

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-189



## Order Approving Expansion of Operations Plan In Part

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 23, 2020.

The Court finds that the Plan was made in coordination with appropriate local officials 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 **in part**, subject to the following exceptions:
  - (a) The petitioning court(s) shall resume jury trials, subject to the health precautions proposed in the Plan, **no later than the week of August 17, 2020**. The petitioning court(s) may seek relief from this requirement pursuant to Administrative Rule 17 if a particularized local emergency requires suspending jury trials beyond that date.
  - (b) The petitioning court(s) shall permit the public to observe courtroom proceedings, either in person or virtually, subject to public health recommendations and applicable Constitutional limitations.

(c) The petitioning court(s) shall provide information on mental health resources to its employees.

The petitioning court(s) shall comply with the terms of the Plan **as modified above** through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/24/2020 , **effective June 23, 2020.**



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Loretta H. Rush  
Chief Justice of Indiana

**IN THE  
INDIANA SUPREME COURT**

IN RE PETITION FOR RELIEF  
UNDER INDIANA UNDER  
ADMINISTRATIVE RULE 17

Supreme Court Case No.  
20S-CB-189

***AMENDED PETITION FOR EMERGENCY RELIEF***

Come now the Blackford County Circuit/Superior Courts, having conferred with local officials, and now respectfully submit this Amended Petition for Emergency Relief under Administrative Rule 17 and accompanying Transition Plan for Gradually Expanding Operations.

1. Resuming normal court operations differs significantly from reopening the economy because members of the public are compelled to attend court proceedings, and large dockets and jury service create circumstances which are the very definition of "community spread." The courts are acutely aware of their responsibility for security, including bio-security, and the safety and well-being of court staff, clerks and security along with members of the public during this pandemic which is far from subsiding.

2. In preparation for this Petition and Transition Plan, petitioners have consulted with the Blackford County Attorney, Blackford County Clerk, Blackford County Health Department, Blackford County Commissioners' Office, Blackford County Sheriff's Department, Blackford County Maintenance, Blackford County Prosecutor's Office, Blackford County Public Defender, the Blackford County Probation Department, the Blackford County Community Corrections Department and the Blackford County Bar Association.

3. The Centers for Disease Control ("the CDC") has recommended that prior to beginning a phased re-opening, the following criteria should be met:

- a. The number of new cases declines for at least two weeks.
- b. Sufficient public health capacity to conduct contact tracing on all new cases.

- c. Sufficient diagnostic testing to test everybody with Covid-like symptoms.
  - d. Sufficient health care system capacity to treat everyone safely.
4. Currently, the number of new cases in Blackford County has not declined, nor has it increased.
  5. Blackford County is not particularly at risk or susceptible to “hot spots”.
  6. The CDC and the Blackford County Health Department recommend that people wear face coverings while in public. Face coverings should be required to enter the third floor of the courthouse.
  7. The CDC and the Blackford County Health Department recommends social distancing be practiced.
  8. The Blackford County Health Department recommends that hand sanitizer be made available in the courthouse and that frequent disinfecting of hard surfaces, i.e., door handles, table tops, chairs, occur relative to use.
  9. The Blackford County Health Department supports any decision to require mitigation measures, for example, video hearings, reduced flow of people into the courthouse, remote working where possible, and screening persons admitted to the courthouse.
  10. The Courts of Blackford County are requesting that the tolling of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters before the courts of Blackford County be extended through July 4, 2020. Further, no interest shall be due or charged during this tolled period.
  11. The Courts of Blackford County are requesting the suspension of all criminal and civil jury trials, including any speedy trials requested pursuant to CR 4, be extended through July 4, 2020.
  12. The Court of Blackford County are requesting the suspension, through July 4, 2020, of all civil proceedings, *except* juvenile detention hearings, juvenile child in need of services (CHINS) detention hearings, and other civil court and domestic relations matters deemed “essential” in the courts’ discretion, balancing public health risks with the urgency of the matters in dispute; or to convert in-person proceedings to telephonic or video-conference proceedings at the discretion of each judge and subject to constitutional limitations.

13. Through July 4, 2020, the Courts of Blackford County request the Juvenile Court, in its discretion, be allowed to hear only JD and JC detention hearings and other hearings it deems essential and to require only essential staff to work, consistent with the Transition Plan.

14. The Courts of Blackford County request that through July 4, 2020, they be allowed, in their discretion, and subject to applicable Constitutional limitations, to limit spectators (other than parties to the litigation and their attorneys) in courtrooms to the extent necessary to provide adequate social distancing.

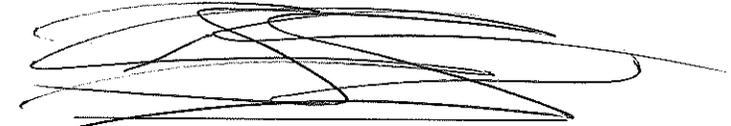
15. Through July 4, 2020, any attorney wishing to appear remotely for any status conference or non-evidentiary hearing in any of the courts of Blackford County may do so without further leave of court upon filing a "Notice of Remote Appearance" in the court in which the matter will be heard. Remote appearances shall be coordinated through the court in which the hearing is to be held.

