



[No. 5A02020-50]

ADMINISTRATIVE ORDER
FIFTH 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, New York State and the nation are now experiencing an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much 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 gather daily to conduct business in large groups in close proximity to one another within often small courtrooms, it is hereby

ORDERED that, effective March 30, 2020 at 8:30 a.m. until the Second Amended Administrative Order No. 5A02020-49 issued on March 28, 2020 and any subsequent amendments thereto are rescinded by further Order, the attached Fifth District Virtual Courtroom Procedures, and any subsequent amendments thereto, shall remain in effect in all Counties of the Fifth Judicial District.

Dated: March 28, 2020

Syracuse, New York

s/James P. Murphy
Hon. James P. Murphy, JSC
Administrative Judge
Fifth Judicial District

Distribution:

Hon. Vito C. Caruso

Deputy Chief Administrative Judge

FIFTH JUDICIAL DISTRICT VIRTUAL COURTROOM PROCEDURES

In response to the Governor's, Chief Judge's and Chief Administrative Judge's mandate to reduce the density of court users in response to the unprecedented COVID-19 public health crisis, effective March 30, 2020, at 8:30 a.m., all of the Courts in the 5th Judicial District (except Town and Village Courts in a County without a Centralized Arraignment Part) will move toward "Virtual Court" proceedings. In all "essential" court proceedings, all parties, judges, court reporters, interpreters, etc. will participate by videoconferencing using Skype for Business. While the proceedings will be open to the public, uniformed staff will strictly monitor and may limit access so as to maintain appropriate social distancing in accordance with current public health authorities' guidelines and the occupancy limit of the particular courtroom.

The following guidelines shall apply to all categories of cases and general courthouse operations at the Central Court location previously designated by the Chief Administrative Judge in each County:

I. GENERAL PROVISIONS

1. The Central Courthouse shall be open from 8:30 a.m. until 4:30 p.m., Monday through Friday.
2. The Central Courthouse shall be staffed with the minimum number of employees to ensure the ability to intake papers, operate Skype equipment, process orders, keep the court record, answer telephone inquiries, process the mail and maintain essential court functions.
3. Security shall be maintained at the entrance to the Courthouse and throughout the facilities, including courtrooms when in session.
4. Signs shall be posted at the entrance to every Central Courthouse notifying the public of the existence of the video appearance protocol and indicating that the court proceedings remain open to the public (with the understanding that social distancing shall be maintained at all times).
5. The Designated Judge and court reporter (where used) shall participate in the Skype call from remote locations. The District IT Department shall test all computer connections with the Designated Judge at least 3 days before the Judge sits. All court reporters have remotely tested their connections. Technical staff shall be available to address any problems.
6. The Court Clerk shall be present in the courtroom. If the proceeding involves a defendant/self-represented litigant not in custody, the Court Clerk at the courthouse will establish the Skype call using the "Skype cart" in the courtroom and the defendant/self-represented litigant shall appear via Skype from the courtroom. If possible, the defendant/self-represented litigant shall be encouraged to appear by Skype video remotely. Each courtroom shall have a dedicated cell phone as backup.

7. The press/public shall be permitted in the Courtroom and have access to video and audio of the proceeding. Press inquiries shall be directed in writing to the Administrative Judge prior to the proceeding. The presiding judge shall have the ultimate determination as to whether cameras will be allowed in the virtual courtroom, applying existing law and rules.

8. If the defendant/litigant requires the use of an interpreter, the Clerk shall contact the Language Line at: 1-866-874-3972; Client ID: 502970; Access Code: XXXXXXXX.

9. If there is a need for an exception to these Virtual Courtroom Procedures, application shall be made by the Chief Clerk or Designated Judge to the Supervising Judge or to the Administrative Judge. The Supervising Judge shall consult with the Administrative Judge to determine if an exception shall be made.

10. If the County Clerk receives a filing that requires immediate action by the Court, the County Clerk shall contact the Supreme Court Clerk. Appropriate contact information has been exchanged.

II. ADULT CRIMINAL ESSENTIAL APPEARANCES DURING BUSINESS HOURS

1. Arraignments

(a) All Counties shall adhere to the following procedures:

(i) All court paperwork shall be digitally transferred by the arresting agency to the District Attorney's Office (DA). The DA shall digitally provide a copy of all papers to the Chief Clerk, or his/her designee for distribution to the Designated Judge, Public Defender, Assigned or retained Attorney.

(ii) The Designated Judge shall preside over the proceeding from a remote location using a pre-established Skype link.

(iii) Jails will utilize Skype abilities with pre-established Skype link at court computer with in-custody defendant in front of camera with microphone.

(iv) The lawyers shall participate in the proceedings using the preestablished Skype link.

(v) At every appearance, the Designated Judge shall ensure that the Respondent and his/her counsel have an opportunity to consult privately.

(vi) The record will be kept via a remote court reporter, FTR and/or a Liberty Recorder on a court computer.

(vii) At the conclusion of the proceeding, the Designated Judge will communicate with the Court Clerk regarding the completion of necessary

paperwork and will authorize him/her to conform signatures to be affixed where appropriate.

(viii) Skype contact information and cell phone numbers for necessary parties are provided for each county and are attached hereto.

2. All other Appearances, Family Court Matters and other Civil Appearances.

(i) Counsel shall contact the Chief Clerk (or his/her designee) and shall digitally provide any necessary paperwork to the Designated Judge and parties.

