

# COURT NOTICES

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## 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, upon consultation with the Administration 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 47 of the Rules of the Chief Judge, relating to the operation of Superior Court and Local Court Mental Health Parts.

#### PART 47. MENTAL HEALTH PARTS

##### § 47.1 Mental Health Parts

(a) *The Chief Administrator of the Courts, following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, may establish Superior Court Mental Health Parts in Supreme Court or County Court in any county. A Superior Court Mental Health Part shall have as its purpose the hearing and determination of criminal actions or proceedings in the county that are appropriate for disposition by a Mental Health Part.*

(b) *The Chief Administrator of the Courts, following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, may establish Local Court Mental Health Parts in a City or District Court or a Town or Village Justice Court in any county. A Local Court Mental Health Part shall have as its purpose the hearing and determination of criminal actions or proceedings in the courts of the county that are appropriate for disposition by a Mental Health Part.*

(c) *The Chief Administrator, upon consultation with the Administrative Board of the Courts, shall promulgate rules to regulate operation of Mental Health Parts and to authorize transfer to the Parts, for disposition, of any eligible actions or proceedings pending in another court in the same county.*

## AMENDMENT OF RULE

### Rules of the Chief Administrator of the Courts

Pursuant to the authority vested in me, and after consultation with the Administrative Board of the Courts, I hereby amend, effective immediately, section 123.1 of the Rules of the Chief Administrator of the Courts relating to material submitted to Supreme Court Law Libraries pursuant to paragraph c of subdivision 4 of section 102 of the Executive Law, to read as follows:

#### Section 123.1 Designations

The following Supreme Court Law Libraries are designated to serve as repositories of materials transmitted by State agencies pursuant to section 102(4)(c) of the Executive Law:

(a) Supreme Court Law Library/Civil Branch  
[60 Centre Street] 851 Grand Concourse  
[New York, N. Y. 10007] Bronx, N. Y. 10451  
(First Judicial [District] Department);

(b) Supreme Court Law Library  
360 Adams Street  
Brooklyn, N.Y. 11201  
(Second Judicial [District] Department);

[(c) Supreme Court Law Library

Courthouse  
Kingston, N. Y. 12401  
(Third Judicial District);]

[(d) c) Supreme Court Law Library  
72 Clinton Street  
Plattsburgh, N.Y. 12901  
([Fourth] Third Judicial [District] Department); and

[(e) Supreme Court Law Library  
Onondaga County Courthouse  
Syracuse, N. Y. 13202  
(Fifth Judicial District);]

[(f) Supreme Court Law Library  
107 Court House  
Binghamton, N. Y. 13902  
(Sixth Judicial District);]

[(g) d) Supreme Court Law Library  
Steuben County Courthouse  
Bath, N. Y. 14810  
([Seventh] Fourth Judicial [District] Department);

[(h) Supreme Court Law Library  
92 Franklin Street  
Buffalo, N. Y. 14202  
(Eighth Judicial District);]

[(i) Supreme Court Law Library  
Westchester County Courthouse  
White Plains, N. Y. 10601  
(Ninth Judicial District)]

[(j) Supreme Court Law Library  
100 Supreme Court Drive  
Mineola, N. Y. 11501  
(Tenth Judicial District);]

[(k) Supreme Court Law Library  
General Courthouse  
88-11 Sutphin Blvd.  
Jamaica, N. Y. 11435  
(Eleventh Judicial District);]

[(l) Supreme Court Law Library/Civil Branch  
851 Grand Concourse  
Bronx, N.Y. 10451  
(Twelfth Judicial District)]

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## AMENDMENT OF RULE

## Rules of the Chief Administrator of the Courts

Pursuant to the authority vested in me and upon consultation with and approval by the Administrative Board of the Courts, I hereby promulgate, effective immediately, new Part 152 of the Rules of the Chief Administrator of the Courts, relating to the operation of Superior Court and Local Court Mental Health Parts, to read as follows:

## PART 152. MENTAL HEALTH PARTS

## § 152.1. Establishment of Mental Health Courts

(a) Following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, the Chief Administrator of the Courts may establish Mental Health Parts in Supreme Court or County Court ("superior court mental health parts") in any county and assign one or more justices or judges to preside therein. Each superior court mental health part shall have as its purpose the hearing and determination of:

(i) criminal cases that are commenced in the superior court and that are identified by the court as appropriate for disposition by a superior court mental health part; and

(ii) criminal cases that are commenced in other courts of the county, and that are identified as appropriate for disposition by a superior court mental health part and transferred to that part as provided for in section 152.2 of this Part.

