

**FOURTH JUDICIAL DISTRICT
RETURN TO IN-PERSON OPERATIONS - PHASE 4.1
Effective August 17, 2020**

Effective Monday, August 17, 2020, all courts located in the Fourth Judicial District will advance to Phase 4.1 of the “Return to In-Person Operations.” Phase 4.1 makes no changes to facility health and safety policies, density limits or courtroom scheduling. However, it makes some advances to in-court operations, including the resumption of residential mortgage foreclosure settlement conferences on a virtual basis; conducting special virtual conferences in non-residential and commercial mortgage foreclosure cases, as well as in eviction proceedings; conducting in-person arraignments and proceedings on appearance tickets, in both criminal and VTL cases; and resuming in-person VTL calendars.

The most significant change in Phase 4.1, however, is that planning will begin for the return of jury trials in both civil and criminal cases. Trials are planned to begin in Terms 11 (civil) and 12 (criminal). However, several counties will be participating in a special pilot project, with some trials in those counties occurring as early as mid-September. Detailed safety plans, as well as evidence presentation protocols will be developed, with input being sought from all.

Phase 4.1 continues to operate with certain presumptions. New or expanded proceedings in Phase 4.1 are bolded and italicized:

Matters that presumptively will be heard in-person:

1. *Supreme Court Civil*

- Bench Trials
- ***Jury Trials (beginning Term 11)***
- Evidentiary Hearings and Inquests, including Assisted Outpatient Treatment Hearings (new filings and extensions)
- All appearances and conferences, excluding foreclosures, where at least one party is self-represented
- Other appearances, as deemed necessary by the Assigned Judge taking into account the position of the parties
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

2. *Superior Court Criminal*

- Bench Trials
- ***Jury Trials (beginning Term 12)***
- Evidentiary Hearings
- Non-custodial Arraignments
- Waivers of Indictment, Pleas and Sentencings for defendants at liberty
- Sentencings for defendants in custody
- Motion arguments
- Treatment Court and Judicial Diversion where necessary to protect the health and safety of a defendant
- Grand Jury proceedings
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

3. *Family Court*

- ***Bench trials***
- Evidentiary Hearings (priority given to matters filed first)
- Child Support proceedings
- Adoptions
- Warrant returns
- Permanency Hearings
- Article 10 consents, admissions and surrenders
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

4. *Surrogate's Court*

- Citations and Show Cause orders
- Bench Trials
- Evidentiary Hearings
- Adoptions
- Article 17 and 17-A Guardianship proceedings
- Wrongful death settlements
- All appearances and conferences where at least one party is self-represented
- Other appearances, as deemed necessary by the Assigned Judge, taking into account the position of the parties
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

5. *City Court -- Civil*

- Bench Trials
- Evidentiary Hearings
- Small Claims matters (including small claims arbitrations), dangerous dog & local code violation proceedings
- Appearances regarding appeals
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

6. City Court -- Criminal/Traffic

- Custodial Arraignments will be conducted pursuant to standard business practices in each respective City Court
- **Non-Custodial Arraignments on Desk Appearance Tickets**
- **Vehicle and Traffic Law proceedings**
- Warrant Returns
- Bail applications and reviews
- Preliminary Hearings
- Evidentiary Hearings
- Motion arguments
- Pleas and Sentencings for defendants at liberty
- Sentencings for defendants in custody
- Bench Trials
- Treatment Court where necessary to protect the health and safety of a defendant
- Appearances regarding appeals
- Essential Matters as defined in Administrative Orders 78/20 and 99/20

Matters that presumptively will be heard virtually:

1. Supreme Court Civil

- All conferences where all parties are represented by counsel. **Mortgage foreclosure matters may proceed pursuant to the protocols established in Administrative Order 157/20 of Hon. Lawrence Marks**
- Motion arguments where all parties are represented by counsel
- Mental Hygiene Law proceedings pertaining to a hospitalized adult (Administrative Order 72/20)
- All other proceedings not listed above

2. Superior Court Criminal

- Conferences
- Waivers of Indictment and Pleas for defendants in custody

3. Family Court

- Conferences
- PINS Proceedings
- **First Appearance Calendars in Custody/Visitation cases**
- All other proceedings not listed above

4. Surrogate's Court

- Conferences where all parties are represented by counsel
- Motion arguments where all parties are represented by counsel
- All other proceedings not listed above

5. City Court – Civil

- Conferences
- **Eviction proceedings in accordance with Administrative Order 160/20 and its accompanying Memorandum issued by Hon. Lawrence Marks on August 12, 2020**
- Eviction proceedings to determine suitability for Alternate Dispute Resolution and/or settlement where all parties are represented
- Motion arguments
- All other proceedings not listed above

6. City Court – Criminal/Traffic

- Custodial Arraignments will be conducted pursuant to standard business practices in each respective City Court
- Conferences
- Pleas where the defendant is in custody
- All other proceedings not listed above

Town and Village Courts:

In addition to the enhanced in-person operations already being conducted in Phase 4, courts may now schedule in-person appearances for Vehicle & Traffic matters, as well as criminal DATs. Civilly, eviction proceedings may proceed in accordance with Administrative Order 160/20 and its accompanying Memorandum issued by Hon. Lawrence Marks on August 12, 2020.

Deviations from Presumptions:

In the Supreme, County, Family, Surrogate's and City Courts, a request to deviate from the presumptions may be made on motion of the parties or sua sponte by the Court, taking into account the position of the parties.

Courthouse Capacity:

Supreme, County, Family, Surrogate and City Courts: Reduced courthouse capacity will continue to ensure compliance with density restrictions. In-person proceedings will still occur in designated courtrooms only and according to set schedules which will continue. In Town and Village Courts, a strict maximum occupancy of 25% will continue and face coverings will continue to be required for all who enter.