

## Updated Operating Protocols

### Town and Village Courts

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

(Effective June 30, 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. Recently, the metrics (as well as the increasing number of vaccinated New Yorkers) have once again indicated an opportunity to gradually increase in-person proceedings in the courthouses. **With the expiration of the Declaration of Emergency, additional in-person appearances are both required and warranted.** The court system remains nimble and ready to quickly adapt operations as conditions warrant.

Within 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 April 26, 2021.** Commencing **June 30, 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.

UNLESS EXPRESSLY PROHIBITED OR RESTRICTED BY ANY LAW, ADMINISTRATIVE ORDER OR EXECUTIVE ORDER, ALL MATTERS MAY BE HEARD IN TOWN AND VILLAGE COURTS, SUBJECT TO THE PROVISIONS AND PROCEDURES CONTAINED HEREIN.

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

- A. Occupancy of all public areas of the court facility is limited to 50% 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 50% of the posted room occupancy limit per Code or the number of people that can safely socially distance in the courtroom.
- 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. Judges may want to consider VTL § 1806-a permitting entry of default judgments in cases of failure to answer.

## **II. IN-PERSON COURT PROCEEDINGS**

A. Trials: Bench trials and evidentiary hearings must proceed in-person but must be scheduled so that there is strict compliance with all safety protocols and the room occupancy limits in all courtrooms and public areas. Jury trials may be conducted upon submission of a written statement, from the Judge conducting the jury trial, that all social distancing and room occupancy limits will be followed for all aspects of the trial, including but not limited to: jury selection, testimony and jury deliberation. This written confirmation must be received by the District Coordinating Judge and the Administrative Judge at the time a jury trial is scheduled.

B. All arraignments must be handled in person (unless an electronic appearance is authorized by CPL 182.20 with Defendant's consent).

C. Judges are encouraged to more robustly conference criminal matters virtually/telephonically and if acceptable disposition is reached, plea affidavits are strongly encouraged. Please work with your ADA and defense counsel on procedure.

D. 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. Judges may want to consider VTL § 1806-a permitting entry of default judgments in cases of failure to answer.

E. 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.**