



ORLEANS COUNTY PROPOSED DISTRICT COURT STUDY & PLAN

Prepared by: Orleans County District Court Committee
March 24th, 2024 (revised)

Table of Contents:

Resolution & Committee Members.....	2
Preface	3
Historical Perspective of Justice Courts In Orleans County.....	4
Inefficiencies and Current Challenges.....	10
Financial Perspective & Cost Analysis.....	16
CAP Court (Centralized Arraignment)	19
Benefits of A District Court System in Orleans County.....	21
Proposed Structure of Orleans County District Court.....	26
Proposed District Court Budget.....	30
Implementation Timeline & Procedure.....	31
Relevant Provisions of the New York State Constitution and the New York State Judiciary Law.....	32

Spreadsheets:

APPENDIX A---Orleans County Justice Court Budget Analysis
APPENDIX B---Orleans County CAP court Budget Analysis
APPENDIX C---Orleans County District Court Budget Analysis
APPENDIX D---Local Law Establishing Orleans County District Court
APPENDIX E---Public Hearing Resolution

ORLEANS COUNTY RESOLUTION

RESOLUTION NO. 137-323 AUTHORIZING THE STUDY FOR THE ESTABLISHMENT OF A DISTRICT COURT IN ORLEANS COUNTY PURSUANT TO THE PROVISIONS OF THE UNIFORM DISTRICT COURT ACT OF NEW YORK STATE

WHEREAS, in recent years there have been abundant changes in State law affecting the operation of local courts and the legal proceedings conducted before them; and

WHEREAS, as a result of efforts in Orleans County to consolidate the local courts to provide a more effective local court system; and

WHEREAS, the Uniform District Court Act provides an alternative solution to modernize the local court system to potentially create a more effective and efficient justice system for the citizens of Orleans County; be it

RESOLVED, that the Orleans County Legislature does hereby authorize the formation of a District Court Committee to study the potential implementation of a District Court system in Orleans County, which committee shall be authorized to conduct meetings, public hearings, and meet with Village, Town, and State officials for the purpose of providing a recommendation to the Orleans County Legislature regarding the merits of the establishment of a District Court system in Orleans County, and for the further purpose of determining whether the Orleans County Legislature shall pass a Resolution for this issue to be addressed by referendum in the November 2023 general election.

DISTRICT COURT COMMITTEE MEMBERS

Co-Chairs: Joanne L. Best, Esq. and Hon. Joseph V. Cardone

Lynne M. Johnson
Merle "Skip" Draper
John M. Fitzak
Sheriff Christopher Bourke**
Richard DeCarlo*
Hon. Joseph Fuller*
Hon. Kevin Hurley*
Susan M. Howard Esq.
Dean S. Puleo, Esq.**
Hon. Bruce S. Schmidt
John C. Welch, Jr.

*Dissented from the Recommendations of the Committee

**Abstained from the Recommendations of the Committee

Preface

It is widely accepted that Courts are not intended to operate at a profit. The purpose of our Court System is to assure that the citizens of our communities have a forum where their legal matters can be addressed in a fair and equitable manner with the goal of obtaining Justice. While there is a substantial cost to society in providing a forum for Justice the goal must be to provide a Court system that is structured to assure our best chances in obtaining Justice in any given matter while at the same time being mindful of doing it in a cost-efficient manner. A District Court has not been established in New York State since 1962. Obviously many changes in various areas of the law have occurred since that time. The Orleans County website continues to post materials regarding this process as they become available. (see https://www.orleanscountyny.gov/departments/court_and_law/district_court_committee.php) With these concerns in mind, we present the following study and plan.

Striving for social justice is the most valuable thing to do in life.

Albert Einstein

Historical Perspective of Justice Courts in Orleans County

The Orleans County District Court Committee was formed to suggest new laws and policies to improve safety, fairness, access to justice and efficiency in the administration of criminal justice. In order to achieve those goals, we specifically looked at the current structure of our local Justice Court System.

Until 2005 our County had 20 sitting Town Justices in our ten towns and 4 sitting Justices in our two principal villages, Albion, and Medina. These Courts either met once a week, once every 2 weeks and some once every month. Judges sometimes had dockets of 3 or 4 cases; Courtroom facilities were mostly inadequate and often at their private residences. The number of lawyer judges in Orleans County over the last 30 years is minimal. Being elected a Town Justice had nothing to do with a qualification and more to do with popularity. The training for judges once elected to office was and is minimal. Judges often would lean on members of the District Attorney's Office to properly conduct proceedings in their Court. In a County of less than 45,000 people it was abundantly clear that we would be better served with fewer, more qualified individuals serving as Town Justices.

To that end efforts were initiated to make sweeping changes to our local Court system. We met with the various stakeholders in our criminal justice system including our local bar association, the Public Defender's Office, the Sheriff's Department, local Police Chiefs and appeared at Town and Village Board meetings. There was an obvious consensus that more efficiency in our Court system was needed.

To begin with we targeted the Towns of Ridgeway and Shelby to study the possibility of consolidating their Courts pursuant to the provisions of Section 106(a) of the Justice Court Act which at that time permitted the consolidation of 2 contiguous townships. We targeted these towns because they both had judges that were contemplating retirement. Also, as 2 of our larger townships the thinking was if we could accomplish consolidation there, then there would be no reason other townships in our County couldn't be consolidated.

Section 106(a) requires a fair amount of coordination and town board action and a specific timeline. To begin with we first met with each of the town boards and suggested that consolidation should be something they should look at as a means of making their local Court more efficient. Those meetings were then followed by public hearings at Town level with the District Attorney, Public Defender, Sheriff, and Probation Directors to publicly discuss consolidation. The process also required that after those hearings the Town Boards pass a resolution to have the proposal for Court consolidation be placed on the ballot for a referendum. Prior to the election the only real opposition we received was from a few magistrates. The proposals passed overwhelmingly in each of the townships with approximately 85% of the vote.

As a result, circa 2006 the Towns of Shelby and Ridgeway became 1 Court with a single Town Justice elected from each jurisdiction that had jurisdiction over both Towns. After a slight period of adjustment, it became abundantly clear that 2 elected judges could easily handle the caseload and that they actually preferred the arrangement. It was a clear success.

The following year the State of New York amended section 106(a) to permit “two or more contiguous” townships to consolidate. As a result, the Town of Yates, another neighboring township, met with Shelby and Ridgeway and went through the process of consolidating their Town Court with the two. As a result, what was 3 separate Courts with 6 separate Town Judges technically became 1 Town Court with just 3 Town Justices.

As a further measure we had already begun talks with the Village of Medina to dissolve their Village Court. The Village of Medina, the largest Village in our County, is geographically located in the Towns of Shelby and Ridgeway. It was determined by the Village in or about 2009 that they would dissolve the Village of Medina Justice Court and terminate the 2 positions of the Village Justice and Assistant Village Justice.

At that point the whole West end of Orleans County, which had been comprised of 4 separate Courts with 8 separate Justices became 1 Court with just 3 elected Justices.

It was not long before other jurisdictions within our County realized the economy of these consolidations and followed suit. Our second largest Village, Albion, also dissolved its Village Court. Since that time the Town of Gaines, Carlton, Kendall, Murray, Clarendon, and Barre have all gone from 2 town Justices down to 1. Now our County, which had 24 Town and Village Justices, is down to 11. Only the Town of Albion has continued with 2 elected positions. New York’s antiquated system of justice courts, made up of more than 1,200 town and village courts spread throughout New York State. These courts are inefficient, outdated, operate without significant direct state oversight, and are presided over by more than 1,800 justices of which more than 1,200 are non-lawyer lay justices. Many of these courts lack technology beyond the basic digital recording computer and security measures essential to the proper operations of a criminal court. The importance of an effective local court system cannot be overstated. Justice courts, often referred to as “the courts closest to the people,” are often the first contact a person accused of an offense has with the criminal justice system in the State of New York. Justice court is where first-time and low-level offenders often have their cases promptly disposed of. Justice court is where, in appropriate cases, the court can address the issues that bring individuals in contact with the criminal justice system in the first place. Since the 1950s, several task forces, commissions and committees have looked at the issues regarding the justice courts to improve the quality of justice in the town and village courts. However, the archaic structure of the justice courts has nonetheless persisted over the years. It is clear that New York’s justice courts need to consolidate to improve the “safety, fairness, access to justice and efficiency that a modern criminal justice system requires.

For more than 70 years, every entity that has studied the justice court system has come to the same inescapable conclusion: significant and substantial changes are not just warranted but are necessary to provide justice in accordance with the constitutional demands of due process. To achieve this goal in a rational, reasonable, efficient, and effective way, major structural changes are necessary. Such changes are long overdue. Proposals ranged from consolidation of regional courts to completely abolishing and replacing the current system with district courts. There are essentially just two problems with the current justice court system. First, to provide constitutional due process, every judge must be an attorney. Although a law degree and years of practice are no guarantee of fairness, competence, or even common sense, employing lay justices with nominal training is simply not a constitutionally acceptable substitute. Criminal law is

complex and becoming more so daily. Arraignments under the new bail laws, suspension of driver's licenses, orders of protection, pretrial hearings, accepting pleas, sentences, discovery under the new discovery laws, speedy trials, evidence in hearings and trials all require extensive, almost inherent understanding of the applicable law. While there certainly are some lay justices who have extensive knowledge and understanding of the law, most do not. The minimal amount of training provided by OCA is no substitute for years of law school and practice. Since at least 2001, the State Bar has adopted the policy that all town and village justices must be attorneys at law, admitted to practice in the State of New York. That Task Force also recommended the consolidation of justice courts. The State Bar considered and adopted additional reports with the same conclusions in 2009, 2018 and 2020. The second problem is multifaceted. There are just too many justice courts handling too few cases within proximity to each other. The justice courts are dictated by municipal boundaries without regard to caseloads, often on a part-time basis, with part-time justices and clerks. The result is great inefficiencies, repetitive services and no regard to economy of scale. In 2008, a report was issued by the Special Commission on the Future of the New York State Courts, entitled Justice Most Local: The Future of Town and Village Courts in New York State (commonly known as the Dunne Commission Report). The Dunne Commission Report identified these deficiencies and recommended that the best way to correct them was to replace the current system with county-based district courts, presided over by lawyer-justices. The Dunne Commission, convinced that any substantial changes were not feasible, offered only watered-down band aids, many of which were ignored. On February 1, 2008, the House of Delegates adopted a Resolution accepting the Report and Recommendations of the NYSBA Task Force on Town and Village Justice Courts. That Task Force considered OCA's 2006 Action Plan and was aware of the Dunne Commission's work. The report reaffirmed the Bar Association's commitment to having all town and village justices be lawyers. Mandatory court consolidation, regardless of what the court is called, based on caseload and geography not constrained by municipal boundaries is necessary in order to achieve economy of scale and efficiency.

These courts must be presided over by lawyer-justices in order to provide all litigants with the constitutional due process to which they are entitled. These changes are necessary to bring the New York State justice court system into the 21st century. Legislative amendments to a relatively few statutes are required to mandate these changes. Such changes would have to be phased in overtime to allow for the end of current justices' terms of office and to allow for counties to determine the form and boundaries of the consolidated courts that best suits towns and villages. Putting into practice the long-held policies of the State Bar is the challenge presented to today's Task Force. How do we "modernize" criminal practice? The conclusions and recommendations in this report represent the unanimous opinion of every prosecutor and defense attorney on the Task Force. The town justice members of the Task Force are essentially satisfied with the status quo, seeing no need to change a 300-year-old system that, in their experience, continues to work well. III. Brief History of the New York Justice Courts Justice courts throughout New York State are a significant part of the justice system and play an exceptionally significant role in adjudicating New York State criminal and civil matters. New York's Unified Court System (UCS) and the Office of Court Administration (OCA) oversee and fund city courts, district courts, and county courts. These courts are "courts of record," with standardized data collection. In addition to the courts overseen by the state, there are approximately 1250 justice courts throughout New York State that are situated within towns and villages. Today, almost all towns and approximately half of the villages have justice courts. The

development of justice courts came long before today's Unified Court System. The judicial structure in New York State was set up in the 1600s and was revised in the mid-1800s as the population grew and the needs of the court system changed with the changing landscape of New York. Small, localized courts, with criminal and civil jurisdiction, have existed in New York since colonial times. 15 The 1846 New York State Constitution officially established justices of the peace and local judicial officers for the towns and villages of New York. These individual town and village justices provided for local justice, at a time when travel options were limited to travel by horse or on foot. As New York has continued to evolve, with its population growing exponentially from the early days of establishing the judiciary, those same town and village justice courts have continued largely unchanged in over 300 years.

Past Reviews and Recommendations to Reform the New York Justice Courts There is a long history in New York State of missed opportunities at substantial reform of its justice courts, which has left New York with a justice court system established centuries ago and not designed to effectively meet the needs of today's justice system. With the establishment of the 2022 New York State Bar Association Task Force on the Modernization of Criminal Practice, there is a renewed opportunity to transform this antiquated court system into a system that works for today's New York. We are now at an inflection point where the structure and purpose of the justice courts must be reconsidered. Over the years, the justice courts have been criticized for a range of issues, including the use of lay justices with minimal training, the costly inefficient and duplicative use of resources by having so many courts in close proximity to one another each sitting for only a few hours once a week or as needed with small caseloads, the lack of oversight by the state and numerous other concerns that result from such inefficiencies. As a result, since the 1950s, there have been several attempts to review and reform the New York justice court system. The Temporary Commission on the Courts (Tweed Commission) was established in the 1950s and considered, but eventually rejected, requiring that all justices be lawyers and the establishment of district courts and magistrate courts in lieu of the justice courts. Instead of these more sweeping early ideas, it recommended adding training requirements for the justice court justices.

