

## Updated Operating Protocols

### Town and Village Courts

#### 5<sup>th</sup> Judicial District

(Effective February 22, 2021)

Throughout the COVID-19 pandemic, our courts have remained open although there have been periods of time that have required modifications to court operations based upon virus metrics. Early on, the courts dramatically reduced in-person proceedings, limiting those proceedings to essential matters. In the late Spring and into the Fall of 2020, the Unified Court System progressed to permitting in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses was gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Later in the Fall of 2020, the metrics indicated the need to reduce foot traffic again in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. Courts again decreased in-person proceedings in order to protect the health and safety of all court users, court staff and judges and to further reduce the community spread of the Coronavirus.

Currently, the metrics again indicate an opportunity to increase in-person proceedings in the courthouses and while the "normal" remains a virtual appearance, certain in-person proceedings identified below are now permitted where access to justice and court operations require an in-person proceeding. The metrics will continue to be monitored. The court system remains nimble and ready to quickly adapt operations as health and safety conditions warrant.

In any District, the Administrative Judge may, based upon local conditions, enact more restrictive operational protocols as deemed appropriate by the Administrative Judge.

These Updated Protocols supersede the Updated Operating Protocols Effective December 9, 2020.

Commencing February 22, 2021, all Town and Village court operations in the 5th Judicial District of the State of New York shall be conducted pursuant to these Updated Protocols.

#### I. COURT FACILITY OPERATIONS/SAFETY PROTOCOLS

A. Occupancy of all public areas of the court facility is limited to 25% of the posted room occupancy per Code outside of courtrooms. Individuals will not be allowed to congregate in hallways or entry ways while awaiting entry into the courtroom. In addition, occupancy of all courtrooms is limited to the lesser of 20 people OR 20% of the posted room occupancy limit per Code.

B. Courts are encouraged to use the notification system in the Courtroom Program provided it would allow for a text to be sent to the defendant when the case is called, allowing individuals to safely wait outside court facilities and enter the building only when their case is ready.

C. There may be only one Judge hearing cases at any given time in a court facility.

- D. While in the court facility (other than in a closed private office), all court personnel and visitors must cover their nose and mouth with a mask or cloth face-covering.
- E. A distance of a minimum of six feet must be kept between all individuals at all times.
- F. Judges are encouraged to more robustly conference criminal matters virtually/telephonically and, if an acceptable disposition is reached, plea affidavits are strongly encouraged. Please work with your ADA and defense counsel on procedure. These matters may not be handled in person.
- G. Judges are encouraged to use a mail-in plea bargaining disposition process that would allow a defendant charged with a VTL infraction to proceed without a personal appearance. Please work with your ADA and defense counsel on procedure.
- H. While currently there exists no Executive Order nor statutory directive that would excuse a failure to appear or prevent a judge from suspending a motorist's license for failing to appear at a court session, Judges are encouraged to utilize their judicial discretion when considering the suspension of a motorist's license for failure to appear during the pandemic.
- I. Landlord/Tenant proceedings must comply with existing and future Executive Orders, Administrative Orders and Memos and N.Y. law, including the provisions of the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (L. 2020, C. 381).

## II. IN-PERSON COURT PROCEEDINGS

- A. Trials: Bench trials and evidentiary hearings may proceed provided that no more than 1 trial or hearing is scheduled per hour. No jury trials may proceed.
- B. With the exception of jury trials and subject to the restrictions of any law, Administrative Order or Executive Order to the contrary, these updated operating protocols do not prohibit any particular case type or proceeding from being heard in-person. However, the following calendaring rules MUST be followed:
  - 1. Traffic infractions/violations: No more than 10 cases will be scheduled every 30 minutes.
  - 2. Criminal matters (including all penal law and misdemeanor traffic charges): No more than 10 cases will be scheduled every 45 minutes.
- C. Virtual appearances shall be utilized to the greatest extent possible where a virtual appearance is legally permissible and logistically possible.

**AT ALL TIMES, ALL SAFETY PROTOCOLS LISTED ABOVE SHALL BE FOLLOWED ALONG WITH PREVIOUSLY SUBMITTED COVID-19 SAFETY PLANS BY TOWN AND VILLAGE COURTS AND APPROVED BY 5TH JUDICIAL DISTRICT ADMINISTRATIVE JUDGE TO THE EXTENT THEY DO NOT CONFLICT WITH THESE PROTOCOLS.**