

CHAPTER 697

AN ACT in relation to establishing the criminal court of the city of New York and abolishing the court of special sessions of the city of New York and the city magistrates' courts of the city of New York

Became a law April 24, 1962, with the approval of the Governor.

Passed, by a majority vote, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

NEW YORK CITY CRIMINAL COURT ACT

Article I. Short title; definitions.

II. Organization and administration.

III. Jurisdiction and powers.

IV. Procedure.

V. Miscellaneous provisions affecting cases in which judge sits as magistrate.

VI. General miscellaneous provisions.

VII. Laws repealed; transitory provisions; when act takes effect.

ARTICLE I

SHORT TITLE; DEFINITIONS

Section 1. Short title.

2. Definitions.

Section 1. Short title. This act shall be known as "The New York City Criminal Court Act."

§ 2. Definitions. As used in this act, the following words and phrases shall have the following meanings:

(1) city--the city of New York;

(2) mayor--the mayor of the city;

(3) court--the court established by this act;

(4) judge--a judge of the court; and

(5) rule or order of court--a rule adopted or order made by an

appellate division of the supreme court in the exercise of its supervisory and administrative powers over the court as provided in article seven-a of the judiciary law.

ARTICLE II

ORGANIZATION AND ADMINISTRATION

Section 20. The court constituted.

21. Administration.

22. Judges of the court.

23. Chief and deputy chief clerks; other administrative matters.

§ 20. The court constituted. The criminal court of the city of New York is hereby established as a single, city-wide court, as provided by sections one and fifteen of article six of the constitution; it shall be a part of the unified court system for the state, and a court of record with such power and jurisdiction as are herein or elsewhere provided by law. It shall consist of the number of justices of the court of special sessions of the city of New York and magistrates of the city magistrates' courts of the city of New York authorized by law on the first day of March, nineteen hundred sixty-two. Each of the justices of the court of special sessions of the city of New York and each of the magistrates of the magistrates' courts of the city of New York in office on the first day of September, nineteen hundred sixty-two shall, until the last day of the year in which the term for which he was appointed would otherwise have expired, be a judge of the criminal court of the city of New York. In addition to the judges provided for herein, there shall be thirty-one additional judges of the criminal court effective January first, two thousand twenty-four. Such additional judges shall receive the same compensation as the existing judges of the criminal court the city of New York.

§ 21. Administration. (1) As provided by section twenty-eight of article six of the constitution and article seven-A of the judiciary law, the appellate divisions of the supreme court in the first and

second judicial departments shall supervise the administration and operation of the court in their respective departments, either separately or jointly; provided, however, that if the administrative board shall so direct, a single administrative judge shall be designated by the appellate divisions or the administrative board as provided by law to administer and regulate the operations of the court.

(2) All salaries of the judicial and non-judicial personnel of the court and all other expenses of the court whatsoever shall be a city charge. The governing body of the city shall annually include in its final estimate such sums as may be necessary to pay such salaries and expenses. All budgetary appropriations made by the city for the use and requirements of the court of special sessions of the city of New York and the city magistrates' courts of the city of New York for the fiscal year of the city in which this act shall take effect, and unexpended balances thereof for prior years, shall be, so far as needed, vested in and transferred to the use of the court. The court shall continue to occupy and use the courtrooms and other parts of court and other buildings occupied by such other courts until such time as other proper and adequate quarters are provided; and all furniture, equipment, supplies and other property and services in the custody or use of or allotted to such other courts on the effective date of this act shall respectively be vested in and transferred to the use of the court.

§ 22. Judges of the court. (1) Each of the judges of the court shall be a resident of the city. No person, other than one who holds such office on the first day of September, nineteen hundred sixty-two, may assume the office of judge of the court unless he has been admitted to practice law in this state at least ten years.

(2) As vacancies in the office of judge occur, the mayor shall fill such vacancies by appointment. Each such appointment shall be for a term of ten years except that when a vacancy shall occur otherwise than by expiration of term on the last day of December of any year, the appointment shall be for the unexpired term. The mayor shall make a certificate of each appointment which shall state the title of the office, the name of the appointee and the term for which he is appointed. Certified copies of the certificate shall be filed in the

offices of the city clerk and of the appellate divisions of the supreme court having supervisory and administrative powers over the court, and the original shall be delivered to the appointee.

