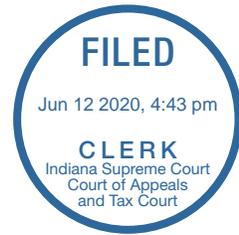


In the  
**Indiana Supreme Court**



In the Matter of the Petition of the  
Clinton Circuit and Superior Courts for  
Administrative Rule 17 Emergency Relief

Supreme Court Case No.  
20S-CB-175

**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 11, 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 6/12/2020 , **effective May 29, 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  
CASE NO. 20S-CB-175

**TRANSITION PLAN FOR EXPANDING COURT OPERATIONS IN THE CLINTON CIRCUIT COURT,  
CLINTON SUPERIOR COURT, AND FRANKFORT CITY COURT**

1. References.

- a. Indiana Supreme Court Order 20S-CB-175, In the Matter of the Petition of the Clinton Circuit and Superior Courts for Administrative Rule 17 Emergency Relief (March 19, 2020).
- b. Indiana Supreme Court Order 20S-CB-123, In the Matter of Administrative Rule 17 Emergency Relief for Indiana Trial Courts Relating to the 2019 Novel Coronavirus (COVID-19) (April 24 and May 13, 2020 and May 29, 2020).

2. Purpose. This plan is developed in accordance with the Indiana Supreme Court Orders issued in Case No. 20S-CB-175 after the Clinton County Judges consulted with public health authorities and local justice system partners and after considering relevant Executive Orders of the Governor of the State of Indiana. The plan establishes a framework for gradually resuming Court operations in Clinton County, Indiana as the ongoing threat of a public health emergency diminishes. The plan identifies the portions of the Clinton Circuit and Superior Courts' pre-existing approved Administrative Rule 17 petition that should be extended, modified, or allowed to expire. The plan additionally addresses areas of concern identified by Indiana Supreme Court Order 20S-CB-175, dated March 19, 2020.

3. Applicability. This plan applies to the Clinton Circuit Court, the Clinton Superior Court and the Frankfort City Court. This plan is intended as a guide and not to create separate rights or obligations.

4. Roles and Responsibilities. The plan was created by the Judges of the Clinton Circuit Court, Clinton Superior Court, and Frankfort City Court after consultation with officials of the Clinton County Health Department, the Clinton County Commissioners, the Frankfort City Mayor relative to City Court matters, and the following local justice system partners: Clinton County Clerk, Clinton County Sheriff, a private practitioner, the Clinton County Prosecutor, a representative of child services, and a criminal defense attorney. The trial courts recognize that more than one branch of Government at Federal, State and local levels may influence execution of a plan to expand Court operations. Some of the government entities that influence execution of a plan include:

- a. Governor of the State of Indiana. Executive Orders have declared the present existence of a Statewide public health disaster emergency. Executive Order 20-26 describes a roadmap for Hoosiers, businesses and State Government to reopen.

Changes in conditions may reveal state-wide or local vulnerabilities that necessitate issuance of Executive Orders that may cause a change in the execution of this plan.

b. Supreme Court of the State of Indiana. The Indiana Supreme Court Orders issued April 24, 2020 and May 13, 2020 direct trial courts to develop plans to expand Court operations. A petition for extension of an Administrative Rule 17 plan is contemporaneously submitted to address areas of concern identified by the Resuming Court Operations Taskforce.

c. Commissioners of the County of Clinton, Indiana. The Commissioners of Clinton County, Indiana directed the reopening of the Courthouse for public access on May 20, 2020 after consulting with healthcare professionals at the Clinton County Department of Health. While the Commissioners have not enacted a formal resolution or plan for transition, they have provided informal guidance on matters of concern and recommendations for best practices among the County Departments and Courts that share space within the Clinton County Courthouse. The Commissioners have not yet acknowledged a responsibility for resourcing adequate staff or supplies to provide special cleaning or sanitizing in the event that an employee of the Courts or any another department within County Government tests positive for COVID-19, and the Commissioners have presently left it to the responsibility of officeholders within the Courthouse to individually develop plans for periodic cleaning of highly trafficked public areas within individual offices.

d. Mayor of the City of Frankfort, Indiana. The Frankfort City Court is located in City Municipal Building, and the City opened the City Building to the public on May 18, 2020 with a number of restrictions and safety procedures as detailed below.

e. Judges of the Circuit, Superior and Frankfort City Courts. The Judges have inherent general authority to set Court schedules, case management plans, and to conduct court proceedings in a manner that preserves rights while mitigating risk of threats or adverse conditions that would otherwise impair the Court's capability to perform an essential function. The Judges have been given specific authority by approval of the Petition for Administrative Rule 17 Emergency Relief in Case No. 20S-CB-175. The Judges contemporaneously submit a petition to extend, modify or allow to expire some of the authority granted within the AR 17 plan as more fully detailed below.

