

# In the Indiana Supreme Court

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

Supreme Court Case No.  
20S-CB-184

Trial Court Case No.  
65C01-2003-CB-5



## Order

The courts of Posey County *en banc* have petitioned this Court for emergency relief pursuant to Indiana Administrative Rule 17. The petition states, in part, that the President of the United States has declared a national emergency due to 2019 novel coronavirus (“COVID-19”); the Governor has declared a statewide emergency and instituted steps to reduce the spread of COVID-19; the Posey County Health Department has recommended the closure of schools; the Posey County Commissioners have declared an emergency and limited access to county owned buildings to prevent the spread to COVID-19; the courts of Posey County believe that through April 19, 2020, limiting personal court appearances and taking precautionary measures should be used to limit individuals exposure to COVID-19. It appears from the petition that this emergency inhibits litigants’ and courts’ ability to comply with statutory deadlines and rules of procedure.

The Court finds that good cause exists for granting emergency relief.

Being duly advised, the Court GRANTS IN PART the petition, DECLARES pursuant to Indiana Administrative Rule 17 that an emergency exists in Posey 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. The Court authorizes the tolling, from the effective date of this order **through April 20, 2020** of all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public health, mental health matters; all judgments, support, and other orders; and in all other civil and criminal matters before the courts of Posey County. 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 **April 20, 2020**. The courts of Posey County are directed to review **no later than April 13, 2020** whether continued suspension is necessary; and if it is not, to resume jury trials **no later than April 20, 2020**, to allow adequate notification of the jury pool. If the courts of Posey County believe continued suspension is necessary, they may petition this Court to extend the suspension.

3. **Through April 20, 2020**, the courts of Posey County may permit attorneys to appear remotely for any status conference, pre-trial conference, or non-evidentiary hearing. An attorney choosing to appear remotely shall notify opposing counsel prior to the hearing date and coordinate with the court.
4. **Through April 20, 2020**, the courts of Posey 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.
5. **Through April 20, 2020**, this Court authorizes the courts of Posey County in **civil (including family and small-claims), CHINS, and juvenile** cases to immediately suspend all non-essential proceedings or reset outside statutory deadlines pursuant to Paragraph 1 above; and to require juveniles in custody to appear by video conferencing to the extent a party’s constitutional rights will not be violated. Parties not in custody shall be given Notice to Appear on a reset date, and the Notice will include any conditions of bond or release, though other conditions given verbally by a judicial officer shall remain in effect even if not listed on the Notice.
6. **Through April 20, 2020**, this Court authorizes the courts of Posey County to suspend all non-essential hearings in **felony, misdemeanor, and traffic** cases and require a defendant in custody to appear by video conferencing in non-evidentiary hearings, except for plea and sentencing hearings in felony cases and to the extent a party’s constitutional rights will not be violated. Parties not in custody shall be given Notice to Appear on a reset date, and the Notice will include any conditions of bond, though other conditions given verbally by a judicial officer shall remain in effect even if not listed on the Notice.
7. **Through April 20, 2020**, this Court authorizes the courts of Posey County to require persons serving juvenile or criminal probation to report by phone unless otherwise instructed by their probation officer. Persons ordered to participate in the ACCEPT Program shall appear in person unless otherwise directed by the participant’s Instructor and/or probation officer.
8. **Through April 20, 2020**, the courts of Posey 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 and to limit the size of the gathering consistent with public-health recommendations.
9. **Through April 20, 2020**, the courts of Posey County are authorized to direct the county sheriff’s department to:
  - a. require all persons seeking to enter the Courts Building and Administration Building of the Civil Center Complex to answer the following questions:
    - i. Are you experiencing fever, cough, or shortness of breath?

- ii. Have you been in close contact with someone positive or being evaluated for COVID-19?
- iii. Have you recently visited an area subject to quarantine as a result of COVID-19? and

b. deny entrance to individuals who answer “yes” to any of those questions, or who exhibit signs of illness potentially indicating COVID-19.

Anyone denied access under this policy shall be provided information regarding the appropriate entity to contact, **including telephone numbers to request continuance by of any matter they cannot attend in-person because of their exclusion.**

10. The courts of Posey County shall file a status update **no later than April 13, 2020** to inform this Court of whether there is an ongoing need for emergency relief.

Done at Indianapolis, Indiana, on 3/19/2020 .



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Loretta H. Rush  
Chief Justice of Indiana