The 1960s saw continued attempts and rejections to legislatively change the structure of the justice courts. Additional calls for change continued into the 1970s, with the 1973 Dominick Commission recommending an end to village courts and limiting the jurisdiction of town courts. Neither proposal was adopted by the State. The New York State Bar Association took up the issue in 1979 and recommended looking into consolidating some of the justice courts, but that suggestion also fell flat. In the 1980s and 1990s, efforts at reforms continued with the Senate Select Task Force on Court Reorganization, which recommended both constitutional and legislative proposals to allow court mergers. During her tenure on the bench of the New York Court of Appeals, Chief Judge Judith Kaye submitted court restructuring proposals to the legislature in 1997 and again in 2001, but neither was adopted. Over the past 20 years, there has been a flurry of activity around reforming the justice courts. In 2001, the Special Committee to Promote Public Trust and Confidence in the Legal System of the State Bar issued a report that recommended that all town and village court justices be attorneys. Among its reasons were the following: the court's ability to incarcerate people at arraignment or upon conviction, to set bail and to preside over motion practice and trials. The report noted that these matters, if they had occurred in a city, would come before a city court judge who, by statute, had to not only be an attorney but had to have significant years of practice. The report noted that the 35-hour basic

training for town and village justices was significantly less than the training necessary to obtain a license to become a hair removal wax technician. This report also noted that in counties where administrative traffic violation bureaus, instead of courts, were used to handle traffic tickets, all administrative judges were attorneys. In 2003, the Office of the State Comptroller called for merging justice courts to increase efficiency and cost savings. One study showed that if just 10% of the village courts were to merge into the town courts surrounding them, the savings, in 2003 dollars, would be \$1.6 million annually. In 2006, Chief Judge Judith Kaye and Chief Administrative Judge Jonathan Lippman laid out an extensive plan to support New York's justice courts with a \$10 million appropriation request to support court operations and administration, auditing and financial control, education and training, and facility security and public protection. These funds were intended to address internal court operations but did not address either court consolidation or the need for lawyer justices. In 2006 the New York City Bar Association formed the Task Force on Town and Village Courts and issued several reports, the final report listing 10 recommendations for the structuring of the justice courts. Among those applicable to criminal cases, the Task Force recommended that all cases involving misdemeanors, and all hearings and trials, be transferred to justice courts presided over by lawyer-justices.

Also in 2006, the New York Times published a series of investigative articles critical of the New York's justice court system. In 2008, the Special Commission on the Future of the New York State Courts put out a report entitled *Justice Most Local: The Future of Town and Village Courts in New York State*. This report opined that if one were to create a justice court system from scratch it would not look anything like what we have today. The ideal system would be a few district courts based on caseload and demographics, with only lawyer-justices. However, the Commission determined that creating district courts was not feasible and that it was unrealistic to require all justices to be attorneys. Yet it did set forth recommendations for new requirements, such as raising the age and educational qualifications for justices, expanding the pool of justice candidates, improving training and oversight and modernizing court facilities. It also recommended giving defendants an "opt-out" right from having certain cases heard by a non-attorney justice. Furthermore, the report called for county-based panels to reform and merge courts. In December 2008, the State Bar's Special Committee on Court Structure and Judicial Selection and its subcommittee on Town and Village Courts issued a report analyzing the Dunne Commission report and recommendations. The report restated the State Bar's position that all justices must be attorneys, although, like the Dunne Commission, it recognized that this requirement may not be politically feasible "for now." It recommended that county committees be formed to study and recommend court consolidation.

Another report came out in 2008 by the New York State Commission on Local Government Efficiency & Competitiveness, called *21st Century Local Government*, which recommended legislation to incentivize towns and villages to merge or abolish some of their smaller and less active courts. Another 2008 report from the Fund for Modern Courts, entitled *Enhancing the Fair Administration of Justice in New York's Towns and Villages Through Court Consolidation*, found that court consolidation would solve many of the issues facing justice courts. In 2016, 22 N.Y.C.R.R. §17.2 was promulgated requiring annual training for town and village Justice Court justices and court clerks for the first time. In 2018, the New York State Bar Association issued a report entitled *Town & Village Justice Courts Report: Update Regarding Counsel at First Appearance, Training & Education, and Centralization*. The report laid out several

recommendations regarding counsel at first appearance and other improvements in training and auditing. In addition, it called for the stripping of town and village courts of criminal jurisdiction and the establishment of misdemeanor courts in each county. In 2020, the New York State Bar Association Task Force on Rural Justice published a report that included some important statistics, including that roughly 96% of attorneys practice in metropolitan areas, with the remaining 4% presumably serving New York's mostly rural areas. It also reported that nearly 75% of current rural practitioners will be retiring from practice in the next 10 to 30 years, with little to no new attorneys taking their place. The report discussed the extremely far distances that rural practitioners must travel to appear in these scattered courts. It also noted the lack of access to high-speed broadband. Out of this recommendation, the NYSBA House of Delegates adopted a Resolution on Broadband Access urging the state to prioritize funding high speed broadband to all parts of the state.

Inefficiencies and Current Challenges

A. Bail Reform 2020

Perhaps the greatest change concerning the services provided by the local justice court is the 2019 adoption of bail reform, effective January 1, 2020. Under the new bail reform laws, a person arrested for most misdemeanors and many non-violent felonies is no longer subject to having cash bail or another form of nonmonetary release on conditions set by a justice immediately following an arrest. Instead, provided the accused and the charges meet certain criteria, the arresting officer must issue an Appearance Ticket (AT) to the person accused, requiring them to appear in the local court at a later date within 20 days of the arrest. On the return date of the AT, the court arraigns the accused and can release them in their own recognizance (ROR) or, in a proper case, impose certain designated non-monetary release conditions.⁵⁸ Except for certain qualifying misdemeanors and felonies, the court was required to impose the least restrictive conditions designed to assure that the accused returns to court for future proceedings. The Criminal Procedure Law §530.20(1)(a) sets forth 9 criteria the justice is required to consider if the justice is not going to release the accused in their own recognizance without conditions. In addition, the justice is required to set forth, on the record or in writing, the reason for their decision. The 2023-24 State Budget modified parts of the 2019 Bail Reform Act by removing the ‘least restrictive conditions’ requirement when a justice is considering release of a person accused of a serious offense. The impact of bail reform on the justice courts cannot be overstated. Thousands of persons arrested for what are considered minor, non-violent crimes are not brought in front of a local court justice for immediate arraignment. Regarding serious crimes, which are designated misdemeanors and non-violent felonies and all but two violent felonies, under CPL § 530.20(b), the procedure is virtually the same as it was before bail reform. These crimes are identified as “qualifying [for bail or remand consideration] crimes.” The arresting officer can issue an AT (as before) or bring the accused before a justice for immediate arraignment; the justice must obtain input from the DA before making a release decision and must explain the release decision. As a result of bail reform, many arraignments now take place on the return date of the appearance ticket at a regularly scheduled court date. This allows an accused person time to obtain counsel in advance of their appearance, thereby reducing the need for CAFA attorney appearances at off-hours arraignments. This allows the district attorney and defense counsel time to review their file in advance of the first court appearance, allowing for more informed and timely decision-making. As the court system becomes more engaged in addressing the reasons a person becomes involved in the criminal justice system rather than simply imposing punishment – fines or incarceration – specialty courts, such as veteran courts, mental health courts, drug treatment courts, and others, have developed. These courts effectively remove the defendant from the justice court jurisdiction.

B. Vehicle and Traffic & E-pleas

During the COVID period our offices were directed to resolve all Vehicle and Traffic citations that were issued through the mail to eliminate foot traffic in the Courts. In responding to that requirement we have developed an automated system that if initiated will have a tremendous impact on the ease and efficiency with which motorists that have been ticketed will be able to address their citation without ever having to appear in Court. This system will significantly reduce

court dockets and the workload of prosecutors, court clerks and judges while enhancing traffic safety.

The only real obstacle to this being a reality is to permit prosecutor's office throughout the State to have access to the data stream of the TraCs system, managed by the NYSP, which is the electronic source for all V&T citations issued throughout the State. Currently OCA receives that stream of data and provides it to the Justice Courts so that they electronically receive images of tickets pending in their jurisdictions. Unfortunately, our system doesn't currently provide that information to the prosecutor's offices directly. Unlike every other case we prosecute, from harassments to murders, we don't receive information regarding these citations until we receive them in Court from the clerks, often weeks or months after they were issued.

We have conferred with the Admin for the Prosecutors Case Management System, and we have discussed a method of making this information simultaneously available to Prosecutor's offices. There is a significant benefit this will have on our resolving these cases. The outline for our plan is as follows:

1. We want to establish a data interface that will transfer data from the NYSP TraCs database to NYPTI's PCMS program via the OCA data stream.
2. The purpose is to provide prosecutors statewide immediate access to traffic violations and possibly accident reports that are maintained on the TraCs database without the cumbersome delay of waiting for Justice Court Calendars and/or being presented with this information for the first time when prosecutors appear in justice court.
3. The benefits are many:
 - a. As with all other cases we prosecute (criminal) we are receiving and reviewing these materials from law enforcement and not the courts.
 - b. Having access to these charges pending in our various jurisdictions will permit prosecutors to prepare resolutions of traffic cases in advance of their court appearances instead of the tedious and lengthy "cattle calls" that have existed in justice courts for years.
 - c. It will result in prosecutors being able to better manage their time in court and more appropriately handle the other "more serious" cases (penal law violations and misdemeanors) on the justice court dockets.
 - d. For the first time NYS justice court history that I am aware of not only will we know in advance of dealing with a motorist their traffic history (we get those now by running their DMV reports) but also, and very importantly, we will know of other traffic offenses they have pending in other jurisdictions.
 - e. For those jurisdictions that are interested in doing it, having access to this information in this fashion will for the first time permit the automation of resolving traffic matters through the mail/internet significantly reducing the congestion in our justice courts and providing motorists with an efficient way of resolving their traffic offenses. In theory it will encourage "out of

town” violators to address their summons where they may not have before and hopefully cut down on the loss of licenses.

- f. By prosecutor’s offices sharing this electronic process with the courts and their clerks a tremendous amount of redundant data input will be minimized and the resolution of cases will also be better tracked.
- g. This system will also provide local jurisdictions with data to have a much better handle on traffic safety issues within their communities and analyze in much greater detail measures that might be taken to protect the citizens of their communities while they are on the road.
- h. This access to this information will aid law enforcement/prosecutors in having a new level of intelligence as to the whereabouts and activities of criminals/witnesses that they are dealing with in pending criminal cases by tracking where they are committing traffic offenses. It is likely to also facilitate more efficient warrant execution and process serving.

I am certain that there are many other benefits of this program that we won’t know until we get into it. I think the important thing is that while we have some inertia we keep it moving. The first step is to get the data sharing underway. The NYSP have already expressed a willingness to co-operate in this project.

The second phase of the project will involve the automation of tailored plea offers that will be then forwarded via mail to the offending motorist. This system will permit the motorist to resolve their violations either by mail or on a web based system. Those that choose to contest their citations will still be afforded every right including meeting with a prosecutor in court and/or a trial. This system is designed in a fashion that does not compromise anyone’s rights but merely provides them with more alternatives and efficient opportunities to resolve their outstanding tickets.

Working with the New York Public Safety Corporation, a private company that has developed software for this project, we are postured to have this program in effect quickly. Obviously what I have explained is a quick overview of the program. Suffice it to say though I firmly believe this program promotes the stated goals of your Excellence Initiative. While V&T matters are at low end of the spectrum of the work we do as prosecutors, the resolution of these case has for decades had a significant impact on the efficiency of prosecutor’s offices across the Country.

In this day of technological advancement, through programs such as this, we are able to more effectively deal with these issues and thus improve the quality of the other important work we do as prosecutors.

It is impossible to look at justice courts without considering the evolving way traffic tickets are disposed of and how fines and surcharges are allocated. According to data collected by OCA’s Office of the Chief Administrative Judge for Courts, outside the City of New York, traffic tickets accounted for approximately 85% of all cases handled by local courts in 2021 and 2022 (through October 14, 2022). The breakdown is:

- 2021: Total cases 1,069,349; Criminal: 115,333; Civil: 14,147; Traffic: 935,023; and special proceedings: 5,846. Traffic represented 87.24% of all cases.
- 2022 (through 10/14/22): Total cases: 834,771; Criminal: 97,138; Civil: 24,235; Traffic: 697,874; and special proceedings: 15,524. Traffic represented 83.6% of all cases.

While local court justices are not supposed to consider the revenue that fines and surcharges in their courts generate for the town, village, county and state, those amounts cannot be ignored. Some courts generate between \$1 million to more than a \$4 million dollars a year (Village of Freeport in 2022) through mostly traffic enforcement. Other courts in smaller communities still generate hundreds of thousands of dollars annually. Those funds can represent significant savings for local real property taxpayers. In the past, traffic ticket dispositions required the personal appearance of both police officers and defendants. Police officers prosecuted their own traffic tickets. As with the entire criminal justice system, the vast majority of cases are resolved through plea bargaining. Officers met with defendants or their attorneys on the date set by the court for a trial. Most often a plea bargain would be agreed upon and presented to the justice for consideration.

Motorists charged with moving violations were (and still are) looking to avoid the accumulation of points, which would cause insurance premiums to increase. State Police troopers were assured of two hours of overtime for trial appearances. If the court accepted the plea bargain, as often happened, the court would impose a fine and a mandatory surcharge, if allowed by law. Tickets that were reduced to parking tickets carried fines between \$0 and \$150 without any surcharge. More important, the fine money imposed on a parking ticket eventually was paid to the municipality instead of the state or county. Several years ago, following a new state police contract that increased the overtime allowance for trials to three hours, the state determined that the trooper who issued the traffic ticket was not authorized to prosecute their own tickets. This set in motion a number of changes in how traffic tickets are handled. Initially, state police sergeants were assigned to prosecute and dispose of the traffic tickets issued by troopers. The Legislature later amended the Vehicle and Traffic Law to require a pretrial conference to see if the case could be disposed of without the need for attendance by police officers. In some counties, the district attorney took over the prosecution of traffic tickets from the arresting officers. Some towns and villages engaged municipal attorneys, with authorization from the district attorney, to dispose of traffic tickets.

Recognizing that reduction to parking tickets deprived the state of surcharge revenue, the law was changed to impose a \$25 surcharge on all parking tickets. It should be noted that there is some legislative interest in eliminating all surcharges as a regressive tax. Traffic ticket disposition continues to evolve. Some local courts, in coordination with district attorneys, recognizing that many traffic tickets are issued to persons who reside far from their jurisdiction, developed a “plea by mail” alternative to personal appearances. If a traffic offender met certain criteria, a reduction would be offered. Some district attorney programs require the alleged offender to complete a driver improvement class. Some district attorney offices impose a fee paid to the district attorney’s office for consideration of this reduction. The Covid-19 pandemic accelerated the conversion of a number of courts from in-person to plea by mail. As more courts adopt one of the plea by mail models for the disposition of traffic tickets the need for in-person court appearances will become greatly reduced. It is important to note that the Task Force is not recommending that traffic tickets be disposed of through the creation of administrative traffic

violation bureaus. Plea by mail models create more responsibility for courts and clerks in the handling of the plea and the fines and surcharges. In its 2019 Annual Report, the Commission on Judicial Conduct commented on a trend it was seeing of financial mismanagement and recordkeeping issues among town and village courts, which are responsible for collecting and handling their own fines and fees.⁶⁴ Though the Commission noted that much of the mishandling is due to innocuous reasons, such as lack of attention or clerical assistance, the Commission went on to say that they have publicly disciplined approximately 80 town and village justices and cautioned an additional 140 judges for violations of the rules around managing court funds.

