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New Law Allows Centralized Arraignments Outside New York City

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ALBANY - A new law will allow the state to designate sites for centralized, off-hours arraignments of criminal defendants in each county outside New York City, the governor's office announced Tuesday.

The measure empowers Chief Administrative Judge Lawrence Marks to cut across previous local court jurisdictional lines and authorizes courts to open off-hours to arraign criminal suspects arrested anywhere within their counties.

Gov. Andrew Cuomo signed the bill ([A10360/S7209](#)) on Monday, and it will take effect in 90 days. New York City, which has used borough-wide court sites for off-hours arraignments for years, is not affected by the change.

The bill was approved in the final hours of the state legislature's 2016 session in June. It grew out of the state's experience trying to implement the litigation settlement in *Hurrell-Harring v. State of New York*, in which the state acknowledged that the public defense systems set up in five counties were not meeting the U.S. Supreme Court's mandate of adequate representation for indigent criminal defendants (NYLJ, Oct. 22, 2014).

Court administrators lacked jurisdictional authority to establish centralized arraignment courts in Suffolk, Washington, Ontario, Onondaga and Schuyler counties, which were covered by the *Hurrell-Harring* settlement, said William Leahy, director of the state Office of Indigent Legal Services.

The chief administrative judge will have the authority to designate local courts and local justices to arraign defendants on nights, weekends or holidays on a rotating basis, through changes to the state Judiciary, Criminal Procedure and Uniform Justice Court acts.

Sponsors said that with courts operating at predictable sites and hours, it will become more practical for legal services providers retained by the counties to represent indigent criminal defendants, and make it possible for defendants' attorneys to be present at more arraignments.

Advocates for a uniform system of criminal defense for the indigent see the regional arraignment sites as a necessary step toward standardizing indigent defendant representation throughout the state.

"We look forward to working with the courts, local officials and the providers of mandated representation to make this very appropriate reform work well for clients, for [legal services] providers and for the state," Leahy said in an interview Tuesday.

Court administrators and legal services reform advocates have long argued that not having attorneys at some defendants' initial court appearances is a major flaw in the state's county-run criminal defense system (NYLJ, May 3, 2011).

The chief administrative judge's advisory committee on criminal law and procedure drafted the measure, which was endorsed by Marks' local courts advisory committee.

State Attorney General Eric Schneiderman, the state Association of Counties and the state Magistrates Association, which represents some 2,100 town and village court justices, were among those urging Cuomo to sign the measure (NYLJ, July 18).

The Magistrates Association's president, Town of Liberty Court Justice Harold Bauman, said a centralized off-hours arraignment approach will be more convenient for town and village justices, who are all essentially on call around the clock to convene their local courts if suspects need to be arraigned outside of regular business hours.

Many of the supporters of off-hours arraignment are also advocates for legislation directing the state to assume over seven years the share of indigent defense costs now born by New York City and the counties outside the city. The Legislature will send Cuomo the bill in the next few weeks. (NYLJ, June 21).

Cuomo also acted on several other bills Monday concerning:

- **Appeals.** He signed [A9522/S7246](#), allowing trial court judges to grant poor person status to eligible defendants at the time they are sentenced rather than applying at the appellate level. The advisory committee on criminal law and procedure recommended the change, saying it would hasten the movement of criminal appeals through the courts.
- **FOIL.** Cuomo approved a measure directing the Appellate Divisions to expedite appeals involving rulings by state agencies over access to records. While agencies have had up to nine months to perfect appeals of trial courts about their Freedom of Information Law decisions, [A9711/S6865](#) will reduce the time allowed to 60 days.
- **Employees.** The governor vetoed two bills that would have improved benefits for court workers.

The first ([A9199/S6764](#)) would have shifted the burden of proof to the state to disprove a uniformed court officer's claim of suffering an on-the-job injury that allows them to collect accidental disability retirement benefits.

The second ([A9440/S6936](#)) would have allowed any uniformed court officer receiving benefits under the Tier 6 pension system to retire after age 55 with 30 years' of service without penalty. The Tier 6 system currently requires those employees to work until age 63 before being entitled to full benefits.

Cuomo said in a veto message that the legislature failed to appropriate the necessary funding to pay for the costs of each bill.

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