(4) No judge of the court appointed after the first day of September, nineteen hundred sixty-two shall hold any of the offices or trusts, or engage in any of the activities, prohibited by section twenty (b) of article six of the constitution. Judges in office or appointed on that date shall be subject to the provisions of section one hundred sixty-one of the New York city criminal courts act, as last amended prior to its repeal herein, for the period ending the thirty-first day of August, nineteen hundred sixty-three, and thereafter shall be subject to the said constitutional provision in every respect.

(5) The judges of the court shall be subject to removal and compulsory retirement in the manner provided in the judiciary law.

§ 23. Chief and deputy chief clerks; other administrative matters. (1)

There shall be a chief clerk of the court. The chief clerk and such other non-judicial personnel as shall be authorized by rule or order of court shall each have the power to administer oaths, take acknowledgments and sign the process of the court under the seal thereof. Other persons may also be authorized by rule or order of court to administer oaths.

(2) The chief clerk shall keep the seal of the court, on which shall be engraved the arms of the state and the words "Criminal Court of the City of New York," and shall cause it to be affixed to the process of the court and to certificates issuing therefrom.

(3) All fines paid into and received by the court shall be paid over to the commissioner of finance of the city on or before the fifth day of the following month, at which time the court shall cause a statement or statements of fines received to be filed with the comptroller and the commissioner of finance of the city.

ARTICLE III

JURISDICTION AND POWERS

Section 30. Judges are magistrates.

31. Jurisdiction.

§ 30. Judges are magistrates. The judges of the court are magistrates and shall have and exercise all the jurisdiction and powers, not inconsistent with this act, which are conferred by law upon magistrates and police justices under the provisions of the code of criminal procedure and which were conferred by law upon city magistrates of the city of New York on the first day of April, nineteen hundred ten. Notwithstanding any provision of law, when sitting as magistrates, each of the judges of the court shall have jurisdiction throughout the city, and may perform any and all of the duties and functions of a magistrate in and for any one of the counties in the city.

§ 31. Jurisdiction. The court and the judges thereof, except as otherwise provided in this act, shall have jurisdiction with respect to crimes and offenses committed within the city of New York, as follows:

(1) To hear, try, and determine all charges of misdemeanor, except charges of libel;

(2) To hear, try, and determine all offenses of a grade less than misdemeanor.

ARTICLE IV

PROCEDURE

Section 41. Practice and procedure.

42. Use of electronic filing authorized.

§ 41. Practice and procedure. (1) Unless otherwise specifically prescribed, the practice and procedure in this court is governed by the criminal procedure law.

(2) The appellate divisions of the first and second judicial departments shall jointly adopt rules to implement and facilitate practice and procedure in the court, consistent with standards and policies adopted by the administrative board of the judicial conference.

Such rules shall be uniform to the extent practicable. The administrative board may promulgate such uniform rule or rules in the event the appellate divisions are unable to agree.

§ 42. Use of electronic filing authorized. (1) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in cases in the criminal court of the city of New York as provided in section 10.40 of the criminal procedure law.

(2) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

ARTICLE V

MISCELLANEOUS PROVISIONS AFFECTING CASES IN WHICH JUDGE SITS AS MAGISTRATE

Section 50. Complaints; not to be prepared in courtroom.

51. Trials on Sunday.

52. Transfers of persons and charges.

54. Arraignments outside the county.

56. Prisoner's right to communicate with friends.

58. Verification of appearance ticket.

59. Liability of judge sitting as magistrate.

61. Additional method of payment of fines.

62. Extension of time to pay fine.

§ 50. Complaints; not to be prepared in courtroom. Provision shall be made at all times in each part of the court in which a judge is sitting as a magistrate whereby the clerk, the clerk's assistants or other employees whose duty it is to prepare complaints shall have proper accommodations and the necessary room or rooms separate from but convenient to the room in which the court is held, and therein shall be at all times conspicuously posted a notice legibly printed in English, Spanish, Italian and Yiddish, respectively, and such other language as a

rule or order of court shall prescribe, to the effect that any person to whom permission is refused to make and verify a complaint and who is thereby aggrieved will be heard upon application to the judge in person before the closing of the pending session of the court. It shall be the duty of each such judge before opening and again before closing a session to cause to be intelligibly announced to all persons in and about his courtroom that the court will then and there hear all complaints which have not been taken by the complaint clerk.