C. Untenable Staffing

As the current system stands, practitioners from both the defense bar and the prosecutors' offices are stretched extremely thin trying to appear in numerous courts throughout the day and night to meet the demands of so many different justice courts with uncoordinated schedules. Defense attorneys and prosecutors are understaffed and the demands of a system with 1200 justice courts, on top of all of the city, county and district courts (in Nassau and Suffolk Counties), make it impossible to be in every court handling all criminal matters. The Hurrell-Harring case, where NYCLU brought a class action, arguing that New York failed to provide adequate public defense services led New York State to prioritize providing for defense counsel at first appearance. Since that case, there has been a large push throughout the state to establish the presence of defense counsel at arraignments so that defendants are represented during the critical first appearance. With so many different justice courts to cover, the defense bar across the state is simply unable to provide representation at every arraignment. Consolidation of justice courts would better protect defendants' rights by promoting counsel at arraignment. With fewer courts to staff, district attorneys and defense attorneys would have the resources to staff arraignments, the crucial first appearance, where discussions of bail and sometimes dispositions occur. Another benefit of consolidation is that it would support the flexibility to have prosecutors present at arraignment and even perhaps assist local law enforcement with charging decisions. It would allow for prosecutors to offer pre-arraignment diversion programs to eligible offenders and assist those with substance abuse issues with immediate treatment options.

In addition to the staffing issues for defense attorneys, prosecutors are stretched to their staffing limits to try to appear in every justice court across the state. Prosecutors' offices have limited staff who are overwhelmed with their own caseloads, investigations, discovery obligations, motion practice and trial preparation. To also have enough staff to appear in court proceedings across the county at various times is a tremendously difficult lift. Shifting resources away from the round-the-clock staffing needs in the justice courts will allow prosecutors to focus those resources on more serious cases. Some opponents of consolidation suggest that all that is needed is higher salaries to attract more defense attorneys and prosecutors to staff all the courts. While a raise in salaries might help to some extent, the reality is that many counties do not have an excess of attorneys to attract. Many offices have trouble attracting new talent and compete for attorneys. Staffing shortages in prosecutors' offices are the worst they have been in decades, with many of the DA's offices unable to fill all their budgeted attorney slots. Staffing decisions often come down to choosing between staffing felony bureaus or local court bureaus. The felony bureaus are always prioritized, leaving coverage of local courts short. In addition to easing many of the staffing burdens facing defense attorneys and prosecutors, consolidation would free up law enforcement resources. Currently, in order to have an in-custody defendant appear in court, it

takes law enforcement officers out of traditional law enforcement duties in order to transport the defendant and stay with him or her through the court appearance. If justice courts were consolidated into fewer courts, law enforcement could coordinate better to have fewer officers assigned to transport, allowing for a more efficient use of their time. It is simply a waste of resources to have numerous justice courts in close proximity. District attorneys, defense counsel and law enforcement all must fund personnel and resources to staff these courts, costing the county taxpayers unnecessarily. C. Limited State Oversight Unlike the rest of the judicial system in New York State, there is no direct oversight over the 1,200 justice courts by OCA. Instead, the Administrative Justice in each judicial district through its court attorneys monitors compliance with training hours. Justice courts are required to file monthly case data reports with OCA. On a monthly basis, every justice court is required to file financial reports to the Office of the State Comptroller accounting for the money that has been received and disbursed. In addition, books and records of the justice courts are offered annually to the municipalities for audit. These reviews, however, only involve proper recording keeping and money management. The New York State Commission on Judicial Conduct can investigate allegations of misconduct and recommend sanctions or even removal from the bench but only upon receipt of a complaint. There is no oversight by OCA to see if the training provided, especially to lay justices, is being put into practice. There is no program for the regular or even the occasional review of justice court recordings. Regular reviews of the recordings of arraignments, pleas and sentencings would allow OCA to see if its training programs are being put into practice. Just the possibility of such reviews, even random unscheduled reviews, could go a long way to improving compliance.

D. Inefficient Overuse of Part-Time Courts

Most town and village court justices are part-time, their clerks are part-time and their courts are in session and open to the public on a part-time basis. The court will be in session once per week, or every two weeks, or even less often in some exceptionally low volume towns and villages. While in session, the court will often only be open for two or three hours, if that. It is not unusual for court staff to have limited office hours, making it difficult for defendants and defense attorneys to contact the court with basic inquiries. It should be pointed out that while the court may be in session on a limited basis, the work of the justice can extend beyond those hours. This would include researching and preparing decisions, reviewing, and preparing case files, completing, and filing monthly reports, conducting preliminary and probable cause hearings, eviction proceedings and small claims trials along with myriad other tasks that are necessary to the proper functioning of the court. Consolidated courts, with staff that work full-time and justices that are on the bench more than a couple of hours a week, will make the court far more available. One example is Monroe County, where the larger justice courts have been trending towards day courts, as opposed to night, which would make it a smoother transition to consolidate there. Monroe County has redundant courts that could be considered for dissolution or combining. One such example is in the town of Sweden, which has a population of approximately 13,000 people. Over half of the population within Sweden is in the village of Brockport. Both the town of Sweden and the village of Brockport have their own justice courts, with a total of four justices. These courts are located on the same block in Brockport, 400 feet from each other. This is not cost effective nor efficient in effectuating justice.

Financial Perspective & Cost Analysis---The Cost of Orleans County Justice

A. Orleans County Justice Court Budget Analysis:

It is widely accepted that Courts are not intended to operate at a profit. The purpose of our Court System is to assure that the citizens of our communities have a forum where their legal matters can be addressed in a fair and equitable manner with the goal of obtaining Justice. While there is a substantial cost to society in providing a forum for Justice the goal must be to provide a Court system that is structured to assure our best chances in obtaining Justice in any given matter while at the same time being mindful of doing it in a cost efficient manner. With these concerns in mind we present the following.

Attached hereto as APPENDIX A is a summary of Revenues and Expenditures of the ten (10) Orleans County Justice Courts. The data set forth in the spreadsheet is derived from budget information obtained from each of the townships as a result of FOIL requests made to each of the townships by this Committee. Also attached to this report as a part of Appendix A is the budget information that was received from each of the townships. As you will note from your examination from these materials the financial information received from each of the Towns is presented in different formats. We have endeavored to present the Revenues and Expenditures as line items where possible but was constrained by these amounts often being reported to us in aggregates.

Also noteworthy is that without exception detailed information with respect to the cost of EMPLOYEE BENEFITS was not provided in a fashion it could accurately be reflected in this summary in a manner allocated to Court personnel. This is also true as to FACILITY COSTS. The cost of each of these towns maintaining Court facilities is not reflected in the data received. In every instance the town Court facilities are multi use areas (town board meetings, etc.) and we received no details as to how much of the expense is allocated to maintaining the facilities for Court purposes. In any event it is apparent these expenditures are individually and collectively significant in a cost analysis of this study and have meaningful impact on the actual costs of operating the town justice court system. Except where the Towns of Ridgeway and Shelby share the same facility for a courtroom the rest of the township have the burden of providing and paying for courtroom facilities that are redundant to the other towns and are used as courtrooms in most cases 3 or 4 times a month for just a few hours.

The Budget Analysis based on known costs indicates that the Courts in the townships of Orleans County operate at an aggregate deficit of **\$462,160.60**. Obviously when the expense of EMPLOYEE BENEFITS and FACILITY COSTS are added into the mix that deficit becomes even greater. While it would be wrong to speculate as to the amount of that expense it is not unfair to say that aggregate deficit is significantly impacted.

Also attached hereto is APPENDIX B which is a summary of the cost of operating a CAP (Central Arraignment Part) Court in Orleans County. As with APPENDIX A, EMPLOYEE BENEFIT COSTS and FACILITY COSTS are not provided but even without those figures the CAP Court cost (deficit) is estimated at **\$113,800**. The cost of operating the CAP Court is significant to this financial analysis in that the proposed District Court plan would eliminate the need for continuing CAP Court in Orleans County. The plan would eliminate the need for

morning and evening daily arraignments in CAP Court because those arraignment would be done at the beginning and end of each daily District Court session. Thus the known costs of operating the Justice Court system in Orleans County on an annual basis is **\$575,960.60**. It is noteworthy and interesting to note that in the proposed DISTRICT COURT BUDGET ANALYSIS, **APPENDIX C** (attached) the cost of EMPLOYEE BENEFITS and FACILITY COSTS is approximately 57% of the total costs of operating the proposed District Court. Applying that same percentage to the Justice Court system operating costs the real cost of operating the current 10 Justice Courts in Orleans County annually approximates **\$1,001,935.60**. Adding to that amount the cost of operating CAP Court (**\$113,800**) the actual cost of maintaining the Justice Court system currently in place in this County is **\$1,115,735.60**.

Under the Justice Court system currently in place nearly all of these expenses are paid for at the township level as reflected in the attached budgets. Thus the citizens of Orleans County are paying approximately 1.1 million dollars annually for a fragmented system of part-time courts consisting of lay judges.

B. Orleans County District Court Budget Analysis:

Attached **APPENDIX C** is the proposed budget for a centralized District Court for Orleans County. This proposal is based on one Court facility located in the center of Orleans County, staffed with two full-time lawyer judges, three full-time clerks and two full time security personnel. The District Court would be in session 5 days a week and replace the need for the existing CAP Court. The District Court plan will have to be approved by County wide referendum and then made law by the State Legislature in Albany under the Home Rule provisions.

Under the provisions of the plan as proposed the estimated net cost of operating the District Court system per year is **\$975,661.00**. Unlike a Justice Court system where local townships that work on much tighter tax revenues. District Courts are funded by the New York State Office of Court Administration and are part of the NYS annual budget. The staff of District Courts are not employees of the townships but are instead employees of the State of New York. Also the activities of District Courts, financially and otherwise, are more closely monitored and regulated than the current Justice Courts.

Additional concerns such as courtroom security, stenographic and interpreting services are more efficiently serviced through the Office of Court Administration in a District Court.

C. Other Financial and Legal Considerations:

While the New York State Uniform District Court Act authorizes the establishment of District Courts within a county, the law in the State of New York does not permit the establishment of a District Court system to replace and terminate the existing Justice Courts. In other words under the current state of the law if a District Court is adopted towns will still have to fund a local Justice Court unless each Township, pursuant to the provisions of Article VI, Section 17(B) (attached) of the New York State Constitution discontinues that Town's justice court. Until that occurs, Townships can minimize the cost of the Justice Court by substantially reducing the Justice Court's budget, salaries, personnel and other resources to render the Justice Court ineffective and essentially exist in name only. It is incumbent upon the lawmakers of the State of New York to address this dilemma because this impediment drastically impacts the modernization of our Court system. There is a need for state legislation that permits Counties to opt for one system or the other and further permit the termination of Justice Courts in a County when a District Court plan is chosen after public referendum.

Article VI, Section 17 of the New York State Constitution does permit the State Legislature to discontinue a Town Justice Court "with the approval of a majority of the total votes cast at a general election on the question of a proposed discontinuance of the court in each such town affected thereby."

CAP Court (Centralized Arraignment)

Despite the repeated calls for consolidation of the justice courts, it is extremely rare that towns or villages take the steps to voluntarily consolidate. As a result, the due process issues persist. Over the past 10 years, a number of changes in how arraignments are managed in justice courts have been undertaken. As arraignments represent the most universal functions of the justice courts, these changes have made an impact on how the local justice courts operate. A. Counsel at First Appearance (CAFA). In defense of the current justice court system, supporters often rally around the willingness of the local justices to wake up at all hours of the night to conduct an arraignment. These so-called “off hour” arraignments – that is, an arraignment not during the normal business day (not that there are daily “normal” business hours for many, if not most, justice courts) – are supposed to demonstrate the dedication of the local justices. Previously present at these arraignments was the justice, the arresting officer and the defendant. Rarely was a defense attorney present to advocate on behalf of the accused. If the charge involved a felony, the justice was required to obtain a recommendation from the district attorney, often by phone call, on the subject of bail. Not surprisingly, many people found themselves being held in lieu of bail. Arraignments have long been recognized as a critical stage of a criminal proceeding, requiring counsel to be present on behalf of the accused. In 2013, the Office of Indigent Legal Services (ILS) began funding some 25 counties in order for the counties to provide Counsel at First Appearance (CAFA). This was a system whereby public defense attorneys were paid to be available – on call – to attend the off-hours arraignments in person.

When counsel began appearing with a defendant, the likelihood of incarceration following arraignment decreased significantly. CAFA is an expensive program, since defense attorneys are paid to be on call. It is also an inconvenient program, since justices and defense attorneys still have to appear at court between the hours of 5 PM and 9 AM, Monday through Friday, outside the normal workday and at all times on weekends and holidays. Under CAFA, defense attorneys find themselves traveling long distances to courts that are far from their homes, while the justice, perhaps the ADA, the arresting officer and the defendant wait for them. B. Centralized Arraignment Parts (CAPs) In February 2017, Section 212 (w) was added to the Judiciary Law, along with changes to the Criminal Procedure Law and Uniform Justice Court Act. This law authorized ILS, working with various stakeholders in the counties, to establish what are referred to as Centralized Arraignment Parts (CAPs). The purpose of a CAP is to provide a central location in each county where arraignments could occur during daytime business hours that would have otherwise taken place during off hours at 21 the local criminal court. Off hours are often thought of as nighttime hours but also include daytime and weekend hours when the court is not otherwise in session. As envisioned, a person accused of a crime that required an arraignment would be held until the morning or evening session of the CAP court. The accused would be brought to the central location, often the county jail, and arraigned by the designated local town or village justice who was assigned to preside that day. The duly elected town and village justices were supposed to rotate their assignments to the CAP, thereby relieving each other of the burden of having to be available for off-hour arraignments every day and night. CAP courts are in session at designated hours, several times a day, including weekends. This allows prosecutors, defense attorneys and some law enforcement to schedule appearances at reasonable times and with reasonable notice. Family members of the accused can attend, and arrangements can be made in advance. While twenty-eight counties have embraced CAP courts, this voluntary program is currently not in all of the upstate counties. Some of the resistance to CAP courts comes from town and village justices who now have to travel to the central location to conduct

arraignments of defendants who may not have been arrested in their town. Some resistance comes from local police departments who likewise have to travel to the central location transporting the person they arrested. This could take the police 'out of service' in their town or village. In practice, a CAP represents a consolidated arraignment court. By ignoring municipal boundaries, this initial critical stage of a criminal proceeding is presided over by any justice designated as the CAP justice for that day. This allows both the prosecution and defense to attend court at reasonable, preset times and allows them time to prepare their respective cases. Prosecutors can confer with witnesses and police; defense attorneys can meet with the accused in advance, begin their investigation and consult with family, friends, and employers to arrange for bail if needed. Unfortunately, most counties have not created CAP courts that would cover either the entire county or certain designated towns within the county.