(b) Where necessary to best utilize available court and community resources for actions or proceedings involving defendants with mental health problems, the Chief Administrator of the Courts may establish Mental Health Parts in one or more City or District Courts or Town or Village Justice Courts ("local court mental health parts") in such county, and assign one or more justices or judges to preside therein. Each local court mental health part shall have as its purpose the hearing and determination of:

(i) criminal actions or proceedings that are commenced in a City or District Court or Town or Village Justice Court that are identified as appropriate for disposition by a local mental health part and transferred to that part as provided for in section 152.3 of this Part.

## § 152.2 Transfer of actions or proceedings to Superior Court Mental Health Parts

(a) Transfer of actions or proceedings pending in local criminal courts to a superior court mental health part.

(1) A local criminal court in a county in which a superior court mental health part has been established 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 mental health part:

(i) upon or after arraignment of the 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 the 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 mental health part 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 mental health part, all originating papers shall then be sent from the originating court to the superior court mental health part, 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 actions or proceedings pending in a superior court to a superior court mental health part.

(1) At any time while a criminal action or proceeding is pending

in a superior court in a county in which a superior court mental health part 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 mental health part 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 mental health part 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 mental health part, all original papers shall be sent to the superior court mental health part, 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 judge 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 mental health part, all original papers shall be sent from the originating court to the superior court mental health part, and all further proceedings in such action or proceeding shall be conducted therein. If the judge or justice presiding in the superior court mental health part 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.

## § 152.3 Transfer of actions or proceedings to Local Court Mental Health Parts

(a) A local criminal court in a county in which a local court mental health part has been established 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 therein to be sent to the local court mental health part:

(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.

(b) Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the local court mental health part, in consultation with the justice or judge in the court of origin, shall determine whether or not a transfer of the action or proceeding to the local court mental health part would promote the administration of justice. If the justice or judge presiding in the local court mental health part and the justice or judge presiding in the court of origin determine that it would, the justice or judge presiding in the court of origin may order such transfer, in which event the action or proceeding shall be transferred to the local court mental health part, all originating papers shall then be sent from the court of origin to the local court mental health part, and all further proceedings shall be conducted therein. If the presiding justice or judge in the local court mental health part or the justice or judge presiding in the court of origin determines that a transfer of the action or proceeding would not promote the administration of justice, the action or proceeding will not be transferred and all further proceedings in such action or proceeding shall be conducted in accordance with law.

## § 152.4. Procedure in a Superior Court Mental Health Part or Local Court Mental Health Part upon Transfer of Actions or Proceedings Thereto

Each action or proceeding transferred to a superior court and

*referred for disposition to a superior court mental health part thereof and each action transferred to a local court and referred for disposition in a local court mental health part thereof shall be subject to the same substantive and procedural law as would have applied had there been no transfer.*

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective immediately, section 202.5-bb(e) of the Uniform Civil Rules for the Supreme and County Courts, relating to electronic filing of actions in the Supreme Court, to read as follows:

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§ 202.5-bb. Electronic Filing in Supreme Court; Mandatory Program.

(e) Exemption From the Requirement of Electronic Filing.

Notwithstanding the foregoing, an attorney (*or other authorized representative*) or a party who is not represented by an attorney in an action that is required to be commenced electronically, or a person who is a proposed intervenor or other non-party who seeks relief from the court in such an action, may claim exemption from having to file and serve documents electronically in accordance with this section by filing with the County Clerk and the clerk of the court in which the action is or will be pending a form, to be prescribed by the Chief Administrator, on which:

(1) if an attorney (*or other authorized representative*), he or she certifies, in good faith that he or she:

(i) lacks the computer hardware and/or connection to the Internet and/or scanner or other device by which documents may be converted to an electronic format; or

(ii) lacks the requisite knowledge in the operation of such computers and/or scanners necessary to comply with this section (for purposes of this paragraph, the knowledge of any employee of an attorney *or other authorized representative*, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney *or other authorized representative*); or

(2) he or she indicates that he or she is not represented by an attorney and wishes to be exempt from having to file and serve documents electronically in accordance with this section.

Nothing in this section shall prevent a judge from exempting an attorney (*or other authorized representative*) from having to file and serve documents electronically in accordance with this section upon a showing of good cause therefor.

Where an attorney (*or other authorized representative*), party, proposed intervenor or other non-party who seeks relief from the court in an action that is subject to this section is exempt from having to file and serve documents electronically in accordance with this section, he or she shall serve and file documents in hard copy, provided that each such document shall include the notice required by paragraph (1) of subdivision (d) of section 202.5-b of these rules. Notwithstanding the foregoing, all other attorneys (*or other authorized representatives*), parties and others seeking relief from the court in such action shall continue to be required to file and serve documents electronically, except that, whenever they serve documents upon a person or party who is exempt from having to file and serve electronically in accordance with this section, they shall serve such documents in hard copy and shall file electronically proof of such service.

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