

In the Indiana Supreme Court

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

Supreme Court Case No.
20S-CB-137



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 28, 2020.**

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

Loretta H. Rush
Chief Justice of Indiana

In the Matter of the Amended Petition)	Supreme Court Case No.
of the Hendricks County Courts for)	20S-CB-137
Administrative Rule 17 Emergency Relief.)	

Hendricks County Courts’ Transition Plan for Expanded Operations

I. Administrative Rule 17 Components

On May 29, 2020, this Court issued an order extending trial courts’ emergency tolling authority through August 14, 2020. At this time, the courts do not anticipate requesting an extension of tolling authority beyond August 14, 2020.

On May 13, 2020, this Court issued an order staying jury trials until at least July 1, 2020 without prior approval of this Court. The Hendricks County Courts do not intend to resume jury trials until July 13, 2020.

The courts continue to review county-jail and direct placement sentences of non-violent inmates and juveniles. Since the State of Indiana declared a public health emergency for the COVID-19 outbreak on March 6, 2020, the courts have reduced the county-jail population by approximately 100 detainees.

Unless further extended by order of this Court, the prohibition on issuing or serving writs of attachment, civil bench warrants, or body attachments pursuant to Trial Rule 64 shall expire at 12:01 am on August 15, 2020. At this time, the courts do not anticipate requesting an extension of this prohibition.

In criminal cases, the courts request an extension through August 14, 2020 to (1) hold pretrial and discovery status hearings by counsel only; and (2) allow attorney-only conferences whenever possible without the requirement of a motion.

In civil cases, the courts request an extension through August 14, 2020 to allow attorney-only conferences whenever possible without the requirement of a motion.

All other portions of the county's preexisting approved Administrative Rule 17 petition should be allowed to expire.

II. Planning

On May 13, 2020, the Indiana Supreme Court issued its "Order Extending Time for Expanding Trial Court Operations," directing trial courts to submit transition plans for expanded operations and submit those plans for the Supreme Court's approval no later than May 30, 2020.

In response to this order, the Hendricks County Courts convened a group of local justice system partners, including the county clerk, sheriff, private practitioners, prosecutor, child services, and criminal defense counsel, to collaborate on a safe and responsible approach to expanding operations. Members of this group will continue to meet virtually on a biweekly basis.

In addition, the courts continue to coordinate with the Hendricks County Health Department, the Executive Director to the Board of Commissioners, and the facilities manager for Hendricks County Government to ensure local health conditions and facility readiness are appropriate for gradually expanding judicial proceedings.

As a result of these collaborations, the Hendricks County Courts respectfully request this Court to approve the following transition plan for expanded operations, effective as of the date of this filing.

III. Employment Procedures

Employees 65 and over and individuals in a high-risk category as defined by the Indiana State Department of Health may continue to remote work as much as possible. In addition, judges may allow employees to remote work on a rotational basis to reduce office capacity.

Employees who are sick, develop COVID-19 symptoms, or believe they may have been exposed by close contact will not report for work. These employees will seek medical care or COVID-19 testing before returning to the workplace.

Masks, face coverings, and other protective gear are recommended for employees but are not required. The Hendricks County Commissioners have made cloth masks available for all employees. In addition, employees have ready access to hand sanitizer, handwashing stations, or other disinfectant products.

A St. Vincent employee assistance program is available to assist employees and their families in overcoming personal problems, including emotional distress, work stress, alcohol and drug abuse, and marital and family conflicts.

IV. Courthouse Facility Plan

To ensure a safe workplace for employees, workstations have been moved 6 feet apart and temporary barriers have been installed between some workstations. Seating has been removed from the breakroom to reduce communal use.

Temporary barriers have also been installed in some courtrooms; where there are no barriers, tape markers at 6-foot intervals have been used. Staircases are used in only one direction; the elevator capacity is limited to one person; and seating has been removed from public areas. Court users and the public have ready access to hand sanitizer and handwashing stations.

High-touch surfaces are regularly cleaned throughout the workday and at the close of business. In the event of an exposure, infected areas will be professionally cleaned by a biohazard remediation company.

Employees avoid touching their faces and wash their hands after handling any deliveries.

Alternative venues that allow for greater social distancing, including the Hendricks County Fairgrounds, may be used to conduct hearings.

These proposed measures are consistent with recommendations from the Hendricks County Health Department, the Executive Director to the Board of Commissioners, and the facilities manager for Hendricks County Government.

V. Screening Procedures for the Public

At this time, masks, face coverings, and other protective gear are recommended for court participants and the public but are not required. Subject to supply chain disruptions, surgical masks will be available for court participants and the public at the magnetometer.

The courts are considering purchasing temperature-screening thermographic cameras that can detect elevated skin-surface temperatures in moving crowds with accuracy.

These proposed screening procedures are consistent with recommendations from the Hendricks County Health Department.

Modified 6/9/20

VI. Resuming Non-Emergency Hearings

The courts have developed a phased approach for resuming hearings. This roadmap is subject to change based on guidance from state and/or local public health agencies. Four guiding principles will determine if phases will move forward:

1. The number of hospitalized COVID-19 patients in Hendricks County has decreased for 14 days;
2. The county retains its surge capacity for critical care beds and ventilators;
3. The county retains the ability to test all residents who are COVID-19 symptomatic, as well as healthcare workers, essential workers, first responders, and others as delineated on the ISDH website; and
4. Local health officials have systems in place to contact all individuals who test positive for COVID-19 and complete contact tracing.

