

In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-196



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 8, 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 6/11/2020 , **effective May 27, 2020.**

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

Loretta H. Rush
Chief Justice of Indiana

BEFORE THE INDIANA SUPREME COURT
INDIANAPOLIS, INDIANA

NOBLE COUNTY COURTS
ALBION, INDIANA

PETITION FOR APPROVAL OF AMENDED TRANSITION PLANS

Comes now the Courts of Noble County and petitions the Supreme Court for relief under Indiana Administrative Rule 17. In support of this Petition, the Courts inform the Supreme Court as follows:

1. On March 20, 2020, the Indiana Supreme Court approved a petition by the Noble County Courts for emergency relief pursuant to Administrative Rule 17 because of the public emergency arising from the novel coronavirus (COVID-19).
2. The Courts of Noble County, Indiana have convened en banc and have determined the following emergency orders should be extended until July 31, 2020 in order to protect the public health and the health of court staff:
 - a. Authority for continuing jury trials.
 - b. Tolling of time limits imposed by rule or statute.
 - c. Authority to require all who enter the courthouse for court proceedings or any judicial matters to wear personal protective equipment.
 - d. Authority to restrict public audiences in the court based upon available space so that the public may socially distance.
 - e. Authority to conduct hearings by means of video or telephone.

3. PLANNING

In developing the plan, the judges of Noble County have consulted with the local bar, prosecutor, public defender, and county health officer. The judges have been in continuing contact with the county clerk, county commissioners, county council, sheriff, and local Department of Child Services. The judges also considered that as of May 26, 2020, Noble

County has 189 confirmed cases of COVID-19 and 21 deaths, three times the number of deaths from the four other counties in our district, combined.

3. EMPLOYMENT PROCEDURES

- a. Employees in high risk categories will be encouraged to avoid contact with the public and will be allowed to liberally use county public health days, sick days or other paid days off. Despite county policy, the court may allow employees to work remotely.
- b. Social distancing from the public will be insured through signage and physical barriers in offices and the courtrooms. Plexiglass barriers will be used to protect from airborne pathogens.
- c. Members of the public will be required to wear masks inside the courthouse.
- d. Staff members will monitor themselves for symptoms of COVID-19 (such as a fever or chills, a cough, shortness of breath or difficulty breathing, or fatigue) daily prior to coming to work, and shall not report if they are experiencing symptoms.
- e. Staff members who are exposed to COVID-19 shall quarantine themselves at home for 14 days and shall submit to testing if they experience any symptoms.
- f. Staff who experience stress, depression, or other mental health effects will be referred for appropriate care.
- g. Symptoms of or exposure to COVID-19 shall be reported to the judge of the court for which the person works.

4. FACILITY

- a. Everyone entering the courthouse is required to wear a mask and a touchless thermometer is used to screen everyone who enters.
- b. Plexiglass barriers have been placed on the tables in the courtrooms and on the desks of court staff.
- c. Social distancing will be encouraged.
- d. Courthouse facilities shall be regularly cleaned and sanitized to protect employees and the public.

5. RESUMING NON-EMERGENCY HEARINGS

- a. The courts will continue to allow parties and counsel to appear by video or telephone when reasonably appropriate.
- b. In prioritizing non-emergency proceedings, the courts will give priority to hearings involving child custody and parenting time. Priority will also be given to cases in which a defendant is presently incarcerated. Other cases will be considered by the amount of time that the matter has been pending before the court.
- c. Hearings with people who are incarcerated may be held by video.
- d. Space for the public will depend upon the available space in the courtroom considering social distancing of six feet between people or families. If there is demand for space in the courtroom that is unavailable, court proceedings will be live streamed and available through the Indiana Supreme Court website.

6. RESUMING JURY TRIALS

- a. Effective July 1, 2020, and continuing until such time as social distancing due to COVID-19 concerns is no longer required as determined by the courts, the Circuit Court courtroom shall be the only courtroom used for jury trials in Noble County.
- b. For purposes of jury trials, the Circuit Court courtroom will be reconfigured so that the jury would be seated on the eight (8) benches in what is now the spectator area with no more than two (2) jurors per bench. For purposes of voir dire, besides the prospective jurors seated in the spectator area, additional prospective jurors would be seated in alternating seats in the current jury box and additional prospective jurors would be seated in chairs appropriately spaced on the west wall under the video screen. It is estimated that up to thirty (30) prospective jurors can be accommodated for purposes of voir dire using this configuration. With regard to rest of the courtroom, currently there are three (3) counsel tables that for purposes of description will be designated as the east, center, and west tables. The center table would be removed. The east and west counsel tables would be moved or pivoted 90 degrees so that each counsel table would face the other and would be on either side of the bench. A witness chair would then be placed between the opposing counsel tables and facing the jurors in the spectator area so that the jurors as well as counsel will be able to clearly observe the witness. The court will have limited view of the

witness due to the configuration of the courtroom. Separate podiums would be placed on each end of the counsel tables closest to the spectator area so that counsel could examine a witness from their respective podium. The court will have a clear view of all jurors.

c. A portable large screen video monitor will be used in addition to the video screen on the west wall, since this configuration of the courtroom would make it difficult for the jurors in the spectator area to see the current video screen on the west wall. Microphones will be repositioned to accommodate the relocated witness stand and jury area.

d. The courtroom will be used as the jury room. All hearings that would be required to be held outside of the presence of the jury will be held in one of the other two courtrooms. Counsel are required to secure their work areas during any breaks so that the jurors would not be exposed to any extraneous information. For purposes of jury deliberation, the glass windows in the courtroom doors will be covered. Also, during jury deliberations all access to electronics (laptops, etc.) otherwise normally present in the courtroom will be eliminated.

e. The configuration has considered and accounted for the safety of all those involved in the trial except that the distance between the parties and counsel will be less than optimal due to the need to confer during the course of the trial.

e. If a jury trial is confirmed, the courts will coordinate the calling of a jury. Only one jury venire would be called for a particular trial date. Circuit Court Reporter Jenni Applegate would be the point person who would monitor the trial settings. With regard to jury trial(s) that have confirmed at the final pre-trial conference, Jenni would coordinate with the individual courts regarding the number of jurors that would need to be summoned depending upon whether the jury is a 12-person or a 6-person jury. For a 6-person jury, it is anticipated that 50-60 jurors will be called. For a 12-person jury, it is anticipated that the first day of trial would be used solely for selection of a jury with evidence to start of the second day of trial. To accommodate the larger number of jurors that would need to be called, it is anticipated we will call approximately 50 jurors to appear at 8am and another 50 to appear at 1:30 pm with the hope of getting 25-30 jurors each session.

f. Conflicting jury trial settings will be prioritized by the affected judges before the scheduled jury trials. Factors to be considered in determining the priority between two or more jury trials scheduled for the same date would

include whether a case set for speedy trial, whether the defendant is in custody, the age of the case, and any other pertinent factors.

g. Prospective jurors will be required to wear masks. For a 12-person jury, prospective jurors will be called at staggered times so that they will be able to socially distance. If a large panel is called, off-site jury selection may be considered.

7. COURT SUPERVISED SERVICES

a. Community Corrections and Probation may resume office visits. Personal protection equipment will be required and plexiglass shields have been installed for staff. Those who are ill will not be seen in person.

b. Community Corrections and Probation will resume home visits based upon the current prevalence of COVID-19, the risk level of the person with priority given to high risk, and any suspicion of rule violations.

c. CASA and GAL may resume home visits as directed by their staff.