When the Office of Court Administration over the past few years required us smaller jurisdictions to initiate Central Arraignment Part ("CAP") Courts various plans were considered. Thereafter what was eventually approved involves us having CAP Court Sessions every morning at 8:30 am and every evening at 7:30 pm. These sessions are presided over by our remaining 11 Justices on an alternating basis by them appearing at the County jail. A representative from the Public Defender's Office also appears in person with a member of the District Attorney's Office appearing by telephone.

Our CAP Court system actually got started at the beginning of the Pandemic when personal appearance were not permitted and we adapted by utilizing virtual appearances pursuant to the Governor's Executive Order. With the termination of the Executive Order we have again returned to personal appearances. In 2023 Orleans County was added by State government to the list of Counties authorized under CPL 182 to conduct virtual appearances. Virtual Appearances should be permitted in all counties statewide. There are circumstances under which Virtual Appearances may not be appropriate but provided that they are only used in certain criminal proceeding and only at the discretion of the Judge/litigants it is an efficiency that is long overdue.

Benefits of A District Court System in Orleans County

A. Cost Savings from Consolidation of Resources Consolidation of justice courts could save municipalities significant costs.

The current structure creates excessive inefficiencies in requiring the funding for personnel, resources and facilities to run so many justice courts in such close proximity to one another. Many of the courts are redundant and cost the county taxpayers unnecessarily. Many of the smaller town and village courts have limited funds to invest in their courts and do not have a high enough volume to bring in sufficient revenue to support court costs. In addition, rising costs and state mandated tax caps have left municipalities with limited options for properly supporting court services. Thus, consolidation as a cost-saving option has become more appealing to some towns and villages. Memorandum of understanding or sharing agreements between jurisdictions who are sharing a consolidated court can help share the cost burden. Many counties already have larger renovated courtrooms that are central to the surrounding towns and villages and could serve as a consolidated courthouse. Town and village courts impose and collect fines, surcharges and fees on the cases over which they have jurisdiction, including civil, criminal and traffic cases. In the event of consolidation, any incoming revenues would still go back to the town in which the offense took place. Thus, consolidation would not lead to a loss of revenue for towns, only a reduction in costs. The only exception is that villages that dissolve their justice courts and move operations to the town in which the village sits will no longer be entitled to fines from criminal or VTL matters, only local village law violations. Nonetheless, the significant cost savings in no longer having to run their own justice court would outweigh any minimal lost revenue coming in, in most cases involving the smaller village courts.

In 2003, the Office of the State Comptroller audited 11 town and village courts and found that consolidation would lead to savings of almost 25% of the spending in these justice courts.

B. Improved Courtroom Facilities and Better Security

In taking the steps to consolidate, municipalities would need to review existing courtroom facilities and choose courtrooms that are best equipped to handle the larger volume. With consolidated resources and the associated cost savings, resources could be allocated towards courtroom improvements and updates. In addition, with a larger volume, there would be a need for better security. Currently, many smaller courts lack the necessary funding to have updated facilities, including accessibility and security measures. Courtroom equipment, ranging from technological needs and even basic administrative supplies, are hard to fund with limited budgets. In recent years, there has unfortunately been an increased need for court security, the cost of which has become a burden to many localities, especially smaller jurisdictions. In its Task Force Report, the Fund for Modern Courts described many of the lapses in security in justice courts. It noted that some justice courts are housed in places like fire garages, using folding card tables, and simply do not have the infrastructure nor the funding for security measures like magnetometers, security personnel or holding cells. The report went on to quote a study where the sheriff's department in an upstate county, which was responsible for transporting in-custody defendants, believed that the courts were holding in-custody cases until the end of the calendar, so that the sheriff's department officers could provide security in courtrooms that lacked proper security personnel, while they waited for the in-custody case to be called.

Courtrooms must have the basic necessities in order to operate and protect the people they serve. OCA has put together a list of best practices for justice court security, which includes several recommendations that are simply not feasible under the current justice court system but should be incorporated into planning for better security, given the cost efficiencies and combining of resources under a consolidation plan. These best practices include dedicating space exclusively for justice court use; eliminating potential courtroom weapons; creating strategic barriers; eliminating strategic lines of sight; securing courtroom furniture; providing uniformed and armed security presence; providing ingress screening; securing and illuminating parking; arranging armed escort for bank deposits; securing storage of cash and negotiable instruments; and providing duress alarms in strategic places.

The savings associated with court consolidation could bring in funds to improve courtroom facilities, including updates to accessibility and technology. Basic administrative supplies and equipment could be obtained with the benefit of cost-sharing. Consolidation could lead to more resources for the appropriate and necessary level of security that all courtrooms should provide.

C. More Streamlined Docket Management Another benefit of consolidation is better docket management.

Defendants often have multiple cases in neighboring towns and villages. People tend not to just stay put in one town or village. People committing vehicular crimes may be doing so across multiple jurisdictions. Thus, some defendants end up with multiple cases from different neighboring towns, which are handled by different assistant district attorneys and different justices. This makes adjudication of the cases complicated and often slows down the process as the different parties try to connect and work on a disposition to cover the various cases. Because consolidation would likely lead to many of these neighboring courts with overlapping defendants combining, a lot of this complicated docket management would be simplified. Furthermore, consolidation could lead to better electronic recordkeeping and reporting of case statuses and outcomes. With fewer courts, it would be easier to administer a docket management system that all could use. Better reporting would help establish a better understanding of what is happening in the justice courts and how they can continue to improve.

D. Staggered Court Appearances and Extended Hours

As currently structured, town and village courts often meet once or twice monthly, some meeting more frequently. In some towns and villages, court is only held at night. As most justice court justices have regular jobs in addition to their positions as justices, having night court often makes it easier for them to work at their other jobs during normal business hours. This does not leave defendants within these towns and villages with any flexibility if the day or time of their local court is difficult to manage due to work, childcare or other reasons. One benefit of consolidation is that it could provide for regular and more frequent court hours, with the flexibility to have occasional evening hours to accommodate different schedules. Fewer courts would allow for more streamlined and flexible scheduling. Consolidated courts will remove conflicting scheduling. Court consolidation with longer court sessions will create larger court calendars. This would allow for staggered court appearances with set appearance times, rather than the current practice in many courts of having all interested parties present at the beginning of the court session. It could allow justices to schedule court appearances taking into account the availability of defense counsel as well as the defendant. This would reduce waiting time for all

parties. Courts could schedule appearances based on the tenets of procedural justice and respect for the individuals involved in the criminal justice system. This in turn would promote fairness and improve the public perception of justice.

E. Modernization of Technological Needs With decades and decades of efforts at reform of the justice courts, the COVID-19 pandemic shed light on the need for modernization in a way that we had never seen before.

On March 16, 2020, as the COVID-19 pandemic began, all court nonessential functions came to a halt.⁸¹ Arraignments began again on April 6, but were virtual with all parties in separate locations and defendants often being arraigned from booking facilities or jails.⁸² Other essential court functions were provided virtually beginning on April 13.⁸³ With the move to virtual court operations, there was a new need for basic technology in the justice courts. Equipment as simple as computers for virtual proceedings was not readily available across all justice courts. For those counties with sufficient resources and technology, this shift was doable. However, many counties lacked the necessary equipment or internet access to move to a virtual system.⁸⁴ The COVID-19 pandemic demonstrated the value of, and efficiency afforded by virtual proceedings. If technological needs can be met, there is a lot of opportunity for improving the business of the justice courts. One area that has been explored is using technology for virtual arraignments with appropriate due process safeguards that allow defense counsel to properly represent the accused. Virtual arraignments have been effectively utilized in counties with adequate technology. During the COVID-19 pandemic, Orleans County was one of the municipalities that was able to successfully pivot its Centralized Arraignment Part (CAP) to all virtual arraignments under the governor's Executive Order. With the termination of the Executive Order, Orleans County returned to personal appearances at the court but, due to its success with virtual arraignments, the county is seeking authorization under Criminal Procedure Law § 182 to return to conducting some arraignments virtually. In addition to virtual appearances for arraignment, traffic offenses and regular criminal appearances not involving hearings or trials could be handled virtually if courts had the equipment and technology to reliably allow for confidential communication between defense counsel and the accused. Virtual appearances have the potential to save tremendous resources and time and create better access to justice for the defendants who otherwise need to take off from work to attend court and wait for substantial amounts of time for their cases to be called and, in many instances, simply adjourned for "further investigation," discovery and/or consideration of a plea offer. In-person appearances could be limited to times when physical presence is necessitated, such as for hearings and trials and other occasional court appearances.

During the COVID-19 pandemic, some counties began resolving all Vehicle and Traffic citations through the mail to eliminate foot traffic in the courts. Orleans County developed an automated system that, if initiated, would have a tremendous impact on the ease and efficiency with which motorists that have been ticketed will be able to address their citation without ever having to appear in court. This system will significantly reduce court dockets and the workload of prosecutors, court clerks and justices while enhancing traffic safety. The automated system requires giving prosecutor's offices throughout the state access to the data stream of the TraCs system, managed by the NYSP, which is the electronic source for all town and village citations issued throughout the state. Currently, the DA's office does not receive information regarding these citations until they receive them in court from the clerks, often weeks or months after they were issued. Access to this data would permit the automation of resolving traffic matters through

the mail or online, significantly reducing the congestion in justice courts and providing motorists with an efficient way of resolving their traffic offenses. If court resources are consolidated and provide virtual and automated options, there could be computer kiosks set up in locations where former town and village courts once operated. This would ensure that all defendants had a close-to-home option for a computer and internet access to attend virtual court appearances. Basic technological equipment, such as computers and courtrooms with internet access, should be the bare minimum requirements in the justice courts. However, in consolidating and subsequently modernizing New York's justice courts, there are myriad options to use technology to increase efficiency and improve justice in the town and village courts.

F. Better Planned Transportation of In-Custody Defendants In-custody defendants must be transported by law enforcement officers to court.

This process removes the officers from regular law enforcement duties and often takes several hours. Coordinating the transportation for in-custody defendants across 1,200 justice courts creates huge inefficiencies for law enforcement, who are pulled from their regular responsibilities to assist in the transport. If justice courts consolidated, there would be fewer locations to transport in-custody defendants, and law enforcement officers could transport more defendants together to fewer locations. This would save substantial time and allow law enforcement to spend more time focused on their traditional law enforcement roles.

G. Reasonable Travel Distances for all Parties

In developing a consolidated court system, focus must be placed on making sure that defendants are not traveling unnecessarily far distances to appear in court. Highly populated locations with a higher volume of cases should be favored as centralized courts cover more remote locations. Notice should be paid to public transportation options, where available, to aid defendants who do not have access to a vehicle. It is also important to consider that a high percentage of the cases in justice courts are Vehicle and Traffic law offenses, many of which may involve non-local defendants. For those cases, the concern over defendants having to travel outside of their hometown or village is less persuasive. However, for the other types of cases, a closer look at individual counties is needed to sort out the opportunities for consolidation within a close distance to one another.

In 1992, Orleans County had 20 sitting town justices in its 10 towns and four sitting justices in its two principal villages, Albion and Medina. These courts either meet once a week, once every two weeks or once every month. Justices sometimes had dockets of three or four cases. Courtroom facilities were mostly inadequate and often at their private residences. Over the last 30 years in Orleans County, the number of lawyer justices that have sat on justice court benches can be counted on one hand. Being elected a town justice had nothing to do with qualifications and more to do with popularity. The training for justices, once elected to office, remains minimal. Justices often depend on members of the district attorney's office to properly conduct proceedings in their court. In a county of less than 45,000 people, it was abundantly clear that they would be better served with fewer, more qualified individuals serving as town justices. In 1992, Joseph Cardone was elected Orleans County district attorney. DA Cardone initiated efforts to make sweeping changes to the Orleans County local court system. He met with the various stakeholders in the criminal justice system including the local bar association, the public defender's office, the sheriff's department and local police chiefs, and he appeared at town and

village board meetings. There was an obvious consensus that more efficiency in the court system was needed. To begin with, Orleans County targeted the towns of Ridgeway and Shelby to study the possibility of consolidating their courts pursuant to the provisions of § 106(a) of the Justice Court Act, which at that time permitted the consolidation of two contiguous townships. They targeted these towns because they both had justices that were contemplating retirement. Also, as two of the larger townships, the thinking was that if they could accomplish consolidation there, then there would be no reason other townships in the county could not be consolidated. Section 106(a) requires a fair amount of coordination and town board action and a specific timeline. The Orleans County district attorney first met with each of the town boards and suggested that consolidation should be something they should look at as a means of making their local court more efficient. Those meetings were then followed by public hearings where the district attorney appeared at town meetings with the public defender, sheriff and probation directors to publicly discuss consolidation. The process also requires that after those hearings, the town boards would pass a resolution to have the proposal for court consolidation placed on the ballot for a referendum. Prior to the election, the only real opposition they received was from a select few magistrates. The proposals passed overwhelmingly in each of the townships with approximately 85% of the vote. As a result, circa 2006, the towns of Shelby and Ridgeway became one court with a single town justice elected from each jurisdiction that had jurisdiction over both towns. After a slight period of adjustment, it became abundantly clear that two elected justices could easily handle the caseload and that they preferred the arrangement. It was a clear success. The following year, the State of New York amended § 106(a) to permit “two or more contiguous” townships to consolidate. As a result, the town of Yates, another neighboring township, met with Shelby and Ridgeway and went through the process of consolidating their town court with the two. What were once three separate courts with six separate town justices became technically one town court with just three town justices. As a further measure, the district attorney had already begun talks with the Village of Medina to dissolve their village court. The Village of Medina, the largest village in the county, is geographically located in the towns of Shelby and Ridgeway. It was determined by the Village in or about 2009 that it would dissolve the Village of Medina justice court and terminate the two positions of village justice and assistant village justice. At that point, the whole west end of Orleans County, which comprised four separate courts with eight separate justices, became one court with just three elected justices. It was not long until other jurisdictions within Orleans County realized the economy of these consolidations and followed suit. The second largest village, Albion, also dissolved its village court. Since that time, the towns of Gaines, Carlton, Kendall, Murray, Clarendon and Barre have all gone from two town justices down to one. Now, Orleans County, which had 24 town and village justices, is down to nine. Only the town of Albion has continued with two elected positions. Over the last three years, with the support of the county Legislature,

Given the evolving complexity of the criminal justice system in this state, the concern for the rights of victims and defendants and the involvement of recent technologies, the time for sweeping reforms in the local court system is well overdue. Orleans County stands as a successful example of consolidation, and other counties should begin to follow suit.

