STATE OF INDIANA

EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 20-39

FOR: **BACK ON TRACK INDIANA:**
SECOND CONTINUATION OF STAGE 4.5

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on March 6, 2020, I issued Executive Order 20-02 which declared a public health emergency exists throughout the State of Indiana as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and a confirmed report of the disease in our State and this initial declaration has been extended by me in Executive Orders 20-17, 20-25, 20-30, 20-34 & 20-38;

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a global pandemic and, on March 13, 2020, the President of the United States declared a national emergency with respect to this dangerous virus;

WHEREAS, as of the date of this Executive Order, the virus has now spread to every county in our State, with over 64,000 confirmed cases and over 2,700 deaths;

WHEREAS, as Governor, under Indiana's Emergency Management and Disaster Law, Ind. Code ch. 10-14-3 ("Emergency Disaster Law"), I have authority to take actions necessary to prepare for, respond to and address a public health disaster emergency including the following:

- making, amending and rescinding the necessary orders, rules and regulations to carry out the response to a public health disaster emergency;
- suspending the provisions of any regulatory statute prescribing the procedures for conduct of state business, including the orders, rules or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency;
- transferring the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services; and
- using any and all available resources of state government and of each political subdivision of our State as reasonably necessary to cope with the public health disaster emergency;

WHEREAS, to reduce and slow the spread of COVID-19, the Centers for Disease Control and Prevention (CDC) and the Indiana State Department of Health (ISDH) recommended implementation of mitigation strategies to contain this virus including limitations on large gatherings and social distancing measures;

WHEREAS, in order to take all necessary steps to increase containment of this virus, I have issued various Executive Orders including a stay-at-home order, closure of state government buildings and restrictions on in-person dining at restaurants;

WHEREAS, by consulting with experts utilizing a data-driven approach to make decisions based on facts, science, and recommendations from experts in health care, business, labor, and education, we began to reopen our Hoosier economy while prioritizing Hoosiers' health;

WHEREAS, to continue mitigation of COVID-19 and to lower the risk of a resurgence, a measured and staggered approach to reopening businesses and entities was instituted. Five stages were initially outlined with each ensuing stage being subject to fewer restrictions and limitations than the previous stage;

WHEREAS, the final stage, Stage 5, was scheduled to begin at 12:01 a.m. on July 4, 2020, however, Stage 5 was replaced by Stage 4.5 which began at 11:59 p.m. on Friday, July 3, 2020, was extended once, and is set to expire at 11:59 p.m. on Friday, July 31, 2020;

WHEREAS, for the state to advance to the next stage or be required to stay at a current stage or return to a prior stage, the following factors will be considered: i) the number of hospitalized COVID-19 patients; ii) the capacity for critical care beds and ventilators; iii) the ability to test for COVID-19; and iv) the capacity for contact tracing;

WHEREAS, there has been a rise in COVID-19 positivity across the state from a low of 3.6% a month ago to nearly double that percentage now; our overall hospitalization census has increased from approximately 600 a day near the end of June to approximately 800 now; some counties which early on had minimal positive cases have been reporting regular double-digit COVID-19 positive cases; and our surrounding states have been experiencing increases in positive cases;

WHEREAS, throughout many areas across the United States, there has been an increased resurgence and spread of COVID-19 in areas where there has been significant reopening of businesses and easing or disregard of mitigation efforts; and

WHEREAS, based on the available data, additional monitoring is warranted before a significant lessening of further restrictions can occur, and therefore, Indiana must refrain from transitioning fully into Stage 5 and must, instead, remain in Stage 4.5 while continuing to take measures to protect Hoosiers from the spread of this dangerous virus.

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby order:

1. **Continuation of Stage 4.5**

   a. All Indiana counties will adhere to the directives of Stage 4.5 until 12:01 a.m. on Saturday, August 27, 2020.

   b. All individuals in Indiana shall follow the directives in Executive Order 20-32 as modified by Executive Orders 20-35, 20-36 & 20-37 and this Executive Order.

   c. Executive Orders 20-32, 20-35, 20-36 & 20-37 are extended and remain in full force and effect.

   d. Unless otherwise specified, nothing in this Executive Order prohibits a county or political subdivision from imposing more stringent requirements than in this Executive Order or Executive Orders 20-32, 20-35, 20-36 & 20-37.