§ 51. Trials on Sunday. Notwithstanding any provision of law, a part or parts of the court may be convened on Sunday to hear, try and determine offenses of a grade less than misdemeanor in the same manner and to the same extent as upon any other day of the week.

§ 52. Transfer of persons and charges. (1) Except as provided in this section, no charge, complaint or person brought before one judge of the court sitting as a magistrate shall be sent before another such judge, or any other magistrate, except for adequate cause, to be fully and at once entered upon the records kept by the respective clerks and signed by the judge, and no person shall be committed or recommitted for examination save for necessary cause, to be then clearly stated upon the record; the hearing upon any charge shall not be adjourned to another day without the reason therefor being entered upon such record, nor shall any charge be dismissed or any prisoner discharged without record thereof made as above provided.

(2) Illness, absence or other inability of a judge, or the occurrence of a vacancy in his office, shall be adequate cause, without entry upon the record, for any transfer included in the preceding subdivision of this section, if the judge or other magistrate appearing in his place shall elect to proceed.

§ 54. Arraignments outside the county. In furtherance and not by way of limitation of section thirty of this act, a judge of the court, in his capacity as a magistrate, shall have power to arraign a defendant,

or conduct a hearing upon any charge, in any county of the city of New York at the place where a defendant or material witness may be confined or hospitalized.

§ 56. Prisoner's right to communicate with friends. (1) The commissioner of correction of the city of New York shall cause to be placed in each district prison a notice in several languages, setting forth that prisoners have the right to send a message or to write to or cause their relatives or friends to be telephoned to in the manner hereinafter set forth, and also stating the rates of messenger service. Whenever a person is detained in a district prison the keeper or other person in charge shall, at the request of such prisoner, telephone, without cost, to one number in the city of New York given him by said prisoner in an effort to reach his relatives and friends, or, at the option of the prisoner, give him a stamped envelope free of charge, or at cost an envelope with necessary postage for a special delivery letter. The keeper or other person in charge shall, at the request of such prisoner, telephone to such other numbers as the prisoner may request upon the payment of the regular telephone charge for the same. It shall be the duty of the lieutenant, or other officer in charge at the police station, to telephone free of charge to three numbers at the request of the prisoner. In each case the lieutenant, or other officer in charge of the station house, or the keeper, or other person in charge of the district prison, shall inform the prisoner of his opportunity to telephone or receive a stamped envelope and postage as above set forth, and in addition thereto, in each district prison there shall be installed a messenger telegraph service, and whether the prisoner sends a message by said service or by a messenger he shall not be charged any sum greater than the customary rate for similar service from any other place in the city.

(2) At the time of the arraignment of a defendant, the judge shall inform said defendant that he is entitled to communicate with his relatives or friends, by letter or telephone free of charge. But the failure of the judge to give the warning prescribed herein shall not be deemed a reason to reverse a judgment of conviction unless such failure is shown to have deprived the defendant of a fair trial.

