

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE STATE OF NEW YORK

Pursuant to the authority vested in me and upon consultation with and approval by the Administrative Board of the Courts, I hereby rescind AO/316/12 and promulgate, effective April 10, 2012, nunc pro tunc, Part 152 of the Rules of the Chief Administrator of the Courts, relating to the operation of Superior Court and Local Court Mental Health Parts, to read as follows:

PART 152. MENTAL HEALTH PARTS

§152.1. Establishment of Mental Health Courts

(a) Following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, the Chief Administrator of the Courts may establish Mental Health Parts in Supreme Court or County Court (“superior court mental health parts”) in any county and assign one or more justices or judges to preside therein. Each superior court mental health part shall have as its purpose the hearing and determination of:

(i) criminal cases that are commenced in the superior court and that are identified by the court as appropriate for disposition by a superior court mental health part; and

(ii) criminal cases that are commenced in other courts of the county, and that are identified as appropriate for disposition by a superior court mental health part and transferred to that part as provided for in section 152.2 of this Part.

(b) Where necessary to best utilize available court and community resources for actions or proceedings involving defendants with mental health problems, the

Chief Administrator of the Courts may establish Mental Health Parts in one or more City or District Courts or Town or Village Justice Courts (“local court mental health parts”) in such county, and assign one or more justices or judges to preside therein. Each local court mental health part shall have as its purpose the hearing and determination of:

(i) criminal actions or proceedings that are commenced in a City or District Court or Town or Village Justice Court that are identified as appropriate for disposition by a local mental health part and transferred to that part as provided for in section 152.3 of this Part.

§ 152.2 Transfer of actions or proceedings to Superior Court Mental Health Parts

(a) Transfer of actions or proceedings pending in local criminal courts to a superior court mental health part.

(1) A local criminal court in a county in which a superior court mental health part has been established may, upon motion of the defendant and with the consent of the district attorney, cause copies of papers and other documents filed in such local criminal court in connection with a criminal action or proceeding pending therein to be sent to the superior court mental health part:

(i) upon or after arraignment of the defendant on a local criminal court accusatory instrument by which such action or proceeding was commenced;

or

(ii) upon or after commencement of a proceeding brought against the

defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge.

(2) Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the superior court mental health part shall determine whether or not a transfer of the action or proceeding to the court would promote the administration of justice. If the justice or judge presiding in the court determines that it would, he or she may order such transfer, in which event the action or proceeding shall be transferred to the superior court mental health part, all originating papers shall then be sent from the originating court to the superior court mental health part, and all further proceedings shall be conducted therein. If the justice or judge determines that a transfer of the action or proceeding would not promote the administration of justice, he or she shall notify the local criminal court from which the reference was received of such determination, whereupon all further proceedings in such action or proceeding shall be conducted in accordance with law.

(b) Transfer of actions or proceedings pending in a superior court to a superior court mental health part.

(1) At any time while a criminal action or proceeding is pending in a superior court in a county in which a superior court mental health part has been established, including a proceeding brought against defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge, a judge or justice of the court in which the action or proceeding is pending may, upon motion of the defendant and with the consent of the district attorney, cause copies of papers and

other documents filed in such court in connection with the action or proceeding to be sent to the judge or justice presiding in the superior court mental health part for review of the appropriateness of the transfer.

(2) Not later than five business days following receipt of the papers and other documents, the judge or justice presiding in the superior court mental health part shall determine whether or not a transfer of the action or proceeding to the court would promote the administration of justice. If such judge or justice determines that it would:

(i) he or she, if sitting in Supreme Court, may order such transfer, in which event the action or proceeding shall be referred for disposition to the superior court mental health part, all original papers shall be sent to the superior court mental health part, and all further proceedings in such action or proceeding shall be conducted therein; or

(ii) he or she, if sitting in County Court, shall so notify the judge of the court who caused the papers and other documents to be sent to him or her, and such justice may thereupon order such transfer, in which event the action or proceeding shall be referred for disposition to the superior court mental health part, all original papers shall be sent from the originating court to the superior court mental health part, and all further proceedings in such action or proceeding shall be conducted therein. If the judge or justice presiding in the superior court mental health part determines that a transfer of the action or proceeding would not promote the administration of justice, he or she shall notify the originating court of such determination, whereupon all

further proceedings in such action or proceeding shall be conducted in accordance with law.

§ 152.3 Transfer of actions or proceedings to Local Court Mental Health Parts

(a) A local criminal court in a county in which a local court mental health part has been established may, upon motion of the defendant and with the consent of the district attorney, cause copies of papers and other documents filed in such local criminal court in connection with a criminal action or proceeding therein to be sent to the local court mental health part:

(i) upon or after arraignment of defendant on a local criminal court accusatory instrument by which such action or proceeding was commenced;

or

(ii) upon or after commencement of a proceeding brought against defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge.

(b) Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the local court mental health part, in consultation with the justice or judge in the court of origin, shall determine whether or not a transfer of the action or proceeding to the local court mental health part would promote the administration of justice. If the justice or judge presiding in the local court mental health part and the justice or judge presiding in the court of origin determine that it would, the justice or judge presiding in the court of origin

may order such transfer, in which event the action or proceeding shall be transferred to the local court mental health part, all originating papers shall then be sent from the court of origin to the local court mental health part, and all further proceedings shall be conducted therein. If the presiding justice or judge in the local court mental health part or the justice or judge presiding in the court of origin determines that a transfer of the action or proceeding would not promote the administration of justice, the action or proceeding will not be transferred and all further proceedings in such action or proceeding shall be conducted in accordance with law.

§ 152.4. Procedure in a Superior Court Mental Health Part or Local Court Mental Health Part upon Transfer of Actions or Proceedings Thereto

Each action or proceeding transferred to a superior court and referred for disposition to a superior court mental health part thereof and each action transferred to a local court and referred for disposition in a local court mental health part thereof shall be subject to the same substantive and procedural law as would have applied had there been no transfer.



Chief Administrative Judge of the Courts

Dated: June 22, 2012

AO / 419/12