In the
Indiana Supreme Court

In the Matter of Administrative Rule 17 Emergency Relief for Indiana Trial Courts Relating to the 2019 Novel Coronavirus (COVID-19).

Supreme Court Case No. 20S-CB-123

Order on Continued Emergency Actions

The public health emergency persists, as COVID-19 continues to spread. The Court, with the collaborative assistance of judges and practitioners, has released protocols on how to safely resume normal court operations and protocols for mitigating in-court exposures.

Despite these efforts, there have been outbreaks as a result of court proceedings and operations. Large outbreaks have involved entire probation departments; judicial officers and court staff have tested positive—sadly, one court employee has died—and courts have closed; and jurors have become symptomatic and infected others during trials, leading to mistrials and subsequent infection of non-participants and family members. These incidents highlight the need for more aggressive approaches to in-person trial court operations.

Trial judges have an obligation to help protect their communities by taking proactive, responsible steps to minimize the potential for exposure and infection in—and from—their courtrooms by reducing in-person proceedings. Judges have broad authority to take those steps as well as comply with local public health mandates.

Trial courts should work with their local justice system partners and public health and emergency authorities to adjust court operations as conditions require to maintain essential functions and ensure the administration of justice while protecting the health of court personnel, court users, and Hoosiers outside the courtroom.

Trial courts have inherent authority to

1. suspend and/or reschedule any individual criminal or civil jury trials for a limited time (subject in criminal cases to the Constitutional right to speedy trial and Constitutional protection against double jeopardy);
2. pursuant to Criminal Rule 4, order a continuance of any criminal trial upon the finding of an emergency, without the necessity of a motion;
3. suspend new juror orientations, extend existing jury panels, and/or postpone jury service to a later date for jurors who are ill, caring for someone who is ill or a dependent child at home due to school closure or quarantine, or in a high-risk category;

4. continue and/or reschedule non-essential hearings (excluding emergency matters, domestic violence hearings, and evidentiary hearings in criminal cases);
5. allow a county's judges to exercise general jurisdiction over cases in each other's courts;
6. issue summons in lieu of bench warrants or notices of failure to appear;
7. limit in-court spectators, subject to applicable Constitutional limitations; and
8. review, in collaboration with their local criminal justice partners, county-jail and direct-placement community correction sentences of non-violent inmates and juveniles to mitigate the spread within detention facilities.

Additionally**, if local needs require broad emergency action for which the above measures are insufficient**, trial courts may petition the Supreme Court pursuant to Administrative Rule 17 for authority to take more extensive measures, including

1. tolling rules and procedures setting time limits in
    a. civil matters and
    b. criminal matters other than trials; and
2. suspending and/or rescheduling **all** criminal and civil jury trials before the court for a limited time (subject in criminal cases to the Constitutional right to speedy trial and Constitutional protection against double jeopardy).

The Indiana Office of Court Services is available to assist with Administrative Rule 17 petitions or identify other measures that can be implemented by trial courts. Trial courts cannot adopt the above Administrative Rule 17 measures without approval from the Supreme Court. **At a minimum, however, all trial courts should do the following until further direction is given by this Court:**

1. Communicate with local bar associations and attorneys to maximize the use of remote proceedings in accordance with this Court's May 13, 2020 Emergency Order Permitting Expanded Remote Proceedings and maintain public confidence in the health and safety of court proceedings.
2. Require all participants of in-person court proceedings to wear appropriate masks or face shields (as a reasonable accommodation for those who cannot wear a mask for medical reasons or other circumstances) throughout the proceedings except for witnesses, who may remove their masks for the limited period of providing a verbal response to questions, and other limited individual circumstances.
3. Employ senior judges working remotely to the fullest extent possible.
4. Minimize in-person proceedings in non-essential matters where remote proceedings will be as effective.
5. Provide for remote essential proceedings when physical access to a courtroom is limited or exposed judges and court staff must quarantine.

Moreover, the Court ORDERS as follows:

1. Courts shall comply with, and enforce, local and statewide public health orders as they relate to court facilities, staff, and proceedings.
2. The orders issued in:
    a. this case, regarding attachment and garnishment of CARES Act stimulus funds;
    b. Case No. 20S-MS-236, regarding remote administration of oaths for depositions and other legal testimony;
    c. Case No. 20S-MS-237, regarding modified procedures for witnessing wills; and
    d. Case No. 20S-MS-258 and this case, expanding use of remote proceedings

    shall expire on **July 1, 2021**, unless this Court orders otherwise.

Done at Indianapolis, Indiana, on 11/10/2020, on behalf of the Indiana Supreme Court.

Loretta H. Rush
Chief Justice of Indiana