**

On-site staffing of the probation department has been phased back, effective as of May 26, 2020. The officers will limit face to face contact appointments to only those urgent matters and high risk probationers until further notice. Telephonic meetings will be utilized by the officers for all low to moderate risk probationers. Field contact will continue for high risk probationers only and officers will not enter the home. Social distancing and sanitizing will be utilized at all times.

### **Jury Trials**

If permitted, the Courts will begin to conduct in-custody speedy trials only beginning July 6, 2020. All other jury trials will resume by August 31, 2020, provided the Court can comply with CDC social distancing guidelines in effect at that time.

The Courts will work on a press release to be published in advance of the resumption of jury trials. The press release will be published in local newspapers and on the County website. The press release will advise the public of the date that we expect jury trials to resume, the steps taken by the Court to protect jurors from COVID-19, the conditions under which jurors will be excused or deferred before coming to the courthouse, the measures to be taken by the jurors before entering the courthouse, and the source for further information (i.e. website).

Due to the anticipated surge of requested deferrals, the Courts will increase the number of jurors summoned for trials.

In addition to statutory/rule-based disqualifications and exemptions during the pandemic restriction period, the Court will grant exemptions to anyone upon request who is a:

1. Health care professional
2. Law enforcement officer
3. Emergency services officer
4. In a group at higher risk for severe illness (based on CDC guidelines)
  - a. 65 and over
  - b. Underlying medical conditions
    1. Chronic Lung Disease
    2. Moderate to Severe Asthma
    3. Serious Heart Condition
      - a. Heart failure
      - b. Coronary artery disease
      - c. Congenital heart disease
      - d. Cardiomyopathy
      - e. Pulmonary hypertension
    4. Immunocompromised
      - a. Undergoing cancer treatment
      - b. Bone marrow/organ transplantation
      - c. Immune deficiencies
      - d. HIV w/low CD4 cell count
      - e. Untreated HIV
      - f. Using corticosteroids and other immune weakening medications
    5. Severe obesity (BMI 40 and over)
    6. Diabetes
    7. Chronic kidney disease undergoing dialysis
    8. Liver disease
5. Currently COVID-19 positive

6. COVID-19 symptomatic (per the CDC: cough, shortness of breath, difficulty breathing, fever, chills, muscle pain, sore throat, new loss of taste or smell)
7. Resides with an individual who is currently COVID-19 positive or is COVID-19 symptomatic

Although an automatic exemption is not required, upon request, the Court should automatically defer any prospective juror who is:

1. Caring for someone who is ill
2. Caring for pre-school and school-age children
3. Just starting a job after having been without pay for an extended period
4. Working a job where interruption of employment could create emergency financial situation for person and/or family

The Court has developed a detailed priority list for Jury Trials to ensure that we are prioritizing Criminal cases with Criminal Rule 4 concerns.

The LaGrange County Courts have discussed the possibility of seeking out alternative locations for the holding of jury trials, especially those requiring a twelve (12) person jury. A larger structure, such as a gymnasium, would accommodate necessary social distancing and better air circulation. Jurors will be provided masks and encouraged to wear them.

Prospective jurors will be ordered to appear at 8:30 a.m. They will be subject to social distancing measures at each stage of the process. Efforts will be made to handle jury selection in groups in order to allow sufficient social distancing. Jurors may wait outside or in their car until their group is called in.

Efforts will be made to present all evidence electronically. In instances where that is not possible, sanitizer and gloves will be available.