

**ST. JOSEPH COUNTY COURTS ACTION PLAN
CONCERNING COVID-19 (CORONA VIRUS)
UPDATED: NOVEMBER 13, 2020**

The Judges of the St. Joseph Circuit Court, St. Joseph Superior Court, and St. Joseph Probate Court (collectively the “SJC Courts”) are acutely aware of the challenges presented by the outbreak of COVID-19. St. Joseph County is experiencing record high positive COVID-19 cases. The result of this is seen throughout the community and within the SJC Courts. The surge in cases requires that the SJC Courts take extraordinary measures in order to continue to provide access to justice in St. Joseph County consistent with the health and wellness needs of our community.

The SJC Courts expect this current surge will require such extraordinary measures at least until February 28, 2021. The duration of such measures is referred to herein as the “Response Period.” During this Response Period, the SJC Courts will take the following actions:

1. The judicial officers of the SJC Courts will work with the St. Joseph County Sheriff in addressing the wellness needs of the St. Joseph County Jail population. The judicial officers will assess sentences being served at the Jail, as well as pre-trial release decisions, in order to try to strike a proper balance between community safety and community wellness. Similarly, the judicial officers of the St. Joseph Probate Court will assess the population of the Juvenile Justice Center to make sure that safety and wellness needs of the community are properly met.

2. Every effort will be made to ensure that access to justice will remain available in St. Joseph County. Attendance at hearings by telephone and video conferencing, including but not limited to all hearings involving defendants in criminal cases, will be encouraged whenever possible and when consistent with the rights of the parties and the interests of justice. Judicial officers will take all possible steps to reduce in-person hearings to those that are absolutely

necessary. Furthermore, to avoid unnecessary transportation of inmates, felony courts will schedule in-custody hearings only on their designated video hearing days.

3. The SJC Courts agree that an emergency exists that would support a continuance under Criminal Rule 4¹. The SJC Courts further agree that in the immediate future, it will not be reasonably possible to summon a pool of potential jurors and conduct a jury trial in person in a manner that does not expose potential jurors, counsel, court staff, and litigants to substantial and unacceptable health risks, specifically, the danger of becoming infected with COVID-19. As a result, the SJC Courts believe that criminal jury trials should be postponed during the Response Period, provided that such postponements are consistent with the rights of the parties and the interests of justice. Judicial officers handling criminal jury trials will review individual cases currently set for jury trial during the Response Period to determine whether the emergency warrants a continuance of the trial, and enter the required orders for continuance, if appropriate.

¹ The finding that an emergency exists for purposes of Criminal Rule 4 is supported by the following evidence:

- As of November 11, 2020, St. Joseph County's rolling seven-day average of new cases hit 255. There were 2,931 active cases, meaning people who've tested positive over the past two weeks, up from 1,545 two weeks ago. Health Department Officer Dr. Robert Einratz stated, "Unless the community takes responsibility for stopping the spread of this virus, the community is facing a catastrophe." Joseph Dits. "Local Hospitals Face Looming COVID 'Catastrophe', Leaders Say, as Indiana Sets Restrictions." *Southbendtribune.com*, South Bend Tribune, November 11, 2020, https://www.southbendtribune.com/news/local/local-hospitals-face-looming-covid-catastrophe-leaders-say-as-indiana-sets-restrictions/article_c53d9836-246d-11eb-b7d3-4ff486498f67.html.
- County officials have advised that SJC will likely soon be designated a red county as determined by the Indiana Department of Health.
- The shutdown of local hospitals for any non-emergency surgeries due to the overwhelming number of COVID-19 positive patients, as described above;
- More than 10 SJC Clerks office employees have tested positive for COVID-19 since the November 4, 2020 election;
- 33 inmates at the SJC Jail tested positive on today's date and positive cases have increased among jail staff, as well;
- SJC officials are closing the County-City Building to the public beginning on November 16, 2020;
- Despite trial courts following all recommended protocols, recent jury trials around Indiana have shown that jurors cannot necessarily be kept safe, most notably in Grant County during which a juror in an LWOP case contracted COVID-19 and the trial court declared a mistrial. Additionally, in SJC, a number of scheduled jury trials have not been able to proceed due to the amount of jurors who were unable to appear due to COVID-19 related issues.

4. The SJC Courts will continue to livestream hearings whenever possible, which can be viewed by the public at <https://public.courts.in.gov/incs#/>.

5. The SJC Courts will allow and encourage employees to work remotely whenever possible.

6. The SJC Courts require the closure of the civil and criminal clerks offices to the public and will reinstate the filing dropboxes in each courthouse. The clerks will check the dropboxes each day throughout the day and will file all pleadings on the day of receipt.

7. The Judges of SJC Courts will remain in regular communication throughout the outbreak with the St. Joseph County Clerk, the St. Joseph County Board of Commissioners, the St. Joseph County Board of Health, the St. Joseph County Bar Association, the St. Joseph County Prosecutor, the St. Joseph County Chief Public Defender, and the St. Joseph County Sheriff. The cooperation and coordination with all such officials and agencies will remain a high priority during the Response Period.

DONE at South Bend, Indiana this 13th day of November, 2020.

/s/ Elizabeth C. Hurley
Hon. Elizabeth C. Hurley, Chief Judge
St. Joseph Superior Court

/s/ John E. Broden
Hon. John E. Broden, Judge
St. Joseph Circuit Court

/s/ Jason A. Cichowicz
Hon. Jason A. Cichowicz, Judge
St. Joseph Probate Court