5. Readiness to Expand Court Operations: Personnel. The capability of all Courts to conduct expanding operations depends on having available Judges and staff. There is presently no limitation in the availability of Judges and staff to conduct expanding operations. The Courts have installed plexiglass sneeze-guards in staff work areas; have made masks available to staff; have posted multiple hand sanitizing stations outside the courtrooms and court offices and inside the court offices; have posted signs outlining social distancing requirements and accessibility to the courtrooms and court offices; have limited access to the court offices; minimize sharing equipment to the greatest extent possible; and regularly sanitize work stations and shared equipment. Staff members will be instructed to promptly report to the Judge all instances in which the staff member believes he/she has been exposed to COVID-19. Within the

courthouse, mail delivery is provided to one member of courthouse security, who then delivers it to the appropriate offices, thereby minimizing exposure.

In the event that a Judge or staff member exhibits known symptoms of COVID-19 or believes he/she has been exposed to COVID-19, the person will be provided with information on how to get tested and how/where to receive mental health services. The Judge or staff member will be provided with resources to work remotely during such time. The supervising Judge will report the situation to the health department, the Commissioners (or Mayor in the case of the City Court) and the other Judge that shares the Courthouse. The Judges will ascertain, with assistance of the health department and the Clinton County Commissioners (or Mayor as applicable), whether the circumstances surrounding any potential exposure necessitates a temporary closure of a Court or the entire Courthouse or City Building to sanitize potentially harmful areas.

a. The Courts will notify the Supreme Court of any temporary closure and endeavor to resume operations as quickly as possible.

b. The Courts will attempt to limit the impact of any temporary closure of the Courtroom by conducting hearings using telephone or audiovisual platforms so long as a record of proceedings is preserved.

c. The Courts may conduct contingency operations at a remote location in Clinton County if notice can be provided to all relevant parties and so long as a record of proceedings is preserved.

d. By local rule already in place, the Judge of the Clinton Circuit and Superior Court may hear and decide matters in the other's Court by agreement among the Judges.

#### 6. Readiness to Expand Court Operations—Courthouse, City Building and Courtrooms.

There are two courtrooms in the County courthouse in Frankfort for operation of the Clinton Circuit and Superior Court. There is one courtroom in the municipal building for operation of the Frankfort City Court. The courtroom for Circuit Court is substantially larger among the two courtrooms in the courthouse. The size and layout of both courtrooms in the courthouse presents a constraint to conducting certain types of court proceedings as further described:

a. Jury Trials. An order of the Indiana Supreme Court generally prohibits conducting jury trials before July 1, 2020. Even after the prohibition is lifted on July 1, 2020, the physical layout and dimensions of the existing courtrooms in the county courthouse create a challenge to conducting a jury trial as more fully explained by discussing the impact of size and space on 12-person and 6-person jury trials:

(1) 12-person jury trials. Limitations of space will make it impossible to conduct jury selection for a 12-person jury trial in any Courtroom in Clinton County, Indiana while situating participants at a recognized safe social distance of 6 feet from one another. Once jury selection is complete for a 12-person jury, it is likely possible for participants to conduct a 12-person jury trial only in the Circuit Court and only if the presiding Court

may exclude spectators from entering the Courtroom. Additionally, the dimensions and available space in the jury deliberation room creates a constraint to safely conducting deliberations during a 12-person jury trial. One possible method to overcome the obstacle created by the limited amount of courtroom space is to conduct jury selection at an off-site location, such as at an airport hangar or library auditorium, and thereafter to conduct all parts of the trial itself in one of the courtrooms. Likewise, the limitation of space for jury deliberations may be solved by conducting deliberations at an off-site location so long as the deliberation is of limited duration. The Courts will be flexible in considering motions to continue jury trials if the parties believe the outlined procedures are not suitable for the particular trial and/or the trial can be continued without infringement on a party's constitutional rights.

(2) 6-person jury trials. It will be challenging, but not impossible, to conduct jury selection for a 6-person jury in one of the courtrooms of the courthouse while there remains a recommended social separation of 6 feet. Once jury selection is complete for a 6-person jury trial, it is likely possible for participants to remain a 6-foot social distance throughout most portions of the trial in both courtrooms. The deliberation room appears large enough to allow jurors to maintain a safe distance from one another during 6-person jury deliberations. The Courts will be flexible in considering motions to continue jury trials if the parties believe the outlined procedures are not suitable for the particular trial and/or the trial can be continued without infringement on a party's constitutional rights.

(3) For all jury trials, the Judges will consult with counsel/parties to prioritize cases proceeding to trial, considering all relevant factors, including whether the defendant is incarcerated, the age of the case, whether the case involves victims, the number of witnesses anticipated, the anticipated length of trial, availability of using off-site locations, security risks presented, whether the defendant can be released on a pre-trial program and the case continued.

(4) The Judges will mail a separate questionnaire to potential jurors to inquire about their medical risks and employment concerns specific to COVID-19. The Judges will advise jurors of safety precautions and sanitation measures at the courthouse. The Judges will advise jurors of deferral options. The Judges will ensure that additional measures are taken to promote safety and social distancing during jury selection, breaks, and meals.

(5) In light of the present position of the Clinton County Commissioners regarding their responsibility for providing additional cleaning and sanitizing of the courthouse as explained in paragraph 8(k), the Judges will, as they deem appropriate, prior to each jury trial, make arrangements for cleaning and sanitizing the courtroom, jury room, restrooms and all other areas of the courthouse of which the jurors will utilize. The payment of contracted obligation for such services are an expense that should be paid by the County Commissioners if there is not a budgeted line item in the Courts' budgets to sustain such expense.

b. Bench Trials and Hearings. Both Courtrooms are of sufficient size and layout to accommodate most bench trials and hearings. The Circuit and Superior Court Judges and staff will coordinate schedules for hearings and bench trials to minimize the potential for large crowds of people appearing at the Courthouse for hearings. The Circuit and Superior Court Judges will also encourage the use of telephonic and audiovisual connection to conduct hearings when reasonably possible. If an objection is raised to conducting a bench trial or a sentencing in a criminal case by audiovisual means, the Courts will plan to conduct the proceeding with personal appearances that ensure the rights of the accused are protected. The Courts, after consultation with counsel and/or parties, if possible, will prioritize cases on the calendar in an effort to maximize available court time, minimize exposure to COVID-19, and ensure compliance with all rules and restrictions outlined in Supreme Court Orders and herein. In all cases, the Judges will consider it within their inherent authority to limit spectators from observing the proceedings whenever their presence will interfere with litigants, attorneys and staff maintaining a safe social distance from one another.

c. Small Claims Cases. The Clinton Superior Court has jurisdiction over the Small Claims docket. Small claims rules require the Court to schedule a small claims case within 30 days of filing. To ensure that the small claims docket does not become overcrowded, the Superior Court seeks authority to toll the timeline for setting cases during a period of transition. Using audiovisual connection for small claims cases is only going to be possible if the Court has email addresses for all litigants and their witnesses, and pro se litigants rarely have or provide such information at filing.

d. City Court Cases. The Frankfort City Court only hears infraction and ordinance violation cases, and does not hear any criminal cases. Because most litigants in these cases appear pro se, the City Court Judge is not inclined to use electronic means of appearance by parties. The courtroom in the City Building, as well as other areas of the City Building, are of sufficient size and layout to accommodate most bench trials and hearings. The City Court Judge will exercise caution in the setting of hearings so as to not have too many people present at one time, and will ensure that plenty of space is available in the courtroom and hallways for social distancing. In the event that a party is concerned about their safety, the Court will be lenient in continuing hearings and bench trials.

e. Senior Judges. The Judges will consider the use of Senior Judges, when possible, but also note that there are certain limitations, including the number of senior judges available in the immediate area, many senior judges are in an at-risk category due to age, and limitations with court recording equipment and off-site resources.

f. Court Supervised Services. The Judges, after consultation with Probation and Community Corrections, have verified that those programs have implemented sanitation, safety measures, and social distancing as outlined herein. Probation and Community Corrections will continue to conduct virtual visits when possible and appropriate, but will gradually increase home visits when safe and practical. Probation and Community will advise staff as to appropriate procedures for when a staff member believes he/she has been exposed to COVID-19, as outlined in paragraph 5.

7. Media and Spectators. The Court will not deny the media access to observe Court proceedings. The Court intends to limit spectators from personally watching court proceedings only if a spectator's presence interferes with measures to allow the litigants and their attorneys to conduct proceedings and maintain a safe social distance from one another. The Court will make a record whenever a person is asked to leave the courtroom for such a reason. The Court will allow members of the public who are excluded from the courtroom for any reason to listen to testimony of public hearings at a later date.

8. Use of Risk Mitigation Measures at the Courthouse. The Courts recognize that among many ways to limit the spread of COVID-19, it is best to maintain a socially safe distance of at least 6 feet from one another and to avoid large gatherings or crowds. The Judges will endeavor during transition to set simple rules and guidance for litigants and attorneys that will facilitate these two objectives while allowing court operations to occur. Some risk mitigation measures that have been implemented and will continue to be refined include:

a. Scheduling hearings at wider intervals during transition to avoid gathering of persons waiting for Court.

b. Limiting witnesses from entering the Courtroom until it is their turn to testify.

c. Conducting a variety of hearings by audiovisual technology and telephone. Subject to an evolving comfort level of each Judge and the participants with audiovisual technology, the Courts will expand frequency and types of hearings to conduct by audiovisual technology and telephone.