§ 58. Verification of appearance ticket. (1) Where an appearance ticket has been served in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulations restricting the parking of vehicles upon any street where no parking or alternate-side-of-the-street parking regulations have been posted and in cases relating to the violation of any provision of law, rule or regulation prohibiting, regulating, directing, controlling, or restricting the parking of vehicles in and on highways where such violation interferes with the performance of sanitation functions enumerated in paragraphs one, two, three and four of subdivision a of section seven hundred fifty-three of the New York city charter and in cases relating to violation of the health code and those provisions of the administrative code pertaining to the jurisdiction of the sanitation function of the department of sanitation of the city of New York and in cases relating to a violation of section three hundred eighty-a of the vehicle and traffic law, by an officer or employee of such department who is a special patrolman by appointment of the police commissioner of the city of New York, the officer or employee of such department assigned to act in the capacity of superintendent or assistant superintendent of the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of sanitation a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense. The total number of borough and assistant borough superintendents authorized to administer oaths pursuant to this subdivision shall not exceed twenty-five. As used in this section, the term "parking" shall mean and include the parking, standing and stopping of vehicles at meters and off-street parking metered areas and on any highway in the city as such terms are defined in the traffic regulations of the city promulgated pursuant to law; and the term "highway" shall mean and include any highway or public highway as defined in sections one hundred thirty-four and sixteen hundred

forty-two of the vehicle and traffic law. Except for the service of an appearance ticket relating to a violation of section three hundred eighty-a of the vehicle and traffic law, nothing contained herein shall authorize a special patrolman to issue an appearance ticket for a violation of any law, rule or regulation regulating the movement, or conduct of vehicular or pedestrian traffic where such violation interferes with the performance of sanitation functions enumerated in paragraphs one, two, three and four of subdivision a of section seven hundred fifty-three of the New York city charter.

(2) Where an appearance ticket has been served by a member of the police force of the port of New York authority in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, the officer of such police force assigned to desk duty at the facility of the port of New York authority where the service of such appearance ticket is reported, is hereby authorized to administer to the police officer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such officer in the prosecution of such offense.

(3) Where an appearance ticket has been served by a member of the transit police force of the board of transportation of the city of New York in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, an officer of such transit police force with the grade of sergeant or lieutenant is hereby authorized to administer to the transit police officer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such transit police officer in the prosecution of such offense.

(4) Where an appearance ticket has been served by a member of the fire department of the city of New York in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, the captain or lieutenant in command of the fire company located in the district in which the service of such appearance ticket is reported, is hereby authorized to administer to the members of the fire department all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such member of the fire department in the prosecution of such offense.

(5) Where an appearance ticket has been served by an officer or

employee of the department of buildings of the city of New York, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which such department of buildings is authorized to enforce, any officer or employee of such department assigned to act in the capacity of chief inspector, assistant chief inspector or supervising inspector in the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of buildings, a copy of which shall be filed with the court in the manner provided by rule or order of court to administer to such special patrolman, all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(6) Where an appearance ticket has been served by a member of the bridge and tunnel operating force of the Triborough Bridge and Tunnel Authority, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, an officer of such bridge and tunnel operating force with the grade of sergeant or lieutenant is hereby authorized to administer to the bridge and tunnel officer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such bridge and tunnel officer in the prosecution of such offense.

(7) Where an appearance ticket has been served by an officer or employee of the department of transportation of the city of New York engaged in the regulation and control of vehicular and pedestrian traffic in the city, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which such department of transportation is authorized to enforce, any officer or employee of such department assigned to act in the capacity of supervisor of enforcement in the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of transportation, a copy of

which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman, all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(8) Where an appearance ticket has been served by an officer or employee of the bureau of franchises of the board of estimate of the city of New York, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation the purpose of which is the regulation, facilitation or control of the operation of omnibuses in the city of New York, other than omnibuses operated by a public authority, any officer or employee of such bureau assigned to act in the capacity of supervisor of enforcement over such service is empowered, upon written authorization of the director of franchises of the bureau of franchises of the board of estimate, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman, all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(9) Where an appearance ticket has been served in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of provisions of the administrative code pertaining to the jurisdiction of the air pollution control function of the department of environmental protection of the city of New York and violations of the rules and regulations of said department, by an officer or an employee of such department who is a special patrolman by appointment of the police commissioner of the city of New York, the officer or employee of such air pollution control function assigned to act in the capacity of chief inspector of the bureau of inspection or a borough supervisor of the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of environmental protection, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman all necessary oaths in

connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(10) Where an appearance ticket has been served by an officer or employee of the department of consumer affairs of the city of New York who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which such department of consumer affairs is authorized to enforce, the commissioner, deputy commissioner or director of the bureau of weights and measures of such department is hereby authorized to administer to such special patrolman all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(11) Where an appearance ticket has been served in lieu of an arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of the health code and those provisions of the New York city charter and the administrative code of the city of New York pertaining to the jurisdiction of the department of health of the city of New York, by an officer or employee of such department who is a peace officer under the provisions of section 564-11.0 of the administrative code of the city of New York, the officer or employee of such department assigned to act in the capacity of division chief or borough chief in the bureaus of food and drugs, sanitary engineering and sanitary inspections of such department, is empowered, upon written authorization of the department of health, a copy of which shall be filed in the court, to administer to such peace officers all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such peace officers in the prosecution of such offense. The total number of division chiefs and borough chiefs authorized to administer oaths pursuant to this subdivision shall not exceed fifteen.

(12) Where an appearance ticket has been served by an officer or employee of the department of consumer affairs of the city of New York, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one

hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which such department of consumer affairs is authorized to enforce, any officer or employee of such department assigned to act in the capacity of chief inspector, principal inspector or supervising inspector, is empowered, upon written authorization of the commissioner of consumer affairs, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman, all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(13) Where an appearance ticket has been served by an officer or employee of the department of parks and recreation of the city of New York, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which such department of parks and recreation is authorized to enforce, any officer or employee of such department assigned to act in the capacity of borough director or assistant borough director in the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of parks and recreation, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman, all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(14) Where an appearance ticket has been served by a member of the housing police force of the New York city housing authority in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, an officer of such housing police force with the grade of sergeant or lieutenant is hereby authorized to administer to the housing police officer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such housing police officer in the prosecution of such offense.

(15) Where an appearance ticket has been served by an officer or employee of the department of taxation and finance of the state of New

York, or by an employee of the New York city department of finance who is a peace officer under the provisions of section 2.10 of the criminal procedure law, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to enforcement of the tax on cigarettes imposed by article twenty of the tax law or by title D of chapter forty-six of the administrative code of the city of New York, any officer or employee of the state department of taxation and finance assigned to act in the capacity of director of special investigations, principal special tax investigator, associate special tax investigator, supervising excise tax examiner or supervising excise tax investigator, and in the city of New York, the assistant commissioner, chief of special investigations, or deputy chief of special investigations employed by the New York city department of finance is empowered, upon written authorization of the commissioner of taxation and finance or the commissioner of finance of the city of New York, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such officers all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such officers in the prosecution of such offense. The total number of New York state officers or employees authorized to administer oaths pursuant to this subdivision shall not exceed fifteen.

(16) Where an appearance ticket has been served in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of provisions of the administrative code of the city of New York pertaining to the jurisdiction of the noise control function of the department of environmental protection of the city of New York and violations of the rules and regulations of said department, by an officer or an employee of such department who is a special patrolman by appointment of the police commissioner of the city of New York, the officer or employee of such noise control function assigned to act in the capacity of chief inspector of the bureau of inspection or a borough supervisor of the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner of environmental protection, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer such special patrolman all necessary oaths

in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(17) Where an appearance ticket has been served by an officer or employee of the department of ports and terminals of the city of New York, who is a special patrolman by appointment of the police commissioner of the city of New York, in lieu of arrest as authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or regulation which the department of ports and terminals is authorized to enforce, any officer or employee of such department assigned to act in the capacity of commissioner, deputy commissioner, principal inspector, or supervising inspector is empowered, upon written authorization of the commissioner of the department of ports and terminals, a copy of which shall be filed with the court in the manner provided by rule or order of court, to administer to such special patrolman all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special patrolman in the prosecution of such offense.

(18) Where an appearance ticket has been served by a special police officer pursuant to sections 7.25 and 13.25 of the mental hygiene law in lieu of arrest in cases authorized by article one hundred fifty of the criminal procedure law, the commissioner of mental hygiene or director of hospitals, schools and institutes operated by the department of mental hygiene are hereby authorized to administer to such special police officers all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such special police officers in the prosecution of such offense.

