

Dealing with Emergencies

Emergency Petitions for Administrative Orders

Administrative Rule 17

Contact: Jeffrey Wiese; email: jeffrey.wiese@courts.in.gov

Indiana Administrative Rule 17

Ind. Administrative Rule 17 was drafted by the Judicial Administration Committee in 2007 to codify the Indiana Supreme Court's inherent power to oversee the administration of trial courts in the event of a disaster or other unanticipated work interruption.

When normal court operations are disrupted, the tolling of time limits and statutes of limitations are an important consideration. Admin. R. 17 allows a local trial court to petition the Supreme Court to obtain assistance that will "stop the clock" on "time limits currently imposed for speedy trials in criminal and juvenile proceedings, public health, mental health, appellate, and all other civil and criminal matters." Courts are encouraged to file an Administrative Rule 17 petition after consultation with local emergency management and health departments and their fellow county courts.

A sample petition is located as Appendix A to Admin. R. 17.

Admin. R. 17 petitions should be submitted by email to Greg Pachmayr, Clerk of the Indiana Supreme Court and Indiana Court of Appeals (clerk@courts.IN.gov).

PLEASE NOTE: Staff attorneys with the Indiana Office of Court Services (IOCS) are available to help petition the Supreme Court for an Administrative Rule 17 Order. Courts should contact:

- Jeffrey Wiese, IOCS Deputy Director, by email at jeffrey.wiese@courts.in.gov.

Standing Orders should not be used. Standing Orders are prohibited by Ind. Trial Rule 81(A).

Weather Related Court Closures

Local weather emergencies may also prompt office closures by judicial officers and county clerks that interfere with normal hours of operation. While these inclement conditions require action to protect the health and safety of court staff and the public, a variety of legal requirements are involved while contemplating a restriction of office hours. In response to requests from several courts, IOCS provides information to guide judicial officers faced with severe weather situations.

First, Article 1, Section 12 of the Indiana Constitution provides that “all courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law...” To implement this constitutional provision, the Indiana Supreme Court adopted Ind. T.R. 72 which required that “trial courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning process and of making and directing all interlocutory motions, orders, and rules.”

T.R. 72(C) also provides that the clerk’s office, with the clerk or a deputy in attendance, shall be open during business hours on all days except Saturdays, Sundays, and legal holidays, and that the circuit court judge, by local rule or order, may provide that its clerk’s office shall be open for specified hours on Saturdays or some legal holidays other than those considered to be the “major” holidays: New Year’s Day, Washington’s Birthday, Memorial Day, etc.

However, the vagaries of weather do not consider legal deadlines regarding the time within which various documents must be filed or actions taken. Weather-related court closures will invariably impact the ability of citizens to file court documents within the time allowed by law and bring emergency issues before a court.

Prior guidance from IOCS has advised that judicial officers may require the opening of the court and clerk’s office at other times than regular business hours. Explicit authority does not exist to allow courts to reduce hours of operation during regular business days

and hours. Courts and clerk's offices may, however, operate with reduced staff or implement procedures to ensure that litigants have access to courts.

To meet constitutional, statutory and rule duties, courts, as well as clerks, should establish a procedure *through a local rule* for filing documents and acting upon emergency petitions and pleadings during a period of weather-related or other emergency closure. Simple procedures that are effective suffice, e.g., a note on the courthouse door advising potential litigants on how to contact a judicial officer or circuit clerk or reminding litigants to post filings by the methods outlined in T.R. 5(F): certified mail, electronic filing where allowed, use of third-party commercial carriers, etc.

Indiana law is clear that a trial court is without authority to extend or enlarge deadlines other than as provided in applicable Rules of Trial Procedure. However, when a rule or statute is silent as to how a time limitation is computed, T. R. 6(A) applies and will extend the period to the next day if the last day of the period is a Saturday, a Sunday, a state defined legal holiday or a day on which the Clerk's office is closed during regular business hours. See *Jenkins v. Yoder*, 163 Ind. App. 377, 324 N.E.2d 520, 1975 Ind. App. LEXIS 1046 (Ind. Ct. App. 1975).

In the event of a weather-related closure, an Admin. R. 17 petition can provide an extension of legal deadlines that a trial court cannot create. Although the Supreme Court may act *sua sponte*, a petition by the trial court is normally required. It may take a day or two to obtain a Supreme Court order under Admin. R. 17, but the resulting order can retroactively alter statutory deadlines and rules of procedure to ensure the orderly and fair administration of justice. Staff of IOCS can assist in the preparation of a petition for courts faced with an emergency.