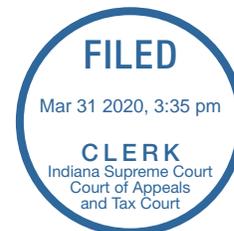


# In the Indiana Supreme Court

In the Matter of Emergency Procedures for  
the Witnessing of Wills Relating to the 2019  
Novel Coronavirus (COVID-19).

Supreme Court Case No.  
20S-MS-237



## Order

On March 6, 2020, Governor Holcomb declared a public health emergency in Indiana relating to the 2019 novel coronavirus (COVID-19); and on March 13, President Trump declared a national emergency relating to the virus. The Centers for Disease Control and Prevention (CDC) has determined that “social distancing” is necessary to minimize further spread of the virus, and the Indiana State Department of Health has issued and will continue to issue recommendations.

Appropriate public health responses to the COVID-19 outbreak requires limiting trial court operations and trial related activities, including the taking of depositions in preparation for trial. It is a high priority for the Indiana Judiciary to mitigate the effects of COVID-19.

It is the intent of this order to suspend those provisions of Indiana Code chapters 29-1-5 and 29-1-21 which require a testator and two attesting witnesses be physically present together when executing a will and self-proving clause and temporarily deem as substantial compliance with the statutory witness provisions the simultaneous or contemporaneous remote appearance by audio-visual technology consistent with the terms of this order.

WHEREAS, a public health emergency currently exists in Indiana requiring mitigation including social distancing measures meant to reduce the increase in person-to-person transmission of COVID-19,

NOW, THEREFORE, IT IS ORDERED that:

For probate and estate planning documents executed during the period of this public health emergency, to include without limitation wills and codicils, to the extent Indiana Code article chapter 29-1-5 or chapter 29-1-21 requires attesting witnesses and/or testators to sign those documents in the actual presence of one another, the Court deems permissible substantial compliance with those provisions to include simultaneous or contemporaneous remote appearance by audio-video communication technology, provided:

1. The remote witnesses and remote testator can positively identify one another and the parties are able to see the execution of the document; and
2. The document being executed:
  - a. specifically references this Order preceding the attestation or self-proving clause;

- b. describes, within an attestation or self-proving clause incorporated into the document, the methods used for remote appearance and for securing signatures by specifying the technology platform and electronic processes used within an attestation or self-proving clause incorporated into the document; and
- c. contains a statement, preceding the attestation or self-proving clause, which acknowledges or confirms that the document shall be re-ratified or re-executed in compliance with regular statutory witness procedures within 90 days after the health emergency expires.

Done at Indianapolis, Indiana, on 3/31/2020.



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Loretta H. Rush  
Chief Justice of Indiana

A majority of Justices concur.