(20) Where an appearance ticket has been served by an officer or employee of the department of housing preservation and development of the city of New York who has been designated by the commissioner of such department as a public servant authorized to serve appearance tickets issued by an officer or employee of the department who has been designated by such commissioner as a public servant authorized to issue appearance tickets, where issuance and service of an appearance ticket is authorized by article one hundred fifty of the criminal procedure law, in cases relating to violation of any provision of law, rule or

regulation which such department is authorized to enforce, any officer or employee of such department assigned to act in the capacity of chief inspector, assistant chief inspector or supervising inspector in the borough in which the service of such appearance ticket is reported, is empowered, upon written authorization of the commissioner, a copy of which shall be filed in court in the manner provided by rule or order of court, to administer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court in the prosecution of such offense.

§ 59. Liability of judge sitting as magistrate. A judge of the court, sitting as a magistrate who, in good faith and having reason to believe that a crime or offense has been committed, issues process for the arrest of a person, shall not be liable therefor unless it is shown that his action in so doing was malicious or a deliberate abuse of his discretion.

§ 61. Additional method of payment of fines. Rules or orders of court may be adopted to govern the payment of fines by day or night by any person accused of any offense or of violating any provision of any law, rule or regulation without appearing in person, except in cases of leaving the 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, 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. Such rules or orders may provide:

- (1) That a person pleading "not guilty", and asking that day be set for a trial, may do so through a representative or by other means;
- (2) That a clerk of the court set such day for trial;
- (3) That sworn complaints be dispensed with in all classes of cases where the accused person may be excused from personal appearance, and

where such accused person pleads guilty and pays the fine;

(4) That sworn complaints be dispensed with in any such class of case where the accused pleads not guilty and waives a sworn complaint and elects to be tried on the facts as stated in the summons but in that event, the accuser shall be sworn by the judge to the facts stated in the summons and all testimony taken in the trial shall be under oath as provided by law.

So far as practicable, the rules or orders adopted as aforesaid shall be uniform throughout the city.

§ 62. Extension of time to pay fine. A judge shall have power in his discretion to extend time to pay any fine imposed upon a plea of guilty to or a conviction on any charge of a grade less than a misdemeanor.

A judge may issue a warrant or summons for the defendant if he has failed to appear or pay the fine; when the defendant appears the judge may sign a commitment upon the failure of the defendant to pay the fine or may further extend the time to pay.

ARTICLE VI

GENERAL MISCELLANEOUS PROVISIONS

Section 85. Segregation of certain women.

87. Parole and temporary commitment of women offenders pending trial and sentence.

88. Segregation of prisoners.

89. Reports of others acting as magistrates.

90. Inspection of penal and reformatory institutions.

91. Stenographers to furnish copies of proceedings.

92. Assignment of police officers.

93. Display of flag.

94. Residence of assistant district attorneys.

95. Health code violations.

96. Payment of fines in traffic cases.

§ 85. Segregation of certain women. Whenever any woman is accused or convicted before the court of any crime arising out of an industrial dispute, such woman shall be segregated from the other incarcerated individuals thereof in any jail, prison or institution to which she may be committed.

§ 87. Parole and temporary commitment of women offenders pending trial and sentence. The court, pending adjournment of the trial of a woman defendant, or after conviction pending investigation before imposition of sentence, may, in its discretion, parole in the custody of a probation officer any woman arraigned for any offense other than a felony; or may, subject to release on bail, if before conviction, commit her temporarily to an institution for the reception of females which in its judgment is suitable, but no such commitment shall be for a period longer than four days, except with the consent of the defendant.

*** § 88. Segregation of prisoners.** In every building used by the court or any part thereof for the detention of prisoners, adequate provision shall be made for the separation of female from male prisoners and of youthful offenders from older offenders of the same sex. Every cell or room used for such purposes, or as a waiting place for witnesses, shall be kept in a clean and sanitary condition and shall contain all necessary toilet facilities.

* NB Effective until September 1, 2027

*** § 88. Segregation of prisoners.** In every building used by the court or any part thereof for the detention of prisoners, adequate provision shall be made for the separation of female from male prisoners and of youthful and less hardened offenders from older and more hardened offenders of the same sex. Every cell or room used for such purposes, or as a waiting place for witnesses, shall be kept in a clean and sanitary condition and shall contain all necessary toilet facilities.

