

In the Indiana Supreme Court

In the Matter of the Petition of the
Wayne County Circuit and Superior Courts
for Administrative Rule 17 Emergency
Relief.

Supreme Court Case No.
20S-CB-129

Trial Court Case No.
89D01-2003-CB-32



Order

The Wayne County Circuit and Superior Courts, *en banc*, have petitioned this Court for emergency relief pursuant to Indiana Administrative Rule 17. The petition states that the U.S. Health and Human Services Secretary and the Governor of the State of Indiana have declared a public health emergency due to the 2019 novel coronavirus (COVID-19); the CDC and the Indiana State Department of Health have recommended that public facilities and organizations implement protective measures to contain the spread of COVID-19; and that Wayne County officials have adopted a Joint Executive Order restricting public access to the Wayne County Courthouse and Annex Building. The petition states that this emergency will inhibit litigants' and courts' ability to comply with statutory deadlines and rules of procedure. The Honorable Charles K. Todd, Jr. has been appointed as the presiding Judge for this emergency.

The Court finds that good cause exists for granting emergency relief. However, the Court finds the requested duration of the emergency plan to be unwarranted based on information known at this time.

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

1. This 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 of Wayne County. Further, no interest shall be due or charged during this tolled period.
2. The Court authorizes the Wayne County Courts in **criminal** cases to:
 - a. continue all pre-trial conferences and non-essential hearings that will not result in a resolution of the case;
 - b. hold pre-trial and discovery status hearings by counsel only;

- c. allow attorney-only conferences whenever possible without the requirement of a motion;
 - d. allow counsel to appear remotely by CourtCall or conference call by filing a “Notice of Remote Appearance” at least 24 hours prior to the scheduled hearing;
 - e. have defendants appear via teleconference from jail for any hearings, except contested sentencing hearings and jury trials;
 - f. continue trials for non-incarcerated individuals; and
 - g. continue all jury trials until **no later than May 4, 2020** to allow adequate notification of the jury pool.
3. The Court authorizes the Wayne County Courts in **civil** cases, in their discretion, to:
- a. continue all bench and jury trials until **no later than May 4, 2020** to allow adequate notification of the jury pool;
 - b. continue all matters deemed non-essential in the courts’ discretion;
 - c. use CourtCall or conference call to:
 - i. conduct hearings that involve agreed issues;
 - ii. allow parties to appear remotely, unless a litigant’s due process rights would be violated; and
 - iii. allow attorneys to appear remotely for any civil status conference, pre-trial conference, or non-evidentiary hearing by filing a “Notice of Remote Appearance” at least 24 hours prior to the scheduled hearing;
 - d. allow attorney-only conferences whenever possible without the requirement of a motion;
 - e. suspend issuing civil body attachments and Title IV-D attachments;
 - f. specific to juvenile cases, including Child in Need of Services (CHINS), delinquency, and termination of parental rights, at the election and determination of each court:
 - i. continue all hearings, except detention hearings;
 - ii. detention hearings may be held by audio or video conference to allow all parties to appear remotely, unless doing so would violate a litigant’s due process rights;
 - iii. fact-finding hearings, disposition hearings, periodic review hearings, and permanency hearings may be set beyond the timeframes set forth by statute until **May 4, 2020**;
 - iv. utilize video conferencing for all fact-finding and termination hearings in CHINS cases where either parent is in the Wayne County Jail, another county jail, or the Indiana Department of Correction; and
 - v. limit admittance to the court to parties, counsel, and other attendees set forth by statute, such as relative/foster/kinship placements.
4. **Through May 4, 2020**, the courts of Wayne County 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 of Wayne 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.
6. The courts of Wayne County 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.
7. The courts of Wayne County shall file a status update **no later than April 16, 2020** to inform this Court of whether there is an ongoing need for emergency relief.

Done at Indianapolis, Indiana, on 3/17/2020.



Loretta H. Rush
Chief Justice of Indiana