(ii) The Chief Clerk (or his/her designee) shall establish a Skype conference or with a call-in number.

(iii) The Chief Clerk (or his/her designee) shall forward the Skype invitation/link to the Designated Judge, participating lawyers and agencies, if applicable.

(iv) If a party is in custody, the in-custody party shall appear remotely, in front of camera with microphone.

(v) Record will be kept via FTR or a court reporter, who may appear remotely.

(vi) At every appearance, the Designated Judge shall ensure that the Respondent and his/her counsel have an opportunity to consult privately.

(vii) At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate.

(viii) Skype contact information and cell phone numbers for necessary parties are provided for each county and are attached hereto.

III. ADULT CRIMINAL OFF-HOUR IMMEDIATE ARRAIGNMENTS

1. For CAP counties, Onondaga, Oneida and Oswego, follow the procedure as set forth in Roman Numeral I I above.

2. For non-CAP counties, Jefferson, Lewis and Herkimer, follow the procedure set forth in Roman Numeral I I above, and the Designated Judge or Accessible magistrate shall assume the duties of the Chief Clerk.

3. Skype contact information and cell phone numbers for necessary parties are provided for each county and are attached hereto.

IV. MENTAL HEALTH PROCEEDINGS INCLUDING HOSPITALIZED ADULTS

1. Upon the filing of an Essential Proceeding pertaining to a hospitalized adult (including but not limited to a proceeding pursuant to Article 9 of the Mental Hygiene Law, Article 33 of the Mental Hygiene Law, or Article 81 of the Mental Hygiene Law), the lawyer instituting the proceeding shall provide a cell phone number and email address to the Chief Clerk, or his/her designee, for himself or herself and for a representative at the hospital, and any other interested party. The lawyer instituting the proceeding shall be responsible to facilitate their appearance by Skype for Business.

2. The Chief Clerk (or his/her designee) in each county shall be responsible for sending out the Skype invitation/link to the Judge, the attorney for the hospitalized party Mental Hygiene Legal Services (MHLS), and the representatives at the healthcare facility.

3. The Chief Clerk's office shall be responsible for ensuring the video equipment is in the courtroom and establishing the Skype connection.

4. At every appearance, best efforts shall be used to obtain the Respondent's consent to appearing by video, but the Designated Judge may permit the proceeding to continue via video without the Respondent's consent pursuant to Administrative Order 72 issued by Chief Administrative Judge Lawrence Marks on March 20, 2020.

5. At every appearance, the Designated Judge shall ensure that the Respondent and his/her counsel have an opportunity to consult privately.

6. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.

7. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize his/her digital signature to be used where appropriate.

V. YOUTH PART, JUVENILE DELINQUENTS, PINS

1. Upon the filing of an Essential Proceeding pertaining to a Juvenile Offender or Adolescent Offender in the Youth Part, or pertaining to a Juvenile Delinquent or a Person in Need of Supervision (PINS), the lawyer instituting the proceeding shall provide a cell phone number and email address for himself or herself, any other counsel of record, including the Attorney for the Child, where applicable, and for a representative at the facility where the youth is located, if applicable, who will be responsible to facilitate the appearance by Skype for Business.

2. Upon receipt of the papers, the attorney for the Respondent shall provide the Chief Clerk (or his/her designee) with his or her email address and phone number.

3. The Chief Clerk (or his/her designee) in each County shall be responsible for sending a Skype link to the Judge, the attorney for the Respondent, other counsel, if applicable, any parent or guardian, and the representative at the Residential Facility, if applicable.

4. The Chief Clerk (or his/her designee) shall be responsible for receiving court papers and distributing digitally to the Designated Judge.

5. The Chief Clerk (or his/her designee) shall be responsible for ensuring the video equipment is in the courtroom and establishing the Skype connection.

6. The Designated Judge shall attempt to obtain the Youth's consent to appearing by video.

7. At every appearance, the Designated Judge shall ensure that the Youth and his/her counsel have an opportunity to consult privately by cell phone or otherwise.

8. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.

9. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate.

VI. ALL ESSENTIAL MATTERS NOT COVERED HEREIN

1. The Designated Judge shall determine the feasibility of either Video or Telephonic Appearance by the parties and their attorneys or, in the case of a Family Offense Petition or a Quarantine Application, whether the matter can be resolved on the papers alone.

2. For after-hours proceedings, Law Enforcement shall contact the District Attorney per current protocol. If an appearance ticket is written, it shall be returnable after May 15, 2020. If an arraignment is deemed necessary by the District Attorney, the District Attorney shall contact the Designated Youth Part Judge/Accessible Magistrate. The pre-established Skype invitation/link shall be used by the Designated Judge/Accessible Magistrate.

3. The Chief Clerk or designee shall be responsible for the receiving court papers and distributing to the parties and/or their attorneys.

4. The Chief Clerk or designee shall forward papers electronically to parties and counsel, if represented.

5. The Chief Clerk or designee shall be responsible for ensuring the video equipment is in the courtroom and establish the Skype connection. The proceeding shall be recorded by FTR, remote court reporter or Liberty Recorder.

6. At every appearance, best efforts shall be used to obtain the parties consent (or

Petitioner's consent in the case of a Family Offense application for a Temporary Order of Protection) to appearing by video, but the Designated Judge may permit the proceeding to continue via video without the party/parties consent.

7. At every appearance, the Designated Judge shall ensure that the parties and his/her counsel have an opportunity to consult privately.

8. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.

9. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate.