

**Updated Operating Protocols
Town and Village Courts
Effective December 9, 2020
Third 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 December 9, 2020 all Town and Village Court operations in the Third Judicial District of the State of New York shall be conducted pursuant to this Plan. **If a matter is not specifically mentioned below, the Court MAY NOT hear the matter in-person.**

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. The strict ten- person limit includes lawyers, litigants, spectators, and any court personnel, including but not limited to the Judge, court clerks, stenographer and/or security.
- B. All current safety measures and protocols will continue.

II. Court Proceedings

- A. No new prospective trial jurors (criminal or civil) may be summoned for jury service until further notice.
- B. No new bench trials and hearings in civil and criminal cases may be conducted. Bench trials and hearings may only be conducted after a request is made to the Administrative Judge and Deputy Chief Administrative Judge. Exception: Preliminary Hearings in Criminal Court may be heard in-person pursuant to the Updated Operating Protocols Effective November 23, 2020.
- C. Judges may conduct in-person off hour arraignments. Virtual arraignments shall continue in those courts that have the necessary equipment and training. In all other courts, necessary arraignments shall occur at the Town or Village Court.
- D. Judges may conduct arraignments of in-custody defendants.
- E. Judges may conduct arraignments where the Court receives desk appearance tickets that involve a request for an order of protection, or that may lead to a suspension of driving privileges pending prosecution, or when the court is notified of a request for an arraignment by either the prosecution or the defense.
- 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.