

Updated Operating Protocols

Town and Village Courts

8th Judicial District

For the past many months, the Unified Court System has permitted in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses has been gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Recently, the metrics have indicated the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. Chief Administrative Judge Lawrence Marks' Memorandum dated November 13, 2020 is incorporated herein and this document is intended to provide enhanced guidance thereto.

Commencing Monday, November 23, 2020 all Town and Village Court operations in the 8th Judicial District of the State of New York shall be conducted pursuant to this Plan.

I. Courthouse Operations

- A. Occupancy of all courtrooms shall be limited to the lesser of 10 people or 25% of the posted room occupancy per code.
- B. All current safety measures and protocols will continue.
- C. In each court there shall be a maximum of 10 cases/proceedings scheduled in-person per hour.

II. Court Proceedings

- A. No new prospective trial jurors (criminal or civil) will be summoned for jury service until further notice. Commenced criminal and civil jury trials will continue to conclusion.
- B. No new bench trials and hearings in civil and criminal cases will be conducted. Bench trials and hearings may only be conducted after a request is made to the Administrative Judge. The Administrative Judge shall seek permission from the Deputy Chief Administrative Judge. All Felony Hearings for defendants in custody shall continue to be held at the central courthouse within each county of the Eighth Judicial District. If there is an immediate need to conduct a hearing involving a defendant in custody, it shall be scheduled and handled virtually through at the appropriate county courthouse in coordination with the Supreme and County Court Chief Clerk's Office.
- C. Judges in Cattaraugus County may continue to conduct in-person business hour custodial arraignments. In all other counties of the Eighth Judicial District, all business hour custodial arraignments shall be conducted through the central courthouse location virtually. All CAP and VAP protocols for after-hour, holiday and weekend arraignments shall continue virtually.
- D. 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.
- E. 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. Any in person proceedings would be limited to a maximum of 10 per hour as outlined in I(C.) above.
- F. Judges may hold appearances regarding appeals.
- G. Judges may hold non-custodial arraignments on Criminal Appearance Ticket returns and appearances on VTL matters. Defense counsel must be present at all first appearance non-custodial arraignments. Non-custodial arraignments should be scheduled on days previously in place with the public defender.
- H. Pleas and Sentences for defendants at liberty are authorized for all 8 counties. For Genesee County sentencing must be done in coordination with the Genesee County Sheriff's Office. Judges may also impose

sentences to a treatment court or to time served. If there is an immediate need to schedule a plea or sentence for defendant in custody, it shall be scheduled at the appropriate county courthouse in coordination with the Supreme and County Court Chief Clerk's Office. **Intermittent sentences of incarceration must be reviewed with the Supervising Judge prior to the sentencing proceeding and subject to jail availability.**

- I. All civil pre-trial conferences and settlement conferences shall be conducted virtually or telephonically rather than in-person.
- J. No Virtual Court Hearings, Trials or other Proceedings on the record shall be conducted in the absence of approval of a plan submitted to the Administrative Judge.
- K. All "in-person" foot traffic within town and village courts will be conducted based on established social distancing rules (i.e. 6-ft distance maintained, facial coverings worn at all times by anyone entering the courthouse, courtroom, etc.) and the court has obtained proper PPE.
- L. 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.