

# COURT NOTICES

## AMENDMENT OF RULE

### Rules of the Chief Judge

Pursuant to Article VI, §28(c) of the State Constitution and section 211(1)(a) of the Judiciary Law, and upon consultation with the Administrative Board of the Courts and with the approval of the Court of Appeals of the State of New York, I hereby promulgate, effective immediately, new Part 43 of the Rules of the Chief Judge, relating to operation of Superior Courts for Drug Treatment, to read as follows:

#### PART 43. SUPERIOR COURTS FOR DRUG TREATMENT

§43.1. *Superior Courts for Drug Treatment.* (a) A Superior Court for Drug Treatment may be established in Supreme Court or County Court in any county by order of the Chief Administrator of the Courts following consultation with and agreement of the Presiding Justice of the Judicial Department in which such county is located. A Superior Court for Drug Treatment shall have as its purpose the hearing and determination of criminal cases in the courts of the county that are appropriate for disposition by a drug treatment court.

(b) The Chief Administrator, upon consultation with the Administrative Board of the Courts, shall promulgate such rules as are necessary to regulate operation of each Superior Court for Drug Treatment, and to permit transfer to the court, for disposition, of drug cases that are pending in another court in the same county.

## AMENDMENT OF RULE

### Chief Administrator of the Courts

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, I hereby promulgate, effective immediately, new Part 143 of the Rules of the Chief Administrator of the Courts, relating to operation of Superior Courts for Drug Treatment, to read as follows:

#### PART 143. SUPERIOR COURTS FOR DRUG TREATMENT

§143.1. *Establishment of Superior Courts for Drug Treatment.* Following consultation with and agreement of the Presiding Justice of the Judicial Department in which a county is located, the Chief Administrator of the Courts, by administrative order, may establish a Superior Court for Drug Treatment in Supreme Court or County Court in such county and assign one or more justices or judges to preside therein. Each such Superior Court for Drug Treatment shall have as its purpose the hearing and determination of:

(a) criminal cases that are commenced in the court and that are identified by the court as appropriate for disposition by a drug treatment court; and

(b) criminal cases that are commenced in other courts of the county, and that are identified as appropriate for disposition by a drug treatment court and transferred to the court as provided in section 143.2 of this Part.

§143.2. *Transfer of cases to Superior Courts for Drug Treatment; how effectuated.* (a) Transfer of cases pending in local criminal courts.

1. A local criminal court in a county in which a Superior Court for Drug Treatment has been established in the Supreme or County Court thereof may, upon motion of the defendant and with the consent of the district attorney, cause copies of papers and other documents filed in such local criminal court in connection with a criminal action or proceeding pending therein to be sent to the Superior Court for Drug Treatment:

(i) upon or after arraignment of defendant on a local criminal court accusatory instrument by which such action or proceeding was commenced; or

(ii) upon or after commencement of a proceeding brought against defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge.

2. Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the Superior Court for Drug Treatment shall determine whether or not a transfer of the action or proceeding to the court would promote the administration of justice. If the justice or judge presiding in the court determines that it would, he or she may order such transfer, in which event the action or proceeding shall be transferred to the Superior Court for Drug Treatment, all originating papers shall then be sent from the originating court to the Superior Court for Drug Treatment, and all further proceedings shall be conducted therein. If the justice or judge determines that a transfer of the action or proceeding would not promote the administration of justice, he or she shall notify the local criminal court from which the reference was received of such determination, whereupon all further proceedings in such action or proceeding shall be conducted in accordance with law.

(b) *Transfer of cases pending in a superior court.*

1. At any time while a criminal action or proceeding is pending in a superior court in a county in which a Superior Court for Drug Treatment has been established, including a proceeding brought against defendant for the violation of a condition of a sentence of probation or a sentence of conditional discharge, a judge or justice of the court in which the action or proceeding is pending may, upon motion of the defendant and with the consent of the district attorney, cause copies of papers and other documents filed in such court in connection with the action or proceeding to be sent to the judge or justice presiding in the Superior Court for Drug Treatment for review of the appropriateness of the transfer.

2. Not later than five business days following receipt of the papers and other documents, the judge or justice presiding in the Superior Court for Drug Treatment shall determine whether or not a transfer of the action or proceeding to the court would promote the administration of justice. If such judge or justice determines that it would:

(i) he or she, if sitting in Supreme Court, may order such transfer, in which event the action or proceeding shall be referred for disposition to the Superior Court for Drug Treatment, all original papers shall be sent to the Superior Court for Drug Treatment, and all further proceedings in such action or proceeding shall be conducted therein; or

*(ii) he or she, if sitting in County Court, shall so notify the justice of the court who caused the papers and other documents to be sent to him or her, and such justice may thereupon order such transfer, in which event the action or proceeding shall be referred for disposition to the Superior Court for Drug Treatment, all original papers shall be sent from the originating court to the Superior Court for Drug Treatment, and all further proceedings in such action or proceeding shall be conducted therein. If the judge or justice presiding in the Superior Court for Drug Treatment determines that a transfer of the action or proceeding would not promote the administration of justice, he or she shall notify the originating court of such determination, whereupon all further proceedings in such action or proceeding shall be conducted in accordance with law.*

*§143.3. Procedure in a Superior Court for Drug Treatment upon Transfer of Case Thereto. Each action or proceeding transferred from a local criminal court to a superior court and referred for disposition to a Superior Court for Drug Treatment thereof shall be subject to the same substantive and procedural law as would have applied to it had it not been transferred.*