d. Discouraging hallway negotiations.

e. Encouraging paper submission of largely ministerial motions and when oral argument would be superfluous.

f. Placement of hand sanitizer for public use in conspicuous locations on all floors of the Courthouse.

g. Providing masks to employees who want to wear them.

h. Encouraging but not requiring participants in the Courtroom to wear a mask.

i. Placement of markers and signs on the floors and walls in a manner that encourages the public to maintain a healthy distance from one another if the public appears to lack awareness.

j. The Judges consider it within their inherent authority to direct Courthouse and City Building security to remove any person who exhibits symptoms of COVID-19. The criteria for identifying symptoms will be a matter of coordination with a health officer. The procedure to be adopted will include identifying the person attempting to gain entry

and the office where the business was to be conducted and encouraging the officeholder to contact the person to remotely conduct business or by alternate means.

k. The Circuit and Superior Courts will invite the County Commissioners to re-examine their responsibility for improving the regular cleaning of surfaces regularly touched by the public in common areas. While the staff of the Courts will bear some assistance to keep the courtrooms and court offices clean, the Judges conclude this function lies mostly within an obligation of the Commissioners as caretakers and stewards of a building constructed for public use. Presently the Commissioners deny that regular cleaning more frequently than once per day will improve any vulnerability that the Judges believe exists when there is obvious active public use of the Courtrooms, court offices and restrooms.

9. Request for Supreme Court Approval of AR 17 Plan. The Courts intend to submit an Administrative Rule 17 petition contemporaneously with this plan that will request the Supreme Court extend, modify or allow to expire certain portions of the existing Clinton County AR 17 plan as follows:

a. Extend the tolling through August 14, 2020, of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, and mental health matters;

b. Extend the tolling through August 14, 2020 of all civil judgments, support, and other orders in all other civil matters before the courts.

c. Extend the tolling through August 14, 2020 of the charging of interest.

d. Extend the suspension of all 12-person jury trials through August 14, 2020; however, direct the Courts to explore whether the constraints created by limited space in the Clinton County courtrooms and the jury deliberation room may be overcome after August 14, 2020 by conducting jury selection and deliberations at an off-site location in Clinton County.

e. Recognizing the Courts will exercise wider scheduling intervals to reduce crowds, extend through August 14, 2020 the Courts' discretion to toll scheduling SC cases, JD cases and JC and TPR cases to commence or conclude within present mandatory time limits except for detention hearings and other essential hearings.

f. Extend through January 1, 2021 authority of the Courts to use audiovisual connection with participants for all court proceedings, except trials in criminal cases.

g. Extend the tolling through August 14, 2020 of the issuance of or execution of writs and civil bench warrants.

h. Extend through August 14, 2020 authority of the Courts to take action upon (a) finding the flu and/or flu-like symptoms in any attorney, witness, or self-represented litigant, or, (b) exposure of such individuals to anyone who has or may have the virus,

and such shall be considered “good cause” to continue the hearing, suspend the hearing, or allow a person to appear remotely for the hearing. To the extent possible and without violating statutory or Constitutional rights, the courts shall endeavor to accommodate such requests.

i. Extend through August 14, 2020 authority of the Courts, in their discretion and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms and court offices to the extent necessary to provide adequate social distancing, including by limiting access to the court offices to only those persons inquiring about his/her cases, attorneys, staff, law enforcement, and other necessary personnel.

j. Extend through August 14, 2020 authority of the Courts to examine and review placement options for criminal defendants, including placement in the Clinton County jail and through community corrections and to maintain regular contact with the Sheriff and Jail Commander in regards to the ability to safely house inmates.

10. Court Supervised Services. The Clinton County Probation Department, Clinton County Community Corrections and CASA of Clinton County are entities providing Court supervised services. The probation department and the community corrections office are located at separate locations, and both operate remotely from the Courthouse. The challenges they face are no less difficult because they most effectively supervise when they can have personal visits with offenders. Both offices are encouraged to use audiovisual connections to supervise offenders whenever possible. Both offices will be granted authority by the Judges to allow low and moderate risk offenders to have alternate methods for completing their counseling and community service requirements. CASA of Clinton County will be encouraged to utilize phone and audiovisual technology to complete evaluations and reports for the Court.

11. The points of contacts for this plan are:

- a. Bradley Mohler, Judge of the Clinton Circuit Court, [bmohler@clintonco.com](mailto:bmohler@clintonco.com).
- b. Justin Hunter, Judge of the Clinton Superior Court, [jhunter@clintonco.com](mailto:jhunter@clintonco.com).
- c. Matthew Beardsley, Judge of the Frankfort City Court, [beardsley@frankfort-in.gov](mailto:beardsley@frankfort-in.gov)