16. Through July 4, 2020, the Courts of Blackford County may consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, or witness expected to testify; or (b) exposure of such individuals to anyone who has or may have COVID-19; to constitute "good cause" to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

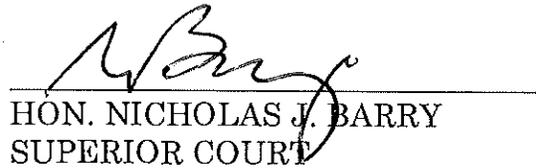
17. The Courts of Blackford County seek to extend the prohibition on issuing new writs of attachment, civil bench warrants, or body attachments, and staying any such writs or warrants not yet served, through July 4, 2020.

18. The Courts of Blackford County respectfully request the Court to approve the attached Transition Plan for Gradually Expanding Operation.

Respectfully submitted this 10<sup>th</sup> day of June, 2020.



HON. BRIAN W. BADE  
CIRCUIT COURT



HON. NICHOLAS J. BARRY  
SUPERIOR COURT

## ***TRANSITION PLAN FOR GRADUALLY EXPANDING OPERATIONS***

### **I. Employment Procedures**

A. Remote work will continue to be allowed where feasible until June 1, 2020, with court staff generally returning to court offices on that date unless otherwise directed by the court.

B. Court staff over age 65, and those who have “high-risk health conditions” will continue to work from home until at least July 4, 2020 (High Risk Individuals are considered 65 and older; individuals with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, and asthma; and those whose immune system is compromised by disease or medication). Employees should bring any concerns about their risk status to their immediate supervisor.

C. Employee Screening. Employees who have had recent contact with someone who has COVID-19 shall not return to work until after a period of self-quarantine and remaining symptom free for fourteen (14) days.

Employees are required to monitor their health and shall not report to work if, in the prior three (3) days, they have experienced: Fever of 100.4 or greater; Chills; Muscle and body aches; Headache; Sore throat; Cough; chest tightness, or shortness of breath; or any new loss of taste or smell. If onset of symptoms occurs at work, employees shall report and go home.

Employees must report if anyone living in their household has tested positive for COVID-19 within the last 14 days.

D. Courts, in their discretion, and where feasible, may use rotating schedules to minimize the number of staff in the office at any one time.

E. Employees are required to wear masks when interacting with visitors, staff, attorneys and members of the public.

F. Employees are required to maintain a distance of at least six (6) feet from others.

G. Employees are required to practice a frequent schedule of hygiene, including hand washing with soap and water, or using an alcohol-based sanitizer;

avoid touching the face; sneezing or coughing into a tissue or the arm; and frequent disinfection of used items and surfaces.

Equipment should not be shared. Copiers shall be disinfected after use. Common break areas shall not be used by more than one individual at a time, and all surfaces must be disinfected after each use.

H. Judges, court, clerk and security staff as well as members of the public who have a fever of 100.4 degrees or higher are not to come into the courthouse.

I. Judges, court, clerk and security staff as well as members of the public who have trouble breathing and/or a dry, unproductive cough, are not to come into the courthouse.

J. Judges, court, clerk and security staff as well as members of the public who have tested positive for COVID-19 are not to come into the courthouse until medically cleared.

K. Judges, court, clerk and security staff as well as members of the public who have had contact with anyone who has tested positive for COVID-19 are not to come into the courthouse until after 14 days of isolation with no additional contact.

## **II. Procedures for the Public**

A. The public will be required to wear a face covering for admittance to the third floor of the Blackford County Courthouse. The third-floor houses both Courts as well as the probation department. Members of the public who are parties to actions held in person, as well as limited spectators will be required to social distance and follow all instructions provided by judicial officers and Court staff including, but not limited to, remaining in taped off designated areas and avoiding areas marked as closed access.

## **III. Courthouse Facility Plan**

A. All persons entering the third floor of the Courthouse will be required to wear a mask. A safe social distance of six (6) feet shall also be maintained. If an employee is not interacting with others, the mask may be removed while a social distance of six (6) feet is maintained at their workstation. To facilitate communications and a good record, judges, attorneys, parties and witnesses may remove their masks during testimony or argument while maintaining a social distance of six (6) feet.

B. No in person filings will be allowed in the clerk's office or in the courts through July 4, 2020. Electronic filing, by fax or e-filing, is available, and a receptacle for filings shall remain outside the clerk's office on the first floor. All filings deposited in the receptacle must be fastened together and shall remain in the receptacle for thirty-six (36) hours before being processed. Incoming mail shall be processed in the same manner.