Phase 1: May 17 – 31, 2020. When possible, hearings will be conducted over the telephone or through video conferencing. Generally, only criminal hearings that result in the disposition of the case will be heard in-person.

Phase 2: June 1 – July 5, 2020. Hearings may continue to be conducted over the telephone or through video conferencing. However, in-person hearings may resume. Within each courtroom, social distancing will be observed. Spectators will not be permitted in courtrooms, and witnesses will be encouraged to testify remotely. Court proceedings (except hearings that are confidential by law) may be live-streamed on a public platform.

Phase 3: July 6, 2020 – Beyond. Hearings may continue to be conducted over the telephone or through video conferencing. These hearings (except hearings that are confidential by law) may be live-streamed on a public platform. However, in-person hearings may resume in all cases. Within each courtroom, social distancing will be observed. A limited number of spectators will be permitted in courtrooms, subject to each court's reduced capacity. Witnesses will be permitted to testify in-person.

The courts shall continue to prioritize criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, civil commitment hearings, petitions for temporary injunctive relief, proceedings related to emergency protection of elderly or vulnerable persons, petitions for appointment of a guardian or conservator, and proceedings necessary to safeguard applicable constitutional protections.

At this time, the courts do not believe that it will be necessary to use the services of senior judges to supplement existing judicial resources.

The courts have suspended transportation of incarcerated persons to the courthouse. All hearings for in-custody detainees will continue to be conducted over the telephone or through video conferencing.

VII. Jury Trials

The courts have developed a phased approach for resuming jury trials. This roadmap is subject to change based on guidance from state and/or local public health agencies. The four guiding principles for resuming non-emergency hearings will also determine if these phases move forward.

Phase 1: July 13 – August 9, 2020. A limited number of pilot jury trials may resume.

Phase 2: August 10 – September 13, 2020. All criminal jury trials may resume.

Phase 3: September 14, 2020 – Beyond. Civil jury trials may resume.

For all phases, there will be no more than one jury trial per week.

Additional summons will be mailed in anticipation of lower jury yields. An information sheet will be included with summons advising prospective jurors that the courts take public health and safety seriously and detailing the policies implemented to reduce the risk of infection for jurors and other court participants.

The courts will implement a generous deferral policy. First deferrals will be granted as a matter of right. Second deferrals will be granted with good cause, e.g. persons currently in self-quarantine, those at high-risk of infection and/or living with others at high-risk of infection, health care professionals, etc.

All prospective jurors will be asked to complete the CDC Coronavirus Self-Checker the evening before jury selection. A link to the self-checker will be included in the jury summons. Any prospective juror who the self-checker recommends to “monitor for symptoms, stay at home” will be directed to call the court the morning of jury selection to receive a deferral.

A link to the Supreme Court's jury orientation video will also be included in the jury summons with a request they watch it on their own prior to appearing for voir dire.

Prospective jurors who receive a "sounds like you're feeling okay" result from the CDC Coronavirus Self-Checker will appear for jury selection the following day at staggered times. All trial participants will have their temperature taken before entering the courthouse. Surgical masks will be offered to prospective jurors who do not have their own face covering. Alternative venues that allow for greater social distancing, including the Hendricks County Fairgrounds, may be used to conduct voir dire.

Jurors will be socially distanced throughout jury selection and trial. Subject to each court's reduced capacity, additional alternate jurors will be selected. Jurors will eat and deliberate in courtrooms rather than jury rooms. Meals will be provided to selected jurors during each day of trial to limit any travel in and out of the courthouse as well as to minimize jurors' interaction at local restaurants.

Documentary evidence will be presented electronically. All jurors will be provided with single-use mini notebooks and pens for the duration of the trial. When necessary, jurors will be provided with nitrile gloves before handling any demonstrative exhibits.

Several of these proposed measures are based on recommendations from the Hendricks County Prosecuting Attorney and/or Chief Public Defender.

VIII. Court-Supervised Services

Probation Services

The Courts have developed a phased approach for resuming probation services.

Phase 1: May 26 – May 31, 2020. In-office visits may resume for moderate and high-risk clients. Probation officers and their clients will be required to wear masks, face coverings, or other protective gear during visits. Surgical masks will be offered to clients who do not have their own face covering.

Phase 2: June 1 – June 14, 2020. Home visits may resume. Probation officers will be required to wear masks, face coverings, or other protective gear during visits. Probation officers will not enter clients' homes; instead home visits will be conducted on the doorstep with adequate social distancing.

Phase 3: June 15 – June 30, 2020. In-office visits may resume for low-risk clients. Probation officers and their clients will be required to wear masks, face coverings, or other protective gear during visits. Surgical masks will be offered to clients who do not have their own face covering.

Phase 4: July 1, 2020 - Beyond. In-office drug testing may resume for low-risk clients. Probation officers and their clients will be required to wear masks, face coverings, or other protective gear during urine collection. Surgical masks will be offered to clients who do not have their own face covering.

CASA Services

In-person visits have resumed for CASAs who are not in a high-risk category as defined by the Indiana State Department of Health. CASAs are required to wear masks, face coverings, or

other protective gear during visits if adequate social distancing cannot be maintained. When possible, CASAs do not enter homes; instead, visits are conducted outside. Surgical masks will be provided to CASAs who do not have their own face covering.

CASAs who are in a high-risk category will continue to visit children remotely. In the event a CASA in a high-risk category believes that a child should be visited in-person, the Program Director or another volunteer who is not in a high-risk category will conduct the visit instead.