Proposed Structure of Orleans County District Court

§ C25-1 Court system established.

There shall be a district court system established in County of Orleans as herein provided. The Orleans County District Court shall be an inferior court, and the judges thereof shall have the civil and criminal jurisdiction prescribed hereinafter consistent with the New York State District Court Act and the New York State Constitution, Article VI, Section 16. Such court shall be a court of record.

§ C25-2 Participation in system.

The district court system of Orleans County shall be established on the first day of January next succeeding one year from the general election by a majority vote cast in the Orleans County general election as approved by the Legislature of the State of New York.

§ C25-3 Districts and number of judges.

The entire County of Orleans shall constitute the one Judicial District in which the number of district court judges to be elected as determined by the Office of Court Administration. Also as determined by the Office of Court Administration the number of judges may be increased provided that such new judicial post or posts shall be filled for a full term at the next general election held not less than three months after the creation thereof. For the purpose of electing such judges, any city hereafter created from the territory of any town shall be considered to be part of that town.

§ C25-4 Qualifications of judges; restrictions on other activities; oath of office; powers.

A. No one shall be eligible to the office of judge unless he is a resident elected in the district for which he shall be elected or appointed and shall have been admitted to practice law in this state at least five years.

B. No judge shall engage in the practice of the law or hold any other public office in the County. Each judge shall devote his whole time and capacity to the duties of his office. Before entering upon his duties, each judge elected or appointed pursuant to this article shall take and file with the County Clerk the oath of office prescribed by the Constitution. The judges may, by virtue of their offices, administer oaths, take depositions and acknowledgments within the County and certify the same in the same manner and with like effect as judges of courts of record.

§ C25-5 Jurisdiction of village justices.

Currently there are no Village Courts in Orleans County. In the event that any Village Courts are established in the future, the justices of the village courts in villages within the Judicial District shall have such jurisdiction of criminal matters as is prescribed by the Criminal Procedure Law.

§ C25-5.1 Salaries of judges.

The salary of the Judge(s) shall as is determined by the Office of Court Administration as is established pursuant to the provisions of Article 2, Section 39 of the Judiciary Law.

§ C25-6 Board of Judges.

With the passage of Judiciary Law Article 2, Section 39 addressing the Unified court Budget has eliminated any need for a Board of Judges and all such authority regarding the cost and administration of the District Court has now been statutorily assigned to the Office of Court Administration.

§ C25-7 Access to facilities, payment of expenses.

The judges of the court shall have access to and possession of the courtrooms and court offices and other places provided by the Judicial District for the transaction of the business of the District Court. Notwithstanding any other provisions relating to the establishment and maintenances of the District Court facility, all budgetary considerations in connection with the operation of the District Court shall be the responsibility of the State of New York pursuant to the provisions of the Judiciary Law Article 2, Section 39

§ C25-8 Time and place of holding court.

It shall be the duty of the Orleans County Legislature to provide suitable places for holding court in accordance with the designation made by the New York State Office of Court Administration as hereinbefore provided.

§ C25-9 Procedures relating to traffic offenses.

A. The New York State Office of Court Administration shall determine the procedure to govern the payment of fines by any person accused of violating any provision of any law, ordinance, rule or regulation relating to vehicular or pedestrian traffic, without appearing in person, except in cases of speeding, reckless driving, leaving a scene of an accident or any charge of a misdemeanor or felony or any charge which may for reasons of public policy require the personal appearance of the accused, for such period of time as shall be deemed in the public interest; to fix the fine to be paid in each class of case within the minimum and maximum amount set by law, ordinance, rule or regulation; to designate the place or places where such fines may be paid; to prescribe the form of the summonses to be used and the manner in which the plea of guilty shall be made; and the manner in which the money shall be paid.

B. Such procedure may provide that any person pleading "guilty," or that a person pleading "not guilty" and asking that a day be set for trial, may do so through a representative or by mail and may further provide that the clerk of the court set such day for trial.

C. No resolution providing such procedure shall be effective until a certified copy thereof shall have been filed with the County Clerk.

D. Whenever any summons is issued involving a provision of any law, ordinance, rule or regulation relating to motor vehicle parking and the procedure for such violation is provided under this section, the member of the police force or any other peace officer serving said summons, in lieu of inserting in the summons the name of the person summoned, may insert therein, in the space provided for the insertion of the name of the person summoned, the words "registered owner of motor vehicle bearing license," said words to be followed by the license designation or identification as shown by the license plates on said motor vehicle parked in violation of the law, ordinance, rule or regulation as aforesaid; and said summons may be served upon said registered owner by a member of the police force or other peace officer by affixing the

summons to said motor vehicle in some conspicuous place where it is likely to be seen by an operator thereof. An operator of the motor vehicle, for the purposes of this section, if not the owner thereof, shall be deemed to be the agent of such registered owner to receive said summons served in the manner aforesaid; and service made in the manner provided shall be deemed to be lawful service upon the registered owner of the motor vehicle to which the summons is affixed. For the purpose of the service of the summons as herein provided, the registration records of the Motor Vehicle Department of the state in which the motor vehicle is registered shall be conclusive evidence as to the registered owner of the motor vehicle. When a summons is issued and served as authorized in this section, the information sworn to may charge the violation in the same manner and any further proceedings authorized in this section may be had and recorded in the name of the "registered owner of motor vehicle bearing license," said words to be followed by the license designation or identification as shown by the license plates.

§ C25-10 Official seals.

The District Court shall have an official seal on which shall be engraved the arms of the State of New York, the name of the court, the County and the district.

§ C25-11 Appointment, compensation and removal of court clerks.

The New York State Office of Court Administration shall appoint such number of court clerks and, subject to the applicable civil service laws, such additional court clerks, deputy court clerks, stenographers and other assistants and employees in the clerk's office as may be necessary. Court clerks and deputy court clerks shall, at the time of their appointments, be residents of Orleans County, and removal of any of them from Orleans County shall vacate the office. All the officers and employees provided by this section shall receive compensation to be fixed by the members of the County Legislature from the towns comprising the Judicial District, which salaries, together with other expenses of their offices, as provided by the annual budget, shall be a charge against the Judicial District. Any court clerk or deputy court clerk may be removed pursuant to the law and regulations of the State of New York

§ C25-12 Duties of court clerks.

The court clerk in each district shall:

- A. Exercise the powers conferred and perform the duties imposed upon him or her by this Act and the rules and resolutions of the New York State Office of Court Administration and those usually appertaining to his offices and, in the exercise of such powers and the performance of such duties, conform to the direction of the court.
- B. Keep the seal of the court and affix it to such papers and documents as he may be required to certify.
- C. Keep a docket book in such manner as the rules may prescribe, and all other records and proceedings of the court, and act as custodian of all documents, books and records.
- D. Keep the office open for the transaction of business during the hours designated by the rules and resolutions of the New York State Office of Court Administration .
- E. Attend the sittings of the court, administer oaths and take acknowledgments in the same manner and with like effect as clerks in courts of record, receive verdicts of juries and, in a

proper case, adjourn causes or, when no judge appears, adjourn causes to the next judicial day. Deputy court clerks and clerks other than the court clerk shall have like power and authority by designation of the New York State Office of Court Administration.

F. Assume charge and control of, and be responsible for, the general conduct of the business of his office and for the faithful discharge of the duties of deputy and assistant clerks and other officers connected with the court.

G. Collect and receive all the fees and account for and pay the same into the County treasury at such times as the County Treasurer may prescribe, which account shall contain the title of each case and the amount of fees received therein.

H. Deliver to his successor in office the official seal and all papers, books and records on file in his office.

Proposed District Court Budget

<u>Budget Item</u>	<u>District Court</u>	<u>OCA</u>	<u>COUNTY</u>
<u>REVENUE</u>			
Traffic Diversion	\$110,000.00		
Fines/Forfeitures	\$175,000.00		
Grant Revenue	TBD		
TOTAL	\$285,000.00		
<u>EXPENSES</u>			
Justice Services	\$320,000.00	\$320,000.00	
Clerk	\$150,000.00	\$150,000.00	
Clerk (Services)	-		
Justice Contract	-		
Interpreter	\$ 2,500.00		\$2,500.00
Office Supplies	\$ 4,000.00	\$ 4,000.00	
Equipment	\$ 2,500.00	\$ 2,500.00	
Stenographer	\$ 50,000.00	\$ 50,000.00	
Security	\$150,000.00	\$150,000.00	
TOTAL	\$679,000.00		
<u>EMPLOYEE BENEFITS</u>			
Social Security	\$41,540.00	\$41,540.00	
Medicare	\$ 9,715.00	\$ 9,715.00	
Disability	\$ 1,520.00	\$ 1,520.00	
Retirement	\$83,750.00	\$83,750.00	
Workers Comp	\$13,008.00	\$13,008.00	
Unemployment Ins	\$ 1,440.00	\$ 1,440.00	
Hos/Med Ins	\$380,688.00	\$380,688.00	
TOTAL	\$531,661.00		
<u>Facility Costs (Unallocated)</u>			
Rent (5000 sq ft @ \$10)	\$ 50,000.00		\$ 50,000.00
TOTAL	\$ 50,000.00	\$ 1,208,161.00	\$ 52,500.00
PROFIT/LOSS	\$(975,661.00)		

Implementation Timeline & Procedure

- April 1, 2024 (*Month 1*) – Submit Local Law to Clerk of the Legislature.
- April 23, 2024 – Put forth a Resolution to Set Date of Public Hearing on Local Law. This should not be the same night as a Legislature meeting.
- May 2024 (*Month 2*) – Hold Public Hearing.
- June 25, 2024 (*Month 3*) – Put forth a Resolution to Adopt Local Law.
- Friday, August 2, 2024 - Clerk of the Leg will submit Referendum to Board of Elections.

**Relevant Provisions of the New York State Constitution
And the New York State Judiciary Law**

Effective: January 1, 2002

McKinney's Const. Art. 6, § 16

**§ 16. [District courts; establishment; jurisdiction;
judges]**

- a. The district court of Nassau county may be continued under existing law and the legislature may, at the request of the board of supervisors or other elective governing body of any county outside the city of New York, establish the district court for the entire area of such county or for a portion of such county consisting of one or more cities, or one or more towns which are contiguous, or of a combination of such cities and such towns provided at least one of such cities is contiguous to one of such towns.
- b. No law establishing the district court for an entire county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities in the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities in the county considered as one unit.
- c. No law establishing the district court for a portion of a county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities included in such portion of the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities included in such portion of the county considered as one unit.
- d. The district court shall have such jurisdiction as may be provided by law, but not in any respect greater than the jurisdiction of the courts for the city of New York as provided in [section fifteen](#) of this article, provided, however, that in actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property, the amount sought to be recovered or the value of the property shall not exceed fifteen thousand dollars exclusive of interest and costs.
- e. The legislature may create districts of the district court which shall consist of an entire county or of an area less than a county.
- f. There shall be at least one judge of the district court for each district and such number of additional judges in each district as may be provided by law.

- g. The judges of the district court shall be apportioned among the districts as may be provided by law, and to the extent practicable, in accordance with the population and the volume of judicial business.
- h. The judges shall be residents of the district and shall be chosen by the electors of the district. Their terms shall be six years from and including the first day of January next after their election.
- i. The legislature may regulate and discontinue the district court in any county or portion thereof.

Effective: January 1, 2002

McKinney's Const. Art. 6, § 17

§ 17. [Town, village and city courts; jurisdiction; regulation; judges]

- a. Courts for towns, villages and cities outside the city of New York are continued and shall have the jurisdiction prescribed by the legislature but not in any respect greater than the jurisdiction of the district court as provided in [section sixteen](#) of this article.
- b. The legislature may regulate such courts, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York and may discontinue any village or city court outside the city of New York existing on the effective date of this article. The legislature may discontinue any town court existing on the effective date of this article only with the approval of a majority of the total votes cast at a general election on the question of a proposed discontinuance of the court in each such town affected thereby.
- c. The legislature may abolish the legislative functions on town boards of justices of the peace and provide that town councilmen be elected in their stead.
- d. The number of the judges of each of such town, village and city courts and the classification and duties of the judges shall be prescribed by the legislature. The terms, method of selection and method of filling vacancies for the judges of such courts shall be prescribed by the legislature, provided, however, that the justices of town courts shall be chosen by the electors of the town for terms of four years from and including the first day of January next after their election.

§ 39. Unified court budget; first instance payments by state; provision for prepayment; payment by localities; transfer of non-judicial personnel

1. Notwithstanding any other provision of law, and except as provided in subdivision three of this section the state shall pay in the first instance from regular appropriations, beginning April first, nineteen hundred seventy-seven the expenses for the supreme court and appellate divisions and appellate terms thereof, county courts, family courts, surrogate's courts, civil court of the city of New York, criminal court of the city of New York, district courts, city courts, the county clerks' offices in the city of New York and those portions of the county clerks' offices outside the city of New York that perform services pursuant to the role of the county clerk as clerk of the court where the budgets of the political subdivisions separately identify those services, and commissioners of jurors and their staffs where separate from the county clerks, or, if not so separate, where the budgets of the political subdivisions separately identify that function.

2. Notwithstanding any other provision of law, the allocation of costs of the courts and court-related agencies set forth in subdivision one of this section to each political subdivision shall be as follows:

(a) Effective for the state fiscal year beginning April first, nineteen hundred seventy-nine, the state comptroller shall deduct from any moneys payable to each such political subdivision from the local assistance account twenty-five percent of the amount set forth in column A. In the event that the judiciary budget adopted for the fiscal year beginning April first, nineteen hundred seventy-nine includes an allocation for any political subdivision that is less than the appropriated budget used to calculate column A, then the deduction to the locality shall be proportionately reduced. The amount to be deducted pursuant to this paragraph, as reduced pursuant to the provisions of this subdivision or any other provision of law, shall be deducted pursuant to a plan prepared by the state comptroller with the approval of the state director of the budget. Such plan shall, to the extent practicable, provide for the amount of such deductions to coincide with the state first instance payments for the expenses enumerated in subdivision one of this section. In lieu of deducting such amount from moneys payable from the local assistance account, the plan prepared by the state comptroller with the approval of the state director of the budget may provide for the rendering of monthly or bi-monthly statements requiring the payment of fractional portions of such amount, and may provide for the payment of interest at a rate to be fixed by the state comptroller, not to exceed six percent per annum, in the event payment shall not be made at the time and in the amount prescribed therein.

Sub-parg.

