

In the
Indiana Supreme Court



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

Supreme Court Case No.
20S-CB-185

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 June 4, 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 6/9/2020, **effective June 4, 2020.**

A handwritten signature in cursive that reads "Steve David".

Steve David
Acting Chief Justice of Indiana

Whitley County Circuit and Superior Court Transition Plan

May 20, 2020

1. Administrative Rule 17 Components

The Whitley Circuit and Superior Court move to extend the following portions of the current Administrative Rule 17 Emergency Order:

- tolling of time limits, including time limits imposed for speedy trials in criminal and juvenile proceedings, public health, mental health, and all other civil and criminal matters until July 1, 2020;
- authority for continuing jury trials until July 1, 2020;
- prohibition on issuing new writs of attachment, civil bench warrants, or body attachments, and staying any such writs or warrants not yet served until July 1, 2020.

The Whitley Circuit and Superior Court move to allow the following portion of the current Administrative Rule 17 Emergency Order to expire:

- authority for reviewing county-jail and direct placement community correction sentences of non-violent inmates and juveniles.

2. Planning

The Judges of the Whitley Circuit and Superior Courts have consulted the following stakeholders in developing this plan: the county commissioners, the county council, the county clerk, the county human resources director, the county attorney, the county health department director, the county emergency management agency, the sheriff, the prosecutor, local defense counsel and bar association as well as the community corrections director and chief probation officer.

3. Employment Procedures

Employees have all returned to work. Any employee that identifies symptoms related to COVID 19 or discloses contact with a person diagnosed with COVID 19 shall be excused from work and/or given the opportunity to work from home whenever possible. Social distancing is practiced in the work place. Employees are provided with PPE as well as hand sanitizer. The Court will follow all recommendations of the local health department. The local health

department has identified resources available to employees regarding mental health or other necessary services.

Employees are required to report to the court if they have symptoms of COVID-19 or have been in contact with someone diagnosed with COVID-19.

Employees have been instructed on safety measures, such as not sharing equipment, etc.

4. Courthouse Facility Plan

The Whitley County Maintenance staff has and shall continue a thorough deep cleaning schedule of the Courthouse Facilities. The Courtrooms have markers placed upon the seats to maintain social distancing. The Courtrooms are cleaned by the court staff daily. An extra court reporter is stationed in each courtroom. The extra court reporter wipes down the counsel table and/or podium in between each hearing. Mail is handled in batches by one person wearing gloves. That person discards the gloves after each batch is completed. That person scans all mail and then shreds the mail so that no one else comes into physical contact with the mail. .

5. Screening Procedures for the Public

Litigants and essential witnesses are allowed in the courthouse and non-essential visitors are asked to wait outside. Anyone entering the courthouse must immediately use hand sanitizer provided by the facility. All visitors are encouraged to wear masks. The Court staff has masks supplied by Homeland Security that will be provided to those who ask. A second hand sanitizing station is set up outside of each courtroom and all visitors must use the hand sanitizer a second time before entering the courtrooms. The Courts are attempting to obtain non-contact thermometers to test all visitors before entering the courthouse and/or courtrooms. Each courtroom has markings on the seating directing the visitors where to sit in order to maintain social distancing.

6. Resuming Non-Emergency Hearings

Non-emergency shall begin to resume immediately. However, the default shall be to conduct all non-essential hearings via Zoom. The litigants must ask for an in-person hearing if desired. The individual judge will make the decision whether to grant the in-person hearing or conduct a telephonic or virtual hearing. The default will be that all witnesses be present through Zoom unless a specific request is made for in-person testimony and the judge will then decide whether or not to grant the request. Senior Judges have elected to appear in person for hearings for which they are scheduled. Incarcerated individuals will continue to be seen via the jail's video teleconferencing system for preliminary hearings. However, they will be seen in person for change of plea hearings or other evidentiary hearings. Hearings will be

spaced out in order to provide for social distancing in the courtroom and transportation from the jail.

Non-litigant observers will be encouraged to wait outside but, when requested, they will be allowed to attend all proceedings. Public access to hearing will occur at all times as required by law. Social distancing, however, will be maintained within the facility and the number of visitors per litigant may be reduced to accommodate social distancing requirements.

7. Jury Trials

Jury trials shall begin to be scheduled July 1, 2020. Whitley Circuit Court has several Criminal Rule 4 time limits currently being tolled, but they will need to be scheduled as soon as possible. Jury Trials shall be conducted in the following manner. Potential jurors will be summonsed in for voir dire at staggered times so that only 14 potential jurors per session will be in the courtroom at any given time. Potential jurors shall be given instructions to review the potential juror video at home prior to reporting to the courthouse. Any potential juror who has not watched the video shall be shown the video in a jury room under strict social distancing standards. Once a jury is seated, the jurors will be placed in seats throughout the courtroom that will allow the jurors to see and hear evidence, but maintain social distancing standards. Two separate jury rooms shall be utilized during breaks and meals to maintain social distancing standards. Deliberations will not be conducted in the jury rooms as they are too small to accommodate social distancing. Therefore, the courtrooms shall be sealed using opaque paper to cover the windows and a bailiff stationed outside. The jurors will utilize the courtrooms to deliberate and still maintain social distancing standards. All potential jurors will be pre-screened to determine whether they have exhibited symptoms of COVID 19 and/or have been in direct contact with a person who has tested positive for COVID 19. Any potential juror who identifies either scenario shall be excused from jury duty and the parties shall be notified. Criminal jury trials shall be prioritized over civil jury trials in order to protect the Constitutional Rights of the accused.

8. Court Supervised Services

The Whitley County Community Corrections is currently operating under a plan to re-open the work release facility in stages. The majority of community corrections participants were modified to home detention supervision. The home detention supervisor has enacted a plan to slowly reintegrate in-home visits. The Whitley County Community Corrections Program and Whitley County Probation Department have enacted a plan to slowly begin to offer in-person supervision and resume drug testing. All of these plans have been reviewed and approved by the stakeholders listed in paragraph 2 as well as the community corrections advisory board. All staff members shall be provided with the appropriate PPE and given instructions on when and how to use the same.