Forwarded to you on behalf of the Hon. James P. Murphy, Fifth Judicial District Administrative Judge:

Hi all. I learned late yesterday from the Governor's Counsel that the Governor intends to rescind formally the declaration of emergency. It will be effective today at the end of the day. Once the Governor has declared the public health emergency over, all of the Executive Orders predicated upon that original declaration will also be rescinded either explicitly or by operation of law at the end of the today, June 24, 2021.

This will have an immediate operational impact on many of our courts regarding three key areas: Remote Notarizations, Timeframes, and Virtual Court Operations.

Remote Notarization
Pursuant to the Governor's Executive Order, remote notarizations of forms and affidavits have been authorized via electronic signature, coupled with real-time video technology and recordings. Given that the state of emergency, along with all Executive Orders, will no longer be in effect, electronic notarizations will no longer be authorized or valid submissions to the court after tomorrow.
It is of note that the legislature recently passed a bill in both houses codifying the practice of electronic notarizations into law. However, the bill has not yet been delivered to the Governor, and, regardless, the bill does not become fully effective until 180 days following signature by the Governor.

Timeframes
Criminal Courts: The twenty-day return timeframe for appearance tickets that had been lengthened by the EOs originally to 90 and then to 60 days will return to normal unless a pre-arraignment diversion program is in effect with a schedule approved by the appropriate Administrative Judge.
Family Courts: Until the rescission, the strict Family Court timeframes and deadlines remained suspended for those delinquency cases not involving a juvenile held in detention and for those child abuse and neglect cases not concerning children removed from their homes. All of those remaining suspensions of other provisions will be lifted effective tomorrow at the end of the day. This would include, among others:
FCA 340.1: JD proceedings—For youth not in detention, trial must be held within 60 days of arraignment unless respondent requests adjournment up to 30 days for good cause. Additional adjournments permitted only for special circumstances, which "shall not include calendar congestion or the status of the court's docket or backlog."
FCA 350.1: JD proceedings dispositional (sentencing) hearing—the hearing must be held in non-detention cases within 50 days of fact-finding, unless adjourned on court or presentment agency motion for up to 10 days or motion of respondent for up to 30 days; further adjournments permitted only for special circumstances, which "shall not include calendar congestion or the status of the court's docket or backlog."
FCA 154-d and CPL 530.12(3-a), 3-b): Orders of protection—local crim courts may issue or modify Fam Ct (NOT Sup Ct matrimonial) orders of protection when Fam Ct is closed and direct that case is returnable in Fam Ct on the next day the court is in session but in no event more than

4 days later.
FCA 739: PINS proceedings—No child may be in "pre-dispositional placement" (formerly known as detention) for more than 3 days without a probable cause determination or unless "special circumstances exist" in which case placement may be extended for up to three days, not including weekends and public holidays.
FCA 747 + 748: PINS proceedings—Fact-finding (trial) must occur within 3 days of filing petition if child is in pre-dispo placement; may be adjourned for up to 3 days or, on child's attorney's motion, for reasonable period for good cause. Successive extensions on upon special circumstances.
FCA 749: PINS proceedings—Dispo may be adjourned for 10 days if child detained, in which case only two such adjournments are permitted. If not detained, adjournment may be for reasonable period not to exceed two months.
A more expansive summary regarding the impact to Family Court will follow.

Virtual Appearances
The restrictions contained in CPL 182 will be in full force and effect after tomorrow for all criminal proceedings.
Therefore, virtual proceedings will be authorized only in Albany, Bronx, Broome, Erie, Kings, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Putnam, Queens, Richmond, St. Lawrence, Tompkins, Chautauqua, Cattaraugus, Clinton, Essex, Montgomery, Rensselaer, Warren, Westchester, Suffolk, Herkimer and Franklin Counties.
Except in these counties, virtual arraignments will not be authorized elsewhere in the state. This will impact many Centralized Arraignment Parts outside of New York City that were set up only to operate virtually (the "VAPs").
Even within the counties listed above, under CPL 180.20 and CPL 180.30:
A court is not authorized to use electronic appearances at a hearing or trial.
A defendant may not enter a plea of guilty to or be sentenced on a felony.
A defendant may not enter a plea of not responsible by reason of mental disease or defect.
A defendant may not be committed to the state department of mental hygiene pursuant to article seven hundred thirty of this chapter.
A defendant may not enter a plea of guilty to a misdemeanor conditioned upon jail unless it will only be imposed in the event that the defendant fails to comply with a term or condition imposed under the original sentence.
A defendant who has been convicted of a misdemeanor may not be sentenced to a period jail more than time served.
It has been argued that the rights created under CPL 182 are waivable. If an unauthorized proceeding must go forward virtually, obtaining the explicit consent of the parties and noting the rescission of the EOs would be advisable. Adjournment to a time when all parties can appear in person is preferable.
Additionally, the Courts retain their inherent authority under Judiciary Law 2b-3 to fashion new proceedings as necessary. However, the Governor's determination that the emergency has abated cautions against utilizing this authority absent consent.