- 1.Albany Co.
- 2.Allegany Co.
- 3.Broome Co.
- 4.Cattaraugus Co.
- 5.Cayuga Co.
- 6.Chautauqua Co.
- 7.Chemung Co.
- ~~8.Chenango Co.~~
- 9.Clinton Co.
- 10.Columbia Co.
- 11.Cortland Co.
- 12.Delaware Co.
- 13.Dutchess Co.
- 14.Erie Co.
- 15.Essex Co.
- 16.Franklin Co.
- 17.Fulton Co.
- 18.Genesee Co.
- 19.Greene Co.
- 20.Hamilton Co.
- 21.Herkimer Co.
- 22.Jefferson Co.
- 23.Lewis Co.

24. Livingston Co.
25. Madison Co.
26. Monroe Co.
27. Montgomery Co.
28. Nassau Co.
29. Niagara Co.
30. Oneida Co.
31. Onondaga Co.
32. Ontario Co.
33. Orange Co.
34. Orleans Co.
35. Oswego Co.
36. Otsego Co.
37. Putnam Co.
38. Rensselaer Co.
39. Rockland Co.
40. St. Lawrence Co.
41. Saratoga Co.
42. Schenectady Co.
43. Schoharie Co.
44. Schuyler Co.
45. Seneca County
46. Steuben Co.

- 47.Suffolk Co.
- 48.Sullivan Co.
- 49.Tioga Co.
- 50.Tompkins Co.
- 51.Ulster Co.
- 52.Warren Co.
- 53.Washington Co.
- 54.Wayne Co.
- 55.Westchester Co.
- 56.Wyoming Co.
- 57.Yates Co.
- 58.City of Albany
- 59.City of Binghamton
- 60.City of Buffalo
- 61.City of Mt. Vernon
- 62.City of New Rochelle
- 63.City of New York
- 64.City of Niagara Falls
- 65.City of Rochester
- 66.City of Rome
- 67.City of Schenectady
- 68.City of Syracuse
- 69.City of Troy

- 70.City of Utica
- 71.City of White Plains
- 72.City of Yonkers
- 73.City of Amsterdam
- 74.City of Auburn
- 75.City of Batavia
- 76.City of Beacon
- 77.City of Canandaigua
- 78.City of Cohoes
- 79.City of Corning
- 80.City of Cortland
- 81.City of Dunkirk
- 82.City of Elmira
- 83.City of Fulton
- 84.City of Geneva
- 85.City of Glen Cove
- 86.City of Glens Falls
- 87.City of Gloversville
- 88.City of Hornell
- 89.City of Hudson
- 90.City of Ithaca
- 91.City of Jamestown
- 92.City of Johnstown

- 93.City of Kingston
- 94.City of Lackawanna
- 95.City of Little Falls
- 96.City of Lockport
- 97.City of Long Beach
- 98.City of Mechanicville
- 99.City of Middletown
- 100.City of Newburgh
- 101.City of North Tonawanda
- 102.City of Norwich
- 103.City of Ogdensburg
- 104.City of Olean
- 105.City of Oneida
- 106.City of Oneonta
- 107.City of Oswego
- 108.City of Peekskill
- 109.City of Plattsburgh
- 110.City of Port Jervis
- 111.City of Poughkeepsie
- 112.City of Rensselaer
- 113.City of Rye
- 114.City of Salamanca
- 115.City of Saratoga Springs

116.City of Sherrill

117.City of Tonawanda

118.City of Watertown

119.City of Watervliet

(a-1)(i) Effective for each state fiscal year beginning April first, nineteen hundred ninety-five, the state comptroller shall, on or before the end of that fiscal year: (1) deduct from any moneys payable to the city of New York from the local assistance account as state aid for the support of local government the amount certified to him or her by the chief administrator of the courts immediately following the close of such fiscal year pursuant to subparagraph (ii) of this paragraph, and (2) transfer the amount of such deduction from the local assistance account to the New York city county clerks' operations offset fund.

(ii) On or before March first in each year commencing with March first, nineteen hundred ninety-six, the chief administrator shall determine and certify to the comptroller the difference between (1) the amount of the disbursements under the **judiciary** budget made during the fiscal year ending the previous March thirty-first for the payment of services and expenses incurred in that fiscal year by the offices of the county clerks of the city of New York, excluding services and expenses incurred by those offices in discharge of a county clerk's powers and duties as commissioner of jurors, and (2) the aggregate receipts derived by the state from the fees specified in paragraphs one and two of subdivision (f) of section eight thousand twenty and section eight thousand twenty-one of the civil practice law and rules during the fiscal year commencing April first, nineteen hundred ninety.

(iii) On or before March first, nineteen hundred ninety-seven, and each March first thereafter, the chief administrator shall determine the actual difference between (1) the amount of the disbursements under the **judiciary** budget made during the fiscal year ending the previous March thirty-first for the payment of services and expenses incurred in that fiscal year by the offices of the county clerks of the city of New York, excluding services and expenses incurred by those offices in discharge of a county clerk's powers and duties as commissioner of jurors and (2) the aggregate receipts derived from the state from the fees specified in paragraphs one and two of subdivision (f) of section eight thousand twenty and section eight thousand twenty-one of the civil practice law and rules during the preceding fiscal year. The chief administrator shall compare this actual amount of difference with the projected amount of difference calculated pursuant to subparagraph (ii) of this paragraph and certify the difference between the two amounts to the comptroller. Such amount shall be added to, or deleted from, as the case may be, the amount of the deduction made from state aid payments to the city of New York pursuant to subparagraph (i) of this paragraph.

(b) To the extent the moneys so estimated by the state comptroller with the approval of the state director of the budget to be payable to such political subdivision from the local

assistance fund during any state fiscal year are insufficient to provide for the deduction of the amount required to be deducted pursuant to this subdivision, each such political subdivision shall pay on a monthly basis to the commissioner of taxation and finance an amount determined by the state comptroller and the state director of the budget to provide for payment of the amount by which the estimated moneys payable to such political subdivision is insufficient. The amount of such payments may be adjusted from time to time as the estimate of moneys payable to such political subdivision is adjusted.

(c) For the state fiscal year commencing April first, nineteen hundred seventy-nine, each political subdivision shall repay to the State of New York an amount equal to twenty-five percent¹ of its portion of the amount appropriated in the first instance from the state purposes fund to the **judiciary** for the state fiscal year commencing April first, nineteen hundred seventy-six, as determined by the state department of taxation and finance.

(d) Except as provided in subdivision three of this section, the allocation of costs to each political subdivision for its share of the expenses of the courts and court related agencies of the unified court system set forth in subdivision one of this section shall be determined by **law** for the fiscal year commencing April first, nineteen hundred seventy-nine, and no allocation of such costs to political subdivisions shall be made for any fiscal year commencing on or after April first, nineteen hundred eighty.

(e) All fees collected pursuant to sections eighteen hundred three, eighteen hundred three-A and nineteen hundred eleven of the New York city civil court act, all fees collected pursuant to state **law** by the county clerks in the city of New York, except as otherwise provided herein with respect to fees collected pursuant to subdivision (a) of section eight thousand eighteen of the civil practice law and rules and except those fees collected by the clerk of Richmond county which in the other counties of the city of New York are collected by the city registers, all fees collected pursuant to section eight thousand eighteen of the civil practice law and rules except only to the extent of one hundred sixty-five dollars of any fee collected pursuant to subparagraph (i) of paragraph one of subdivision (a) of such section and except for those collected pursuant to subparagraph (ii) of paragraph one of paragraph three of such subdivision (a), all fees collected pursuant to section eight thousand twenty of the civil practice law and rules except for those collected pursuant to subdivisions (f), (g) and (h) of said section, all fees collected pursuant to section eight thousand twenty-two of the civil practice law and rules, all fees collected pursuant to section twenty-four hundred two of the surrogate's court procedure act, all fees collected pursuant to section eighteen hundred three, eighteen hundred three-A and subdivision (a) of section nineteen hundred eleven of the uniform district court act, all fees collected pursuant to section eighteen hundred three, eighteen hundred three-A and subdivision (a) of section nineteen hundred eleven of the uniform city court act and all fines, penalties and forfeitures collected pursuant to subdivision eight of section eighteen hundred three of the vehicle and traffic law, except such fines, penalties and forfeitures collected by the Nassau county traffic and parking violations agency, section 71-0211 of the environmental conservation law, section two hundred one of the navigation law and subdivision one of

section 27.13 of the parks, recreation and historic preservation law shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month. The additional fee of five dollars collected by county clerks in New York city pursuant to paragraph three of subdivision (a) of section eight thousand eighteen of the civil practice law and rules shall be distributed monthly by the county clerks as follows: four dollars and seventy-five cents to the commissioner of education for deposit into the local government records management improvement funds; and twenty-five cents to the city of New York.

(f) Effective April first, nineteen hundred seventy-seven, the state shall no longer make any payments pursuant to section thirty-four-a of this chapter² nor any payments pursuant to section ninety-nine-1 of the general municipal law for matters handled by the criminal court of the city of New York, the district courts and city courts.

(g) The amounts to be deducted from the local assistance fund and to be paid by political subdivisions to the state of New York, and the fees to be paid to the state commissioner of taxation and finance pursuant to paragraphs (a), (b), (c) and (e) of subdivision two of this section are hereby made available for the reimbursement of expenditures made by the judiciary in the first instance from state purposes appropriations authorized by subdivision one of this section.

Notwithstanding any other provision of law, the comptroller is hereby authorized to repay from such amounts and such fees the expenditures made by the judiciary in the first instance from state purposes appropriations authorized by subdivision one of this section.

3. (a) Notwithstanding any other provision of law, all goods, services and facilities presently furnished and paid for by any political subdivision to the courts and court-related agencies affected by this section not included in that portion of the budget of the political subdivision used in the computation of the amounts set forth in subdivision two of this section, shall continue to be furnished and paid for by the political subdivision. Each political subdivision shall also be responsible for supplying such additional facilities suitable and sufficient for the transaction of business as may become needed after the effective date of this subdivision.³ In the event that a political subdivision during any state fiscal year ceases to provide any such goods, services and facilities, the state administrator shall determine the value of such goods, services and facilities and shall notify the state comptroller of such determination. During each state fiscal year in which a political subdivision ceases to provide such goods, services and facilities, an amount equal to the value of such services shall be deducted by the state comptroller from any moneys payable to such political subdivision from the local assistance fund. All federal moneys allocated as of March thirty-first, nineteen hundred seventy-seven by any political subdivision for goods, services or facilities in the courts or court-related agencies affected by this section shall continue to be so allocated for as long as those federal moneys remain available to that political subdivision, except that, if the federal moneys granted to the political subdivision from which such goods, services or facilities are provided are reduced below the amount granted as of March thirty-first, nineteen

hundred seventy-seven, the political subdivision may make a proportionate reduction in the federal moneys allocated for such goods, services or facilities.

(b) Political subdivisions which provide security services for the courts, the cost of which is not included in that portion of the budget of the political subdivision used in the computation of the amounts set forth in column A in paragraph (a) of subdivision two of this section shall be entitled to reimbursement by the state within the amounts appropriated to the administrative office for the courts for that purpose.

(c) All employees providing goods and services pursuant to this subdivision shall remain the employees of the political subdivision. All deputy sheriffs or police officers providing security services in the courts shall be deemed persons providing services pursuant to this subdivision.

4. In preparing and submitting to the administrative board the itemized estimates of the annual financial needs of the courts and court-related agencies set forth in subdivision one of this section, the state administrator shall consider the relative caseloads of such courts and agencies in the event that increases in such itemized estimates are proposed for inclusion in the **judiciary** budget submission to the legislature.

5. The state administrator shall render an annual statement of the amount determined pursuant to paragraph (c) of subdivision two of this section to each political subdivision on or about the fifteenth day of September of each year. The amount set forth in such statement shall be paid to the state commissioner of taxation and finance by the city of New York no more than thirty days after receipt thereof and by all other political subdivisions on or before the thirty-first of January of the following year. In the event that any political subdivision fails to remit a payment due at the time specified herein, the comptroller shall withhold payments of installments or quarterly payments of state assistance due such political subdivision pursuant to the provisions of article four-a of the state finance **law** until the indebtedness due from such political subdivision pursuant to this subdivision shall be paid in full or until the installments or quarterly payments of such state assistance or portions thereof so withheld shall equal the amount so due from the political subdivision pursuant to this subdivision.

6. Notwithstanding any other provision of **law**, and except as provided in paragraph (c) of subdivision three of this section, commencing April first, nineteen hundred seventy-seven all justices, judges, and nonjudicial officers and employees of the courts and court-related agencies of the unified court system set forth in subdivision one of this section shall be employees of the state of New York and the salaries, wages, hours and other terms and conditions of their employment shall be determined in accordance with the provisions of this section.

(a) Such justices, judges, and nonjudicial officers and employees shall be placed on the payroll of the state of New York and shall be entitled to the salaries, wages, hours and other terms and conditions of employment to which they were entitled pursuant to any **law** or contract in effect immediately prior to the effective date hereof,⁴ except that they shall receive the rates of reimbursement for travel and lodging expenses provided by the state to state-paid nonjudicial officers and employees of the unified court system not affected by this paragraph, provided, however, that where an agreement has expired

with no successor contract yet having been executed prior to the effective date hereof a contract subsequently executed and retroactive to the expiration of such predecessor contract shall be controlling. Such salaries, wages, hours and other terms and conditions of employment shall continue in effect until altered by state law or by the terms of a successor contract, except that salaries, wages, hours and other terms and conditions of employment of such nonjudicial officers and employees not provided pursuant to contract and hours and other terms and conditions of employment of justices and judges may be altered by administrative action in accordance with law. Provided, however, that no liability shall be deemed to accrue to the state as result of any such law or contract for any period prior to April first, nineteen hundred seventy-seven.

(b) Notwithstanding any provision of paragraph (a) of this subdivision every local law enacted, contract entered into or action taken by a political subdivision or other instrumentality of the state on or after the effective date of this paragraph³ with respect to the terms or conditions of employment of any such justice, judge, non-judicial officer or employee shall be subject to the prior approval of the administrative board of the judicial conference. Provided, however, that any such local law, contract or action affecting any such justice, judge, non-judicial officer or employee of any court of the unified court system located in a city for which an emergency financial control board has been created shall be subject only to the prior approval of such emergency financial control board.

(c) For the purposes of this section, the term "salary" shall mean the annual salary otherwise payable to any judge, justice or nonjudicial officer or employee to whom the provisions of this section are applicable, exclusive of overtime compensation and any allowance in lieu of maintenance. The salary of the incumbent of a position compensable on an hourly or per diem basis, or on any basis other than at an annual salary rate, shall be deemed to be the salary which would otherwise be payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rules or orders for regular full-time employees.

