

In the Indiana Supreme Court



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

Supreme Court Case No.
20S-CB-126

Trial Court Case No.
72C01-2003-CB-8

Order

The Scott Circuit and Superior Courts (“courts”) *en banc* have petitioned this Court for emergency relief pursuant to Indiana Administrative Rule 17. The petition states the World Health Organization has determined the 2019 novel coronavirus (COVID-19, “the virus”) outbreak to be a worldwide pandemic; the Governor of Indiana has declared a public health emergency because of the virus; the President of the United States of America has declared the virus a pandemic and a National Emergency; all school districts in Scott County have suspended in-person learning and extra-curricular activities until at least April 6, 2020; the Center for Disease Control has advised that “social distancing” is an effective strategy for the prevention of the further spread of the virus; the Scott County Health Department reports that due to the high concentration of HIV-positive individuals in the Scott County Jail being kept in close quarters, a COVID-19 outbreak involving the jail would be catastrophic and would strain not only the jail operations but the available medical and hospital facilities of the county. Further, the petition asks the Supreme Court to declare that an emergency exists in Scott County and to make appropriate emergency orders for Scott County directing and allowing the courts and clerk of Scott County to alter, modify, and suspend necessary procedures as provided in the emergency plan submitted, so as to appropriately address this emergency. The Hon. Jason M. Mount has been appointed as the presiding Judge for this emergency.

The Court finds that good cause exists for granting emergency relief. And it appears from the petition that this emergency will inhibit litigants’ and courts’ ability to comply with statutory deadlines and rules of procedure.

Being duly advised, the Court GRANTS IN PART the petition, DECLARES pursuant to Indiana Administrative Rule 17 that an emergency exists in Scott County, and APPROVES the plan in large part as set out below. The Court further ORDERS as follows to ensure the orderly and fair administration of justice during this emergency, **effective March 16, 2020**.

1. The Court authorizes the tolling, from the effective date of this order **through May 4, 2020**, 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. Further, no interest shall be due or charged during this tolled period.

2. This Court authorizes immediate suspension of all criminal and civil jury trials, including those with a “fast and speedy” setting requested, through May 4, 2020. The courts are directed to review **no later than April 16, 2020** whether continued suspension is necessary; and if it is not, to resume jury trials **no later than May 4, 2020** to allow adequate notification of the jury pool. If the courts believe continued suspension is necessary, they may petition this Court to extend the suspension.
3. **Through May 4, 2020**, this Court authorizes the courts to continue all hearings that they, in their discretion, deem non-essential. They have discretion in juvenile detention, CHINS, and parental termination matters to hear only detention hearings and other hearings they deem essential and/or of an emergency nature, and in Protective Order cases to hear only domestic violence related cases and other hearings the courts deem essential and/or of an emergency nature.
4. **Through May 4, 2020**, the courts are authorized, 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.
5. **Through May 4, 2020**, the courts may (1) use teleconference or video conference to conduct hearings that involve agreed issues; (2) allow parties to appear remotely, unless a litigant’s due process rights would be violated; (3) allow attorneys to appear remotely for all civil status conferences, pretrial conferences, and/or non-evidentiary hearings by filing a “Notice of Remote Appearance” at least 24 hours prior to the scheduled hearing; (4) allow attorney-only conferences whenever possible without the requirement of a motion; and (5) suspend issuing civil body attachments and Title IV-D attachments.
6. **Through May 4, 2020**, the courts are authorized, in their discretion, to hold pre-trial conferences by counsel only; allow pre-trial conferences to be held between the Prosecutor and Defense counsel directly, which may be held electronically or by teleconference, and report to the court in writing on or before the date the conference is scheduled the result of the conference and the parties’ intent with any pending trial date; have defendants appear via video conference from jail for any hearings except contested sentencing hearings and jury trials, consistent with the defendant’s Constitutional rights; and continue trials for non-incarcerated individuals.
7. **Through May 4, 2020**, the courts 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.

8. The courts are authorized to reduce the number of court staff members working and/or to permit working remotely if feasible; provided, however, that the courts shall maintain sufficient operations to process emergency matters.
9. The courts shall file a status update **no later than April 20, 2020** to inform this Court of whether there is an ongoing need for emergency relief.

Done at Indianapolis, Indiana, on 3/18/2020.



Loretta H. Rush

Chief Justice of Indiana