

Updated Operating Protocols

Town and Village Courts

Effective February 22, 2021

Third District

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. Early on, the courts dramatically reduced in-person proceedings, limiting those proceedings to essential matters. In the late Spring and into the Fall of 2020, the Unified Court System progressed to permitting in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses was gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. In the Fall of 2020, the metrics indicated the need to once again reduce foot traffic. Courts decreased in-person proceedings beginning on November 23, 2020 and again on December 9, 2020 in order to protect the health and safety of all court users, court staff and judges and to further reduce the community spread of the Coronavirus. Recently, the metrics once again indicate an opportunity to increase in-person proceedings in court facilities and while virtual appearances continue to be encouraged, in-person proceedings are permitted where access to justice and court operations require an in-person proceeding. The metrics will continue to be monitored. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

This Plan supersedes the Updated Operating Protocols Effective December 9, 2020. Commencing February 22, 2021 all court operations in the Third Judicial District of the State of New York shall be conducted pursuant to this Plan.

I. Court Facility Operations/Safety Protocols

- A. Occupancy of all public areas of the court facility is limited to 25% of the posted room occupancy per code. 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 20 people or 25% of the posted room occupancy per code.
- 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 acceptable disposition is reached, plea affidavits are strongly encouraged. Please work with your ADA and defense counsel on individual case procedures.
- 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 individual case procedures.
- 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.

II. Court Proceedings

- A. Trials: Bench trials and evidentiary hearings may proceed in-person but must be scheduled so that there is strict compliance with the room occupancy limits in all courtrooms and public areas. No more than one hearing or bench trial every 30 minutes may be scheduled. No jury trials may proceed.
- B. With the exception of jury trials and subject to the restrictions of any law, Administrative Order or Executive Order to the contrary, these updated operating protocols do not prohibit any particular case type or proceeding from being heard in-person. However, the following calendaring rules must be followed:
 - 1. Traffic infractions/violations: No more than 10 cases will be scheduled every 15 minutes.
 - 2. Criminal matters (to include all penal law and misdemeanor traffic charges): No more than 10 cases will be scheduled every 30 minutes.

At all times, all safety protocols listed above must be adhered to, including maximum occupancy, social distancing and PPE outlined in Court Facility Operations/Safety Protocols above.

- C. Virtual appearances shall be utilized to the greatest extent possible where a virtual appearance is legally permissible and logistically possible.