(d) Notwithstanding any other provision of law:

(i) Any nonjudicial officer or employee of the courts and court-related agencies of the unified court system who becomes an employee of the state of New York pursuant to this subdivision may, at the option of such officer or employee, be credited with sick leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of two hundred days and shall be credited with vacation leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of forty days. Notwithstanding the foregoing, such nonjudicial officer or employee, with the approval of the state administrator, may elect at any time to be credited with additional sick leave credits by the state, to the extent such credits were earned prior to April first, nineteen hundred seventy-seven and not already so credited pursuant to this subparagraph (i); in such event, such sick leave credits shall not be available for the purposes of subparagraph (iii) of this paragraph. The state shall not award credit or compensation for any other time or leave credits, and shall not be liable for any terminal

leave benefits based upon time or leave credits earned prior to April first, nineteen hundred seventy-seven.

(ii) Every such nonjudicial officer or employee shall be entitled to receive payments for time or leave credits, other than sick leave or terminal leave, attributable to service rendered prior to April first, nineteen hundred seventy-seven, and not transferred to the state pursuant to subparagraph (i), which payments such nonjudicial officer or employee would otherwise have received from the political subdivision had he been involuntarily terminated without fault from the employ of the political subdivision on March thirty-first, nineteen hundred seventy-seven. Such credits shall be payable in cash before July first, nineteen hundred seventy-seven, if such credits would have been so payable by the political subdivision or if such officer or employee would otherwise have been retained on the payroll of the political subdivision until any such credits had been exhausted.

(iii) At the time of retirement or any other permanent separation without fault from the employment of the state, any such nonjudicial officer or employee shall be entitled to receive from the political subdivision payments for terminal leave based upon any time and leave credits accrued before April first, nineteen hundred seventy-seven, and not transferred to the state pursuant to subparagraph (i) nor used in the computation of any award of compensation pursuant to subparagraph (ii) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the political subdivision had he retired or separated from the service of the political subdivision on March thirty-first, nineteen hundred seventy-seven. If such officer or employee retires, such entitlement shall include payments he would have received from the political subdivision as if he had been eligible to retire and as if he had retired on March thirty-first, nineteen hundred seventy-seven. Any nonjudicial officer or employee who retires or is separated from service after March thirty-first, nineteen hundred seventy-seven, who is not entitled to receive payment hereunder solely because of insufficient service with the political subdivision prior to April first, nineteen hundred seventy-seven, shall receive from the political subdivision pro rata payments based upon such nonjudicial officer or employee's time and service with such local subdivision provided he is otherwise entitled to receive such payments based upon his combined service with the political subdivision and the state pursuant to a collective bargaining agreement negotiated with the state. Such credits shall be payable in cash if such credits would have been so payable by the political subdivision or if such officer or employee would otherwise have been retained on the payroll of the political subdivision until any such credits had been exhausted.

(e)(i) Notwithstanding any other provision of **law**, all justices, judges and nonjudicial officers and employees of the courts and court-related agencies of the unified court system who became employees of the state of New York pursuant to this subdivision shall receive insurance benefits as set forth in this paragraph. Such justices, judges and nonjudicial officers or employees may elect to receive all of the insurance benefits provided by the state to state-paid justices, judges and nonjudicial officers and employees of the unified court system immediately prior to the effective date hereof.³ If such election is not made, such justices, judges and nonjudicial officers and employees shall be entitled to receive the insurance benefits to which they were entitled pursuant

to any **law** or contract in effect immediately prior to the effective date hereof, in which case the political subdivision from which such justices, judges and nonjudicial officers and employees were entitled to receive insurance benefits shall continue to provide such insurance coverage and such justices, judges and nonjudicial officers and employees shall be deemed employees of the political subdivisions for purposes of receiving such insurance coverage and for the processing of claims thereunder. The state shall reimburse each political subdivision for the amount of premiums paid pursuant to this paragraph or, in the case of self-insurance, for the cost of the benefit paid by the political subdivision. Insurance benefits provided pursuant to this paragraph shall continue in effect until altered by **law**, administrative action in accordance with **law**, or, for those officers and employees receiving insurance benefits pursuant to contract, by the terms of a successor contract. Nothing in this paragraph shall preclude the state from enrolling any such justice, judge or nonjudicial officer or employee in the state insurance plan upon his withdrawal from the insurance plan paid for by the political subdivision pursuant to this paragraph. Notwithstanding any other provision of this chapter, all justices, judges and nonjudicial officers and employees of the eleventh judicial district shall have the same dual insurance coverage, consisting of the state insurance plan and the insurance plan paid for by the political subdivision pursuant to this paragraph, which is provided to the justices, judges and nonjudicial officers and employees of the first and second judicial districts.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, all state-paid justices and judges and all state-paid nonjudicial officers and employees of the unified court system not in any collective negotiating unit established pursuant to article fourteen of the civil service **law** who, on the day immediately preceding the effective date of this subparagraph, are enrolled in a health insurance plan paid for by a political subdivision, shall be deemed withdrawn therefrom and shall exclusively be enrolled in the state health insurance plan.

(f) All monetary contributions made by a political subdivision prior to April first, nineteen hundred seventy-seven on behalf of an individual justice, judge or nonjudicial officer or employee to a welfare fund administered by an employee organization or by a political subdivision shall, commencing April first, nineteen hundred seventy-seven, be paid by the state.

(g) Each political subdivision shall be liable for the satisfaction of any claims by any officer or employee arising out of the terms and conditions of his employment prior to the date on which such officer or employee became a state employee pursuant to this subdivision.

7. Upon the termination of the period of unchallenged representation of any employee organization certified or recognized to represent employees of the courts or court related agencies of the unified court system, petitions may be filed with the public employment relations board to alter negotiating units in accordance with the standards set forth in [section two hundred seven of the civil service law](#); provided, however, that such board shall not alter any such negotiating unit comprised exclusively of such employees or that part of any other negotiating unit comprised of such employees. The provisions of this subdivision shall be applicable in any case in which the negotiating unit

is so defined on the effective date of this subdivision³ in accordance with the provisions of either [section two hundred seven](#) or [section two hundred twelve of the civil service law](#), as the case may be. Nothing herein shall preclude the merger of negotiating units of such employees with the consent of the administrative board of the judicial conference and the recognized or certified representatives of the negotiating units involved.

8. (a) The administrative board of the judicial conference shall adopt a classification structure for all non-judicial officers and employees who become employees of the state of New York pursuant to this section which shall provide for the classification of positions in accordance with duties required to be performed in title in these positions and in accordance with the responsibilities of the position and the volume of work in the court or court-related agency in which the position exists. Nothing in this section shall prohibit the subsequent restructuring of the classification and duties of employees in accordance with the rules of the administrative board. The administrative board in accordance with [section two hundred nineteen](#) of this article⁵ shall determine, retroactive to April first, nineteen hundred seventy-seven, the salary grade of each employee who becomes an employee of the state of New York pursuant to this section; provided, however, nothing herein contained shall be deemed to diminish: (i) the right of any employee organization to negotiate wages or salaries pursuant to article fourteen of the civil service law, or; (ii) the right of any employee to receive wages or salaries pursuant to subdivision six of this section. Notwithstanding any other provision of law, an application to the public employment relations board seeking a designation by the board that certain persons are managerial or confidential may be filed at any time before April first, nineteen hundred seventy-eight, and thereafter pursuant to the provisions of the civil service law.

(b) A nonjudicial officer or employee whose position is allocated to a salary grade pursuant to paragraph (a) of this subdivision shall be placed into that salary grade at the salary received by such officer or employee immediately prior to said allocation or at the minimum of that grade, whichever is higher. The salary of such officer or employee within such salary grade, as determined by this paragraph, shall establish the increment step into which the employee shall be placed and shall determine the number of years of service to be credited within such salary grade as of April first, nineteen hundred seventy-seven, for the purpose of computing future increments. Each employee shall thereafter receive increment credit for each subsequent year of service in such position up to the maximum prescribed by [section two hundred nineteen](#) of this article.⁵

9. (a) On and after the effective date of this paragraph⁴ all justices, judges and nonjudicial officers and employees of the courts and court-related agencies of the unified court system set forth in subdivision one who become employees of the state pursuant to subdivision six of this section shall thereupon become members of the New York state employees retirement system to the extent permitted or required by the provisions of the retirement and social security law, and the reserves in any other retirement system shall be transferred to the New York state employees retirement system without any request by them or any notice to the retirement systems, except that: (1) any such

justice, judge or nonjudicial officer or employee who is a member of the New York city employees' retirement system or the New York city teachers' retirement system may elect to continue membership in the New York city employees' retirement system or the New York city teachers' retirement system, as the case may be, and (2) any justice or judge who is a member of both the New York city employees' retirement system and the New York state employees' retirement system may elect to continue membership in the New York city employees' retirement system and to discontinue membership in the New York state employees' retirement system. Any election pursuant to this paragraph shall be made no later than the ninetieth day next succeeding the date on which the provisions hereof become effective, by filing a written notice thereof with the administrative head of the New York state employees' retirement system and the New York city employees' retirement system or the New York city teachers' retirement system and, once made and filed, shall be irrevocable. Upon the retirement of a justice, judge or nonjudicial officer or employee who has made such an election, the calculation of final average salary by the New York city employees' retirement system or the New York city teachers' retirement system shall be performed as if the salary earned as a state employee on and after such effectiveness were earned in New York city employment. In the case of a justice, judge or nonjudicial officer or employee who remains or becomes a member of the New York state employees' retirement system pursuant to this paragraph, the New York city employees' retirement system or the New York city teachers' retirement system shall make a transfer of reserves, contributions and credits to the New York state employees' retirement system, in the manner required by [section forty-three of the retirement and social security law](#). In the case of an election to continue in the New York city employees' retirement system by a justice or judge who is a member of both retirement systems, the New York state employees' retirement system shall make a transfer of reserves, contributions and credits to the New York city employees' retirement system, in the manner provided by section forty-three of such [law](#).

(b) The comptroller of the city of New York shall certify to the state administrator the amount of money required to be paid by the state of New York for pension costs resulting from elections made pursuant to paragraph (a) of this subdivision. The comptroller of the state of New York shall pay to the New York city employees' retirement system or the New York city teachers' retirement system, upon approval by the state administrator, the amounts so certified by the comptroller of the city of New York. The comptroller of the city of New York shall also certify to the state administrator the amount of money required to be contributed by each of such employees. The comptroller of the state of New York shall be authorized to withhold the contribution of such employees and pay that amount to the New York city employees' retirement system or the New York city teachers' retirement system. The amount so certified pursuant to this paragraph shall be the same as the amounts required to be contributed for similarly situated city employees by the city of New York and by employees of the city of New York.

10. (a) Notwithstanding any other provision of [law](#), commencing April first, nineteen hundred eighty-three, in the event the chief administrator of the courts, in his sole

discretion, determines that court security services provided by the county of Westchester pursuant to subdivision three of this section should be provided by employees of the unified court system: (i) the state shall be responsible for providing security services to the courts in such county, and (ii) all permanent officers and employees of the department of public safety service of such county who provide security services in the courts of such county pursuant to subdivision three of this section shall be eligible to become employees of the state of New York upon filing a notice of state employment election with the chief administrator of the courts in a manner and form determined by the chief administrator; provided, however, that such employment shall be subject to acceptance by the employee of the salary, wages, hours and other terms and conditions of employment enjoyed by other state employees in the negotiating unit into which his position is placed.

(b) Each nonjudicial officer and employee who files a notice of state employment election as provided in paragraph (a) of this subdivision shall be placed on a payroll of the state of New York in a position which shall be classified and allocated pursuant to the classification structure, established by the chief administrator of the courts on May twenty-eighth, nineteen hundred seventy-nine. The salary of each such nonjudicial officer and employee shall be his salary on March thirty-first, nineteen hundred eighty-three, plus such number of increments equalling his years of permanent service in his county position on March thirty-first, nineteen hundred eighty-three, not to exceed the maximum of the salary grade of the position to which he is allocated hereunder. Eligibility for future increments shall be based solely upon state service commencing upon the effective date of this subdivision.

(c) Notwithstanding any other provision of **law**:

(i) Any nonjudicial officer or employee of the courts and court related agencies of the unified court system who becomes an employee of the state of New York pursuant to paragraph (a) of this subdivision, may, at the option of such officer or employee, be credited with sick leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of two hundred days and shall be credited with vacation leave earned and accumulated but unused at the time he becomes a state employee, but not in excess of forty days. The state shall not award credit or compensation for any other time or leave credits and shall not be liable for any terminal leave benefits based upon time or leave credits earned prior to April first, nineteen hundred eighty-three.

(ii) Each such nonjudicial officer or employee shall be entitled to receive payments from the county of Westchester for time or leave credits, other than sick leave or terminal leave, attributable to service prior to April first, nineteen hundred eighty-three and not transferred to the state pursuant to subparagraph (i) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the county had he been involuntarily terminated without fault from the employ of the county on March thirty-first, nineteen hundred eighty-three. Such credits shall be payable in cash before July first, nineteen hundred eighty-three, if such credits would have been so payable by

the county of Westchester or if such officer or employee would otherwise have been retained on the payroll of the county until any such credits have been exhausted.

(iii) At the time of retirement, or any other permanent separation without fault from the employment of the state, any such nonjudicial officer or employee shall be entitled to receive from the county of Westchester payments for terminal leave based upon any time and leave credits accrued before April first, nineteen hundred eighty-three, and not transferred to the state pursuant to subparagraph (i) of this paragraph, which payments such nonjudicial officer or employee would otherwise have received from the county had he retired or separated from the service of the county on March thirty-first, nineteen hundred eighty-three.

(d) Upon the effective date of this subdivision, each officer and employee who elects to become a state employee pursuant to paragraph (a) of this subdivision shall have permanent status in his state position without further examination or qualification. Each officer and employee having permanent status in a competitive class county position who does not make such election shall have his name entered upon an appropriate preferred list for reinstatement to the same or similar positions in the service of the county of Westchester.