* NB Effective September 1, 2027

§ 89. Reports of others acting as magistrates. Whenever any person, other than a judge of the court, shall act as a magistrate within the city, it shall be his duty to cause a record thereof to be kept which shall contain such information as is required by rule or order of court; and, on or before the twentieth day of January in each year, to make a return of such information to the chief clerk of the court.

§ 90. Inspection of penal and reformatory institutions. All judges of the court shall visit at least once, preferably within three months after their appointment, the workhouse, penitentiary and all other reformatories and institutions to which they have power to commit, and shall make further visits to such institutions as may be required by rule or order of court, and shall report in writing to the appellate divisions of the supreme court exercising supervisory and administrative power over the court their observations with such recommendations as they may deem proper.

§ 91. Stenographers to furnish copies of proceedings. Upon any examination, hearing or trial, where stenographic minutes of the proceedings have been taken by an official stenographer of the court, or by a stenographer employed for the purpose, such stenographer must upon request furnish, with all reasonable diligence, to the defendant or his attorney, or to the complainant or his attorney, or to a party in a civil case arising out of the same state of facts or to his attorney, a copy transcribed from his stenographic notes of such minutes, testimony, proceedings, or part thereof, upon the examination, hearing or trial, upon payment of the fees therefor by the person requiring such copy. If such copy is required by the district attorney or the attorney general or by a superior court when a defendant has been held for the action of a grand jury pursuant to article one hundred eighty of the criminal procedure law, a stenographer is entitled to his fees therefor, but he must furnish the copy upon receiving a certificate of the sum to which he is entitled, which shall be a city or state charge and must be paid by the proper financial officer of the city or state upon such certificate, like other city or state charges. In all cases of appeal

from an order or judgment made or rendered in the court, where a transcript of the stenographer's minutes of the proceedings and testimony given on the trial or hearing, becomes a necessary part of the record on appeal, the stenographer is entitled to his fees therefor in the same manner as provided in this section, which shall be paid or a certificate therefor furnished by the appellant, as the case may be.

§ 92. Assignment of police officers. The police commissioner of the city shall from time to time assign such officers as the appellate division of the supreme court having jurisdiction may certify are necessary for the service of warrants, and when so assigned such officers shall be subject to the direction and control of the judges of the court, subject always to the rules and discipline of the police department.

§ 93. Display of flag. It shall be the duty of the officer, employee or person having the care of any courtroom used by the court to display the American flag in each such room during all hours that the court is in session.

§ 94. Residence of assistant district attorneys. Notwithstanding any inconsistent provision of any state law, or of the New York city charter or administrative code of the city of New York, any duly appointed assistant district attorney in New York city may reside in any county other than the one in which he or she is employed without forfeiting his or her office or employment.

§ 95. Health code violations. Notwithstanding the provisions of any other law, violations of subdivision (f) of section 11.65, 131.11, 139.07, 161.03, 161.05, 181.03, or 181.17 of the health code of the city are hereby declared to be violations. Punishment for violations of subdivision (f) of section 11.65, section 131.11, 139.07, 161.03, 161.05 or 181.03 shall be by a fine of not to exceed twenty-five dollars or by

imprisonment for not to exceed ten days, or both and punishment for violations of section 181.17 shall be by a fine of not to exceed fifty dollars or by imprisonment for not to exceed fifteen days or both. Notwithstanding the provisions of any other law, punishment for violations of section 131.03 shall be by a fine of not to exceed two hundred dollars or by imprisonment for not to exceed three months or both.

§ 96. Payment of fines in traffic cases. It shall be unlawful for any person, firm or corporation to advertise in any manner that for a fee a traffic summons will be presented and a fine paid into the court, or to agree that for a fee a traffic summons will be presented and a fine paid or to present any traffic summons and pay a fine for a fee into the court.

Any person, firm or corporation which violates any provision of this law shall be guilty of a misdemeanor and shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days for default in the payment of said fine, or by both such fine and imprisonment.

