

SIXTEENTH AMENDED ADMINISTRATIVE ORDER
THIRD JUDICIAL DISTRICT

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge; and

WHEREAS, on June 24, 2021, the Governor issued Executive Order Number 210 whereby Executive Orders 202 through 202.111 and Executive Orders 205 through 205.3 declaring a disaster emergency in the State of New York in response to the COVID-19 pandemic, were rescinded; and

WHEREAS, while a steadily increasing number of New Yorkers have received a COVID-19 vaccine and the metrics regarding the rate of infection show continued improvement across the state, there is still community concern that large gatherings of people can result in greater public exposure to possible contagion or "community spread"; and

WHEREAS, on a daily basis, in courts across the State, hundreds, if not thousands, of people representing a broad cross-section of the community have reason to and potentially gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the Third Judicial District commenced Phase I of the Return to In-Person Operations Plan ("RIOP") on May 26, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020, Phase 4.1 of the RIOP on August 10, 2020, the Updated RIOP on June 16, 2020, the Updated Operating Protocols Effective November 23, 2020, the Updated Operating Protocols Effective December 9, 2020, the Updated Operating Protocols Effective February 22, 2021, the Updated Operating Protocols Effective April 26, 2021, and the Updated Operating Protocols Effective June 30, 2021 (June 30, 2021 Protocols Attached); it is hereby

ORDERED that effective immediately the following rules be put into effect in the Third Judicial District until rescinded.

A. General matters and matters applicable to more than one case type

1. Until further Administrative Order or Executive Order, residential eviction matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated October 9, 2020, November 17, 2020,

December 30, 2020, March 15, 2021 and May 24, 2021 and pursuant to Administrative Orders AO/231/20, AO/268/20, AO/340/20, AO/37/21, AO/96/21 and AO/160/21. Further reference is made to the Tenant Safe Harbor Act (Ch. 127, L. 2020), the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020), the CDC Agency Order filed on September 1, 2020, and any applicable Executive Orders issued by the Governor.

2. Default judgments may be granted pursuant to CPLR 3215 provided that the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order.
3. The Return to In-Person Operations Plan ("RIOP") (Phase I) implemented on May 18, 2020, the RIOP (Phase II) implemented on June 3, 2020, the RIOP (Phase III) implemented on June 17, 2020, the RIOP (Phase IV) implemented on July 1, 2020, the RIOP (Phase 4.1) implemented on August 10, 2020, the Updated RIOP implemented on October 19, 2020, the Updated Operating Protocols implemented on November 23, 2020, the Updated Operating Protocols implemented on December 9, 2020, the Updated Operating Protocols implemented on February 22, 2021, the Updated Operating Protocols implemented on April 26, 2021, and the Updated Operating Protocols to be implemented on June 30, 2021 and any further updated operating protocols are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the protocols.
4. Naturalization Ceremonies and other court functions, wherever they occur, shall comply with the room occupancy limits stated in the current Updated Operating Protocols and all safety protocols currently in effect including the June 14, 2021 Memorandum - Revised Mask Policy Program; the May 29, 2020 Memorandum - Additional Safety and Operational Protocols and the March 30, 2021 Memorandum - Coronavirus - Updated Safety and Operational Protocols.

B. Supreme Civil

1. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted pursuant to Administrative Order AO/144/21, signed by the Chief Administrative Judge of the Courts on May 11, 2021.
2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated July 24, 2020, October 22, 2020, December 31, 2020, March 15, 2021, and May 24, 2021 and pursuant to Administrative Orders AO/157/20 dated July 23, 2020, AO/232/20 dated October 22, 2020, AO/341/20 dated December 31, 2020, AO/95/21 dated March 15, 2021, and AO/159/21 dated May 24, 2021. Further reference is made to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020), as amended.

3. All Foreclosure Auctions must adhere to the Third Judicial District Foreclosure Auction Plan.

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with the Updated Operating Protocols Effective June 30, 2021. For defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.
2. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days. Disposition of cases involving youths in detention shall be given priority.
3. Appearance tickets shall be scheduled pursuant to Criminal Procedure Law 150.40(1).
4. Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.

D. Family Court

1. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the Supervising Judge.
2. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days. Disposition of cases involving youths in detention shall be given priority.

E. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders at the discretion of the presiding Surrogate.

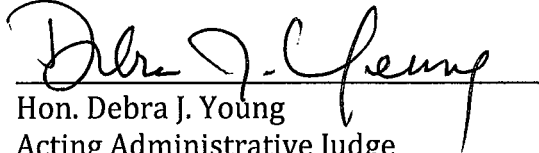
F. City Court

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with the Updated Operating Protocols Effective June 30, 2021. For defendants not in custody, there shall be no adjournment of a matter that is greater than 90 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.
2. Appearance tickets shall be scheduled pursuant to Criminal Procedure Law 150.40(1).

G. Town and Village Courts

Appearance tickets shall be scheduled pursuant to Criminal Procedure Law 150.40(1).

Dated: June 29, 2021
Troy, New York


Hon. Debra J. Young
Acting Administrative Judge
Third Judicial District

Distribution:
Hon. Vito Caruso
All 3JD Judges, Law Clerks, Support Magistrates
All 3JD Chief Clerks
Christy Bass, District Executive

AO/3JD/2021-46

Updated Operating Protocols

Effective June 30, 2021

Third Judicial District

Throughout the COVID-19 pandemic, our courts have remained open, though periodic modifications to court operations have been required 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 required. While Civil Courts continue to operate with presumptively virtual appearances, in-person proceedings are required where access to justice and court operations necessitate an in-person proceeding. The court system continues to be ready to quickly adapt operations as conditions vary.