Orleans County Justice Court Budget Analysis

Budget Item

REVENUE

	Albion	Barre	Carlton	Clarendon	Gaines	Kendall	Murray	Ridgeway	Shelby	Yates	LINE ITEM TOTALS
Traffic Diversion	\$ 9,247.00	\$ 6,723.33	\$ 10,652.00		\$ 5,000.00		\$ 4,000.00				\$ 35,622.33
Fines/Forfeitures	\$ 15,056.00	\$ 43,035.00	\$ 12,932.00		\$ 9,000.00	\$ 16,000.00	\$ 10,000.00	\$ 24,819.00		\$ 5,000.00	\$ 135,842.00
Grant Revenue					\$ 6,000.00						\$ 6,000.00
TOTAL	\$ 24,303.00	\$ 49,758.33	\$ 23,584.00	\$ -	\$ 20,000.00	\$ 16,000.00	\$ 14,000.00	\$ 24,819.00	\$ -	\$ 5,000.00	\$ 177,464.33

EXPENSES

Justice Services											
Clerk	\$ 39,001.00	\$ 12,860.00	\$ 17,942.00	\$ 16,200.00	\$ 15,277.00	\$ 11,200.00	\$ 21,561.00	\$ 84,000.00	\$ 24,194.00	\$ 10,000.00	\$ 252,235.00
Clerk (Services)	\$ 50,046.00	\$ 14,752.00	\$ 11,275.00	\$ 13,525.00	\$ 19,336.00	\$ 8,000.00	\$ 17,784.00	\$ 59,403.00	\$ 9,000.00		\$ 203,121.00
Justice Contract	\$ 25,084.00			\$ 500.00	\$ 15,276.00	\$ 9,210.00					\$ 50,070.00
Interpreter	\$ 15,502.00	\$ 5,500.00	\$ 4,500.00	\$ 5,000.00		\$ 8,270.00					\$ 80,322.00
Office Expense											\$ -
Comptroller		\$ 3,629.71						\$ 23,500.00	\$ 12,050.00	\$ 6,000.00	\$ 3,629.71
Equipment		\$ 28,581.00						\$ 600.00	\$ 2,800.00		\$ 31,981.00
Stenographer	\$ 7,157.00	\$ 1,590.00									\$ 8,747.00
Security											\$ -
TOTAL	\$ 136,790.00	\$ 66,912.71	\$ 33,717.00	\$ 35,225.00	\$ 49,889.00	\$ 27,470.00	\$ 48,555.00	\$ 108,100.00	\$ 98,447.00	\$ 25,000.00	\$ 630,105.71

EMPLOYEE BENEFITS

Social Security	\$ 8,875.00										\$ 8,875.00
Workers Comp											\$ -
Unemployment Ins	\$ 268.00										\$ 268.00
Hos/Med Ins	\$ 99.95										\$ 99.95
OC Group Workers Comp Program											\$ -
TOTAL	\$ 9,242.95	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,242.95

Facility Costs (Unallocated)

Heat											\$ -
Electric	\$ 276.27	\$ 276.27	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 276.27
Gas											\$ -
Maintenance											\$ -
TOTAL	\$ 276.27	\$ 276.27	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 276.27

APPENDIX A

Orleans County CAP Court Budget Analysis

Budget Item

CAP Court

REVENUE

Traffic Diversion	\$ -
Fines/Forfeitures	\$ -
Grant Revenue	
 TOTAL	 \$ -

EXPENSES

Justice Services	\$ 72,800.00
Clerk	\$ -
Clerk (Services)	\$ -
Justice Contract	\$ -
Interpreter	\$ 1,000.00
Office Supplies	\$ 1,000.00
Equipment	\$ 10,000.00
Stenographer	\$ -
Security	\$ 25,000.00
 TOTAL	 \$ 109,800.00

EMPLOYEE BENEFITS

Social Security	\$ -
Medicare	\$ -
Disability	\$ -
Retirement	\$ -
Workers Comp	\$ -
Unemployment Ins	\$ -
Hos/Med Ins	\$ -
 TOTAL	 \$ -

Facility Costs (Unallocated)

Heat	
Electric	
Gas	
Maintenance	
rent (400 sq ft @ \$10)	\$ 4,000.00
 TOTAL	 \$ 4,000.00

PROFIT/LOSS	\$ (113,800.00)
-------------	-----------------

Orleans County District Court Budget Analysis

Budget Item

District Court

OCA

COUNTY

REVENUE

Traffic Diversion	\$ 110,000.00		
Fines/Forfeitures	\$ 175,000.00		
Grant Revenue			
TOTAL	\$ 285,000.00		

EXPENSES

Justice Services	\$ 320,000.00	\$ 320,000.00	
Clerk	\$ 150,000.00	\$ 150,000.00	
Clerk (Services)	\$ -		
Justice Contract	\$ -		
Interpreter	\$ 2,500.00		\$ 2,500.00
Office Supplies	\$ 4,000.00	\$ 4,000.00	
Equipment	\$ 2,500.00	\$ 2,500.00	
Stenographer	\$ 50,000.00	\$ 50,000.00	
Security	\$ 150,000.00	\$ 150,000.00	
TOTAL	\$ 679,000.00		

EMPLOYEE BENEFITS

Social Security	\$ 41,540.00	\$ 41,540.00	
Medicare	\$ 9,715.00	\$ 9,715.00	
Disability	\$ 1,520.00	\$ 1,520.00	
Retirement	\$ 83,750.00	\$ 83,750.00	
Workers Comp	\$ 13,008.00	\$ 13,008.00	
Unemployment Ins	\$ 1,440.00	\$ 1,440.00	
Hos/Med Ins	\$ 380,688.00	\$ 380,688.00	
TOTAL	\$ 531,661.00		

Facility Costs (Unallocated)

Heat			
Electric			
Gas			
Maintenance			
Rent (5000 sq ft @ \$10)	\$ 50,000.00		\$ 50,000.00
TOTAL	\$ 50,000.00	\$ 1,208,161.00	\$ 52,500.00

PROFIT/LOSS

COUNTY OF ORLEANS

LOCAL LAW NO. _____

A local law establishing a District Court System in Orleans County pursuant to the terms of Article 6, Section 16 of the New York State Constitution and the New York State Uniform District Court Act

Be it enacted by the Legislature of the County of Orleans as follows:

§ OCDC25-1 Court system established.

There shall be a district court system established in County of Orleans as herein provided. The Orleans County District Court shall be an inferior court, and the judges thereof shall have the civil and criminal jurisdiction prescribed hereinafter consistent with the New York State District Court Act and the New York State Constitution, Article VI, Section 16. Such court shall be a court of record.

§ OCDC25-2 Participation in system.

The district court system of Orleans County shall be established on the first day of January next succeeding one year from the general election by a majority vote cast in the Orleans County general election as approved by the Legislature of the State of New York.

§ OCDC25-3 Districts and number of judges.

The entire County of Orleans shall constitute the one Judicial District in which the number of district court judges to be elected as determined by the Office of Court Administration. Also as determined by the Office of Court Administration the number of judges may be increased provided that such new judicial post or posts shall be filled for a full term at the next general election held not less than three months after the creation thereof. For the purpose of electing such judges, any city hereafter created from the territory of any town shall be considered to be part of that town.

§ OCDC25-4 Qualifications of judges; restrictions on other activities; oath of office; powers.

A. No one shall be eligible to the office of judge unless he is a resident elected in the district for which he shall be elected or appointed and shall have been admitted to practice law in this state at least five years.

B. No judge shall engage in the practice of the law or hold any other public office in the County. Each judge shall devote his whole time and capacity to the duties of his office. Before entering upon his duties, each judge elected or appointed pursuant to this article shall take and file with the County Clerk the oath of office prescribed by the Constitution. The judges may, by virtue of

their offices, administer oaths, take depositions and acknowledgments within the County and certify the same in the same manner and with like effect as judges of courts of record.

§ OCDC25-5 Jurisdiction of village justices.

Currently there are no Village Courts in Orleans County. In the event that any Village Courts are established in the future, the justices of the village courts in villages within the Judicial District shall have such jurisdiction of criminal matters as is prescribed by the Criminal Procedure Law.

§ OCDC25-5.1 Salaries of judges.

The salary of the Judge(s) shall as is determined by the Office of Court Administration as is established pursuant to the provisions of Article 2, Section 39 of the Judiciary Law.

§ OCDC25-6 Board of Judges.

With the passage of Judiciary Law Article 2, Section 39 addressing the Unified court Budget has eliminated any need for a Board of Judges and all such authority regarding the cost and administration of the District Court has now been statutorily assigned to the Office of Court Administration.

§ OCDC25-7 Access to facilities, payment of expenses.

The judges of the court shall have access to and possession of the courtrooms and court offices and other places provided by the Judicial District for the transaction of the business of the District Court. Notwithstanding any other provisions relating to the establishment and maintenances of the District Court facility, all budgetary considerations in connection with the operation of the District Court shall be the responsibility of the State of New York pursuant to the provisions of the Judiciary Law Article 2, Section 39

§ OCDC25-8 Time and place of holding court.

It shall be the duty of the Orleans County Legislature to provide suitable places for holding court in accordance with the designation made by the New York State Office of Court Administration as hereinbefore provided.

§ OCDC25-9 Procedures relating to traffic offenses.

A. The New York State Office of Court Administration shall determine the procedure to govern the payment of fines by any person accused of violating any provision of any law, ordinance, rule or regulation relating to vehicular or pedestrian traffic, without appearing in person, except in cases of speeding, reckless driving, leaving a scene of an accident or any charge of a misdemeanor or felony or any charge which may for reasons of public policy require the personal appearance of the accused, for such period of time as shall be deemed in the public interest; to fix the fine to be paid in each class of case within the minimum and maximum amount set by law, ordinance, rule or regulation; to designate the place or places where such fines may be paid; to prescribe the form of the summonses to be used and the manner in which the plea of guilty shall be made; and the manner in which the money shall be paid.

B. Such procedure may provide that any person pleading "guilty," or that a person pleading "not guilty" and asking that a day be set for trial, may do so through a representative or by mail and may further provide that the clerk of the court set such day for trial.

C. No resolution providing such procedure shall be effective until a certified copy thereof shall have been filed with the County Clerk.

D. Whenever any summons is issued involving a provision of any law, ordinance, rule or regulation relating to motor vehicle parking and the procedure for such violation is provided under this section, the member of the police force or any other peace officer serving said summons, in lieu of inserting in the summons the name of the person summoned, may insert therein, in the space provided for the insertion of the name of the person summoned, the words "registered owner of motor vehicle bearing license," said words to be followed by the license designation or identification as shown by the license plates on said motor vehicle parked in violation of the law, ordinance, rule or regulation as aforesaid; and said summons may be served upon said registered owner by a member of the police force or other peace officer by affixing the summons to said motor vehicle in some conspicuous place where it is likely to be seen by an operator thereof. An operator of the motor vehicle, for the purposes of this section, if not the owner thereof, shall be deemed to be the agent of such registered owner to receive said summons served in the manner aforesaid; and service made in the manner provided shall be deemed to be lawful service upon the registered owner of the motor vehicle to which the summons is affixed. For the purpose of the service of the summons as herein provided, the registration records of the Motor Vehicle Department of the state in which the motor vehicle is registered shall be conclusive evidence as to the registered owner of the motor vehicle. When a summons is issued and served as authorized in this section, the information sworn to may charge the violation in the same manner and any further proceedings authorized in this section may be had and recorded in the name of the "registered owner of motor vehicle bearing license," said words to be followed by the license designation or identification as shown by the license plates.

§ OCDC25-10 Official seals.

The District Court shall have an official seal on which shall be engraved the arms of the State of New York, the name of the court, the County and the district.

§ OCDC25-11 Appointment, compensation and removal of court clerks.

The New York State Office of Court Administration shall appoint such number of court clerks and, subject to the applicable civil service laws, such additional court clerks, deputy court clerks, stenographers and other assistants and employees in the clerk's office as may be necessary. Court clerks and deputy court clerks shall, at the time of their appointments, be residents of Orleans County, and removal of any of them from Orleans County shall vacate the office. All the officers and employees provided by this section shall receive compensation to be fixed by the members of the County Legislature from the towns comprising the Judicial District, which salaries, together with other expenses of their offices, as provided by the annual budget, shall be a charge against the Judicial District. Any court clerk or deputy court clerk may be removed pursuant to the law and regulations of the State of New York

§ OCDC25-12 Duties of court clerks.

The court clerk in each district shall:

- A. Exercise the powers conferred and perform the duties imposed upon him or her by this Act and the rules and resolutions of the New York State Office of Court Administration and those usually appertaining to his offices and, in the exercise of such powers and the performance of such duties, conform to the direction of the court.
- B. Keep the seal of the court and affix it to such papers and documents as he may be required to certify.
- C. Keep a docket book in such manner as the rules may prescribe, and all other records and proceedings of the court, and act as custodian of all documents, books and records.
- D. Keep the office open for the transaction of business during the hours designated by the rules and resolutions of the New York State Office of Court Administration .
- E. Attend the sittings of the court, administer oaths and take acknowledgments in the same manner and with like effect as clerks in courts of record, receive verdicts of juries and, in a proper case, adjourn causes or, when no judge appears, adjourn causes to the next judicial day. Deputy court clerks and clerks other than the court clerk shall have like power and authority by designation of the New York State Office of Court Administration.
- F. Assume charge and control of, and be responsible for, the general conduct of the business of his office and for the faithful discharge of the duties of deputy and assistant clerks and other officers connected with the court.
- G. Collect and receive all the fees and account for and pay the same into the County treasury at such times as the County Treasurer may prescribe, which account shall contain the title of each case and the amount of fees received therein.
- H. Deliver to his successor in office the official seal and all papers, books and records on file in his office.

*******CERTIFICATION*******

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2024 of the County of Orleans was duly passed by the Orleans County Legislature on _____, 2024 and was approved by the Chairman of the Legislature on _____, 2024.

Such local law was submitted to the people by reason of a mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general election held on November 5th, 2024, in accordance with the applicable provisions of the law.

LISA STENSHORN
Legislative Clerk, County of Orleans

Dated: November __, 2024

(seal)

STATE OF NEW YORK
COUNTY OF ORLEANS

I the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

KATHERINE KERSCH BOGAN
Orleans County Attorney

RESOLUTION No._____

**SETTING DATE OF PUBLIC HEARING ON LOCAL LAW NO.____ OF
2024 REGARDING ESTABLISHING A DISTRICT COURT
SYSTEM IN ORLEANS COUNTY PURSUANT TO THE TERMS
OF ARTICFLE 6, SECTION 16 OF THE NEW YORK STATE
CONSTITUTION AND THE NEW YORK STATE UNIFORM
DISTRICT COURT ACT**

**WHEREAS, there has been duly presented and introduced to this Legislature
a proposed local law entitled A LOCAL LAW ESTABLISHING A
DISTRICT COURT SYSTEM IN ORLEANS COUNTY PURSUANT TO
THE TERMS OF ARTICFLE 6, SECTION 16 OF THE NEW YORK STATE
CONSTITUTION AND THE NEW YORK STATE UNIFORM DISTRICT
COURT ACT, and**

**WHEREAS, no local law shall be adopted until a public hearing thereon has
been held by the Orleans County Legislature upon at least five days notice, be
it**

**RESOLVED, that a public hearing shall be held on the said proposed local
law by this Legislature on the ____ day of May, 2024 at 7:00 pm at the
Legislature Chambers at the County Administration Building, 14016 Route 31
Albion, New York.**

APPENDIX E