ARTICLE VII

LAWS REPEALED; TRANSITORY PROVISIONS; WHEN ACT TAKES EFFECT

Section 100. Laws repealed.

101. Transitory provisions.

101-a. Pending actions and proceedings.

102. Effective date.

§ 100. Laws repealed. Chapter six hundred fifty-nine of the laws of nineteen hundred ten, entitled "An act in relation to the inferior courts of criminal jurisdiction in the city of New York, defining their powers and jurisdiction and providing for their officers" and known as the New York city criminal courts act, as amended, is hereby repealed. Reference in any general, special or local law, charter, administrative

code, rule, regulation or public document to any provision of the New York city criminal courts act, as in force and effect immediately prior to the time this act shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of this act, irrespective of whether such provision or provisions is or are contained in one or more than one article, section, subdivision or other part thereof. The provisions of this act insofar as they are substantially the same as provisions of the New York city criminal courts act, repealed by this act, shall be construed as a continuation of such repealed provisions, and not as new enactments.

§ 101. Transitory provisions. (1) From and after the effective date of this act the court of special sessions of the city of New York and the city magistrates' courts of the city of New York are abolished, and thereupon the seals, records, papers and documents of or belonging to such courts shall be in the custody of the court herein established.

(2) All actions and proceedings pending in the court of special sessions of the city of New York and the city magistrates' courts of the city of New York on the effective date of this act are hereby transferred to the court herein established in the counties in which such actions and proceedings are then pending. All appeals pending in the court of special sessions of the city of New York on the effective date of this act shall be heard and determined in accordance with, and further appeal therein governed by, the provisions of paragraph a of section thirty-four of article six of the constitution and the code of criminal procedure.

(3) In the event that a judgment or order was entered in the court of special sessions of the city of New York or in the city magistrates' courts of the city of New York before the effective date of this act and a right of appeal existed and notice of appeal therefrom is filed after the effective date of this act, such appeal shall be taken to the appellate division of the supreme court in the judicial department in which the court in which such judgment or order was entered was located. Further appeal from a decision of the appellate division of the supreme court, or of an appellate term thereof if the initial appeal was transferred to it, shall be governed by the provisions of article six of

the constitution and the code of criminal procedure. This subdivision shall not affect a judgment or order entered in the court of special sessions of the city of New York before the effective date of this act upon an appeal from a city magistrates' court of the city of New York; in such cases permissive appeal shall lie to the court of appeals in accordance with the provisions of the code of criminal procedure.

(4) No appeal, action or proceeding pending before the court of special sessions of the city of New York or the city magistrates' courts of the city of New York, or before any judge or justice of such courts, on the effective date of this act shall abate but such appeal, action or proceeding so pending shall be continued in the court herein established or in the appellate division of the supreme court, as the case may be, as provided in this section and, for the purposes of the disposition of such actions and proceedings only, the jurisdiction of the court herein established shall be coextensive with the jurisdiction of the court of special sessions of the city of New York and the jurisdiction of the city magistrates' courts of the city of New York. Subsequent proceedings in any such appeal, action or proceeding shall be conducted in accordance with the provisions of this act and such other laws as are in force on the effective date of this act.

(5) The provisions of this section are subject and subordinate to any conflicting provision of a chapter of the laws of nineteen hundred sixty-two known as the family court act.

§ 101-a. Pending actions and proceedings. No action or other proceeding, relating to any complaint alleging a misdemeanor under the multiple dwelling law which shall be pending before any three judge panel of the criminal court on the effective date of this act, which provides for trial solely before a single judge of the criminal court shall abate or be otherwise affected by the passage of this act and all such actions and proceedings so pending shall thereafter be continued before any three judge panel of the criminal court. Any three judge panel of the criminal court shall have the power to adjourn any action or proceeding pending at or before the time this act takes effect to some day thereafter when the same shall be continued before such panel of the criminal court to which it was adjourned. In no event, however,

may such an action or proceeding be transferred from a single judge of the criminal court to a three judge panel thereof after the effective date of this act.

§ 102. Effective date. This act shall take effect September first, nineteen hundred sixty-two.