C. All hard surfaces, i.e. tables, chairs, door handles, etc. shall be disinfected after each day where hearings are held and, for common doors and areas, at least three times during the day and more frequently depending on use/traffic.

D. Hand sanitizer dispensers shall be available at various locations around the courthouse, including at the entry and exits from the building and courtrooms.

E. Plexiglass partitions shall be installed at clerk and bailiff stations in the courtrooms, at other clerk locations in the courthouse.

#### **IV. Resuming Non-Emergency Hearings**

A. Videoconference hearings may continue through August 15, 2020. The courts may start to resume in person hearings June 1, 2020 subject to scheduling that allows for social distancing in the court rooms, and minimizes the number of people coming into, and congregating in, the courthouse at the same time. The courts shall endeavor to schedule hearings so that no more than 10 people are in the court room at the same time. All in attendance shall adhere to face covering and social distancing requirements.

B. Other than judges, court staff, clerk staff, security, prosecutor staff, public defender staff and attorneys, at least through July 4, 2020, only essential parties, witnesses and victims shall be admitted to the third-floor of the courthouse, subject to protocols herein.

C. When live hearings must be held, attorneys, parties and witnesses must arrive timely and depart promptly upon conclusion.

D. Courts shall stagger their dockets to allow no more than ten hearings per hour in order to minimize contact and provide for social distancing.

E. Where possible, remote testimony by witnesses will be permitted.

## V. Court Supervised Services

A. Probation is currently open with all staff in the office. Plexiglas has been constructed as a partition between probationers and the probation officers when they are checking in or making payments. A separate entry way is utilized for drug screens to avoid commons areas and more exposure. Low-risk, low-need probationers are allowed to report by phone. Probation expects for clients to return to treatment and classes in person in June. Probationers are instructed to call when they arrive and staff will advise them of when the prior appointment has left before the next probationer enters the building to promote social distancing.

B. Daily call in on pretrial supervision remained during the shutdown. Community corrections officers began going into the office one day a week at separate times and have now resumed office hours with the use of social distancing, and masks. Clients are scheduled for appointment one at a time. Drug screening will resume in June. The community corrections officers are addressing those who are due in Court first. Community corrections officers will be attending Court with the attorneys, prosecutors, and probation to conference cases before going on the record.

C. Guardian Ad Litem will continue to meet with parties, protected children, other legal counsel, and necessary witnesses remotely as is possible. Guardian Ad Litem will consult with the local Department of Child Services when it is necessary to meet any individual relevant to their duties in person in an effort to find efficient means of in-person contact.

## V. Jury Trials

A. Jury trials shall not resume before July 1, 2020.

B. Jury panels shall be instructed to report to the Blackford Circuit Court where jury selection shall be conducted.

C. Jury trials shall be conducted in the courtrooms with the jurors, attorneys and witnesses maintaining a safe social distance. In limited spaces, this may require that few, or no, members of the public will be allowed to attend.

D. All exhibits admitted into evidence shall be displayed electronically. No paper copies shall be distributed to or passed among jurors.

E. The attached additional COVID-19 questionnaire shall be sent to jurors.

F. Automatic deferrals shall be granted for essential workers; jurors with vulnerable health conditions, or living with those who are vulnerable; jurors who have been exposed to COVID-19 and who have not been in quarantine and symptom free for the fourteen (14) days prior to jury service; jurors who are just returning to work after having been furloughed; jurors exhibiting symptoms occurring upon reporting or after jury is impaneled.

Court:

Juror Name: \_\_\_\_\_ Juror #: \_\_\_\_\_

**ADDITIONAL JUROR QUESTIONNAIRE REGARDING COVID-19**

- 1. Are you an essential healthcare worker? \_\_\_\_ YES \_\_\_\_ NO
- 2. If yes, where are you employed and in what capacity? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 3. Have you been exposed to COVID-19? \_\_\_\_ YES \_\_\_\_ NO
- 4. If yes, approximate date of exposure: \_\_\_\_\_
- 5. Have you tested positive for COVID-19? \_\_\_\_ YES \_\_\_\_ NO
- 6. If yes, approximate date of positive test: \_\_\_\_\_
- 7. Are you currently experiencing any symptoms of COVID-19 and been told to quarantine? \_\_\_\_ YES \_\_\_\_ NO
- 8. If yes, on what date were you told to quarantine? \_\_\_\_\_
- 9. Are you an employee who has been laid off due to COVID-19 and have recently been returned to work? \_\_\_\_ YES \_\_\_\_ NO
- 10. If yes, where are you employed, how long were you laid off, and when did you return to work? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 11. Are you considered an individual in a vulnerable population due to age or health conditions? \_\_\_\_ YES \_\_\_\_ NO
- 12. Any other concerns related to COVID-19 you have regarding your jury service? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**I SWEAR OR AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE ABOVE STATEMENTS, REPRESENTATIONS, AND ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

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SIGNATURE OF JUROR