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

This Plan supersedes the Updated Operating Protocols Effective April 26, 2021. Commencing June 30, 2021, all court operations in the Third Judicial District of the State of New York shall be conducted pursuant to this Plan. To the extent the provisions of this Updated Operating Protocols are inconsistent with provisions in the Third Judicial District Fifteenth Amended Administrative Order signed on April 23, 2021 and any previously issued memoranda, the provisions of this Updated Operating Protocols should be relied upon to guide operations.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Each Judge may schedule in-person proceedings in their discretion and in consultation with the Supervising Judges and Chief Clerks. All matters shall be scheduled to maximize court resources, including courtroom space, clerk availability and technology constraints. Judges should be mindful that Supervising Judges and Chief Clerks may be required to indicate times and locations when matters may be scheduled by a particular judge.

B. Occupancy of all courtrooms shall be limited to the lesser of one-half of the posted room occupancy per code or the number of people that can safely socially distance in the courtroom. The Administrative Judge may grant an exception for a specific courtroom or court proceeding.

C. All Judges and court staff shall report to work in their assigned courthouses.

D. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall take steps to enhance monitoring and compliance with all safety measures, including social distancing at all times.

- E. Each county shall have a space (kiosk or anteroom) available for use by litigants who are unable to appear virtually.

II. Court Proceedings

- A. All virtual proceedings shall be conducted from the courtroom, as such courtroom is available.
- B. Matters that must be heard in-person
 1. All proceedings pursuant to the Criminal Procedure Law, unless the use of electronic appearances is authorized pursuant to Criminal Procedure Law Article 182 and the defendant consents
 2. Proceedings pursuant to Mental Hygiene Law Article 10
 3. Judicial Surrenders of Parental Rights
- C. Matters that may be heard in-person, or a hybrid of in-person and virtual, (except as to those matters listed in Paragraph [II][B]), in the discretion of the Presiding Judge:
 1. Matters as designated in Exhibit A
 2. Family Court Act Article 10 proceedings
 3. Adoptions
 4. Civil Evidentiary Hearings and Trials
 5. Family Court evidentiary hearings
 6. Surrogate's Court Citations
 7. Eviction proceedings as authorized by law
 8. Any proceeding involving a self-represented litigant(s) where the presiding Judge determines that holding the proceeding via Microsoft Teams denies the self-represented litigant(s) meaningful access to the proceeding and where the presiding Judge determines that the matter can be heard in-person consistent with all OCA safety protocols.
 9. Mental Hygiene Law Proceedings pertaining to a hospitalized adult are governed by Chief Administrative Judge Lawrence Marks' Administrative Order AO/144/21.
 10. General Civil post Note of Issue settlement and pre-trial conferences
- D. The scheduling of jury trials shall be approved by the Administrative Judge in consultation with the Deputy Chief Administrative Judge. Jury trials shall be conducted in each county pursuant to the individual plan submitted to the Administrative Judge by the S&C Chief Clerk and pursuant to the district jury plan as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, during a jury trial, occupancy shall be limited to $\frac{1}{2}$ the posted room occupancy per code or the number of people that can safely socially distance in the courtroom. With regard to criminal jury trials, priority should be given to incarcerated defendants. With regard to civil jury trials, priority should be given to trials where the parties consent to a Summary Jury Trial.
- E. ALL other matters MUST presumptively be heard virtually, from a courtroom as such courtroom is available using Microsoft Teams video conferencing (using the live courtroom as background; if not appearing from the courtroom, use other appropriate background), or telephone, including but not limited to:
 1. General civil conferences particularly those with counsel only (except as to those items listed in [II][C][10])
 2. Civil Motion arguments
 3. ADR where both parties are represented by counsel and counsel will be present.
 4. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program

5. Small Claims Assessment Review proceedings
6. Other routine court matters, not expressly included in Paragraph II(C) or II(D)

Exhibit A

- A. Criminal matters
 - 1. arraignments as authorized by CPL 182
 - 2. bail applications, reviews and writs
 - 3. temporary orders of protection
 - 4. resentencing of retained and incarcerated defendants
 - 5. essential sex offender registration act (SORA) matters

- B. Family Court
 - 1. child protection intake cases involving removal applications
 - 2. juvenile delinquency cases involving remand placement applications, or modification thereof
 - 3. emergency family offense petitions/temporary orders of protection
 - 4. orders to show cause

- C. Supreme Court
 - 1. MHL applications for an assisted outpatient treatment (AOT) plan
 - 2. emergency applications in guardianship matters
 - 3. temporary orders of protection (including but not limited to matters involving domestic violence)
 - 4. emergency applications related to the coronavirus
 - 5. emergency Election Law applications
 - 6. extreme risk protection orders (ERPO)

- D. Civil/Housing matters
 - 1. applications addressing landlord lockouts (including reductions in essential services)
 - 2. applications addressing serious code violations
 - 3. applications addressing serious repair orders
 - 4. applications for post-eviction relief

- E. Surrogate's Court - Any matter involving an individual who passed away due to COVID-related causes.