2. **Prohibition on Residential Rental Property Evictions and Mortgage Foreclosures Extended**

   a. *Eviction Prohibition Extended:* Except as provided in subsection 2.c. below, the prohibition on filing eviction actions or proceedings involving residential rental property, as initially provided for in Executive Order 20-06 and as extended by Executive Orders 20-28 & 20-33 is further extended to August 14, 2020.

   b. *Foreclosure Prohibition Extended:* Except as provided in subsection 2.d. below, the prohibition on filing foreclosure actions or proceedings involving residential real estate or property as initially provided for in Executive Order 20-06 and as extended by Executive Orders 20-28 & 20-33 is further extended to August 14, 2020. This directive does not impact the federal "Foreclosure and Eviction Moratorium in Connection with the Presidentially-Declared COVID-19 National Emergency," which announces an immediate foreclosure and eviction moratorium for all FHA-insured single-family mortgages through August 31, 2020.

   c. *Emergency Evictions:* Notwithstanding the prohibition on filing evictions being continued through August 14, 2020, a landlord may institute an emergency eviction or possessory claim under the limited circumstances set forth in Indiana Code ch. 32-31-6 which permits evictions where there is specific immediate and serious injury, loss or damage to the property, however, evictions for nonpayment of rent are not permitted until on or after August 15, 2020.

d. *Emergency Foreclosures:* Notwithstanding the prohibition on filing foreclosures and unless prohibited by federal law, a lending institution is no longer prohibited from instituting a foreclosure action where the property is vacant or abandoned or where there is a specific immediate and serious injury, loss or damage to the property, however, foreclosures for nonpayment of mortgages are not permitted until on or after August 15, 2020.

e. *Establishment of Payment Plans for Rent & Mortgage Payments:* Landlords and tenents and lending institutions and property owners are strongly encouraged to work together to establish reasonable payment plans for past due rent or mortgage payments.

3. Special Requirements for K-12 Educational Institutions:

Paragraph 6 of Executive Order 20-37 (Face Covering Requirement) is rescinded and is superseded by the following provisions which now apply. Additions and modifications from the original directive are noted in italics within each paragraph.

a. *Buildings, Facilities and Grounds:*

Effective at 12:01 a.m. on Monday, July 27, 2020, and continuing *throughout the public health emergency unless* rescinded or modified by me, all public and private K-12 educational institutions shall require all students in grades 3-12 regardless of age, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors to their educational institutions to wear a face covering or a face shield while physically present in any building, facility or grounds at all times who do not otherwise fall within an exemption listed in ¶ 4 in *Executive Order 20-37 (Face Covering Requirement)* or who fall within an exemption listed below.

b. *School Buses or School-sponsored Modes of Transportation:*

All students regardless of age or grade, all faculty, all staff, all vendors, all contractors, all volunteers, and all visitors shall wear a face covering or a face shield while on a school bus or other school-sponsored mode of transportation except those who fall within an exemption listed in ¶ 4b – f in Executive Order *20-37.*

c. *Additional Exemptions to Face Covering Requirement* for *K-12 Educational Institutions:*

i. *Food Consumption:* Face coverings or face shields are not required while eating or drinking;

ii. *Faculty/Staff Areas:* Faculty and staff, while working—other than to prepare food or meals—along with other individuals who are in a room, office or place, where all persons not of the same household can maintain six (6) feet of social distance from each other are not required to wear a face covering or face shield;

iii. *Children between ages 2 & 8:* Except when on school buses or on other school-sponsored modes of transportation, children, whether or not students, who are over the age two (2) years and under the age of eight (8) years are not required to wear face coverings or face shields. Such children, however, are strongly encouraged to wear a face covering or a face shield. Children under the age of two (2) years should not wear a face covering because of the risk of suffocation;

iv. *Classroom Settings:*

1) Where a classroom or place of instruction can be configured so that all students and instructors can maintain six (6) feet of social distancing from one another at all times, face coverings or face shields do not need to be worn during in-person educational instruction;

2) *Where a classroom or place of instruction can be configured so that all students can maintain at least three (3) feet of social distancing from one another at all times, and where students are positioned to face in the same direction, face coverings or face shields do not need to be worn during in-person educational instruction by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students; or*

3) Where a classroom or place of instruction cannot be configured so that all students can maintain *either six (6) feet of social distance or at least three (3) feet of social distancing from one another with students facing the same direction* at all times, face coverings or face shields must be worn during in-person educational instruction *by students. Instructors must wear a face covering or face shield unless the instructor(s) can maintain six (6) feet of social distancing from students. At the direction of the instructor, a student may be permitted to remove his or her mask on an intermittent and temporary basis.*

v. *Recess:* Face coverings and face shields may be removed during recess periods provided social distancing can be maintained.

vi. *Extracurricular & Co-Curricular Activities:* Students, teachers, instructors, directors, coaches, trainers, volunteers, and other personnel, when not engaging in strenuous physical activity or subject to an exemption specified above, shall wear face coverings or face shields unless six feet of social distancing can be achieved and maintained.

d. *Enforcement:* Schools are responsible for developing and implementing an enforcement plan.

IT IS SO ORDERED.

IN TESTIMONY WHEREOF, I, Eric J. Holcomb, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, on this 30th day of July, 2020.

Eric J. Holcomb
Governor of Indiana

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ATTEST: Connie Lawson
Secretary of State