

TOWN OF COLONIE

Justice Court
Public Safety Center
312 Wolf Rd.
Latham, New York 12110

—◆—
Phone (518) 783-2738

Town Justice:
Peter G. Crummey
Senior Town Justice

Paula A. Mahan, Supervisor
Town of Colonie
Memorial Town Hall
Newtonville, NY 12128

April 30, 2015

RE: The State of the Colonie Town Court- 2014 update

Dear Supervisor Mahan;

It is a pleasure to submit electronically the annual update to our inaugural 2009 Report entitled, The State of the Colonie Town Justice Court. We continue to commend your attention to this Report so that the Town's Legislative Body can best understand the Colonie Justice Court and join us in our effort to maintain and enhance our Town's Court System.

According to the New York State Office of Court Administration, the Colonie Justice Court, in 2014, was ranked the twenty second (22nd) busiest criminal court regarding finger printable offenses in the entire State Court System. As you can imagine, our criminal case load places us as the second busiest court in Albany County- (see addendum 1 attached). Overall, our Court handles approximately 25,000 criminal, vehicle and traffic and civil cases per year.

In 2014, our Court collected \$2,731,186.37 in revenue. Of that amount, the Town of Colonie retained \$1,179,687.50, the State received \$1,422,700.04 and Albany County received \$128,798.83 (see addendum 2 attached).

As you know, our Justice Department budget for 2014 was \$ 702,675.00. As one could readily see, the Court system more than pays for itself and in fact, the revenue generated by our Court should be reinvested into the Court system as outlined in our inaugural report and in our 2010, 2011, 2012 and 2013 annual updates.

Many of the recommendations made to the Town Board in our inaugural report require Town Board action and we wholeheartedly urge the Town Legislative Body to take the action as requested. Most of our requests for relief have been summarily denied which is counterproductive to the delivery of Justice.

As you know, most recently, the cities of Albany, Schenectady and Troy have added additional judges in an effort to handle their case loads despite the fact that only the City of Albany has a greater case load than the Town of Colonie. It is absolutely unconscionable to operate a full time big city court like the Colonie Court under the current footprint and confines imposed on the Judicial Branch by the Legislative Branch.

Additionally, as you recall, our overall 2014 budget request was decreased by more than \$27,000. Our personal services line item was unilaterally decreased by \$36,000, with the elimination of an existing Typist position, without notice to, or input from, this Department. We remain in dire need of regaining that position and we urge a more thoughtful and cooperative approach by the Legislative Body in addressing the needs of the Court System.

We continue to include in our Department's annual budget proposals to meet the dire needs of our Department and enclosed please find copies of our most recent, and denied, budget requests again for your convenience (see addendum 3 attached). We continue to urge you to grant these requests.

Once again, it is our hope that our Department's need for courtroom improvements be approved as part of our 2016 budget request. We are again seeking the replacement of the flooring in both the large and small courtrooms as they have become not only a potential safety concern but also a disgrace. Attached to our 2013 Report are photos which depict the deplorable condition of the floors which underscores the necessity of our request.

In addition, we request, as we did last year, that funds be approved to enhance the security of the Department.

SECURITY RECOMMENDATIONS REDACTED FOR SAFETY PURPOSES

Attached to our 2013 Report are articles which bring to light the need for increased court security and the rise in Court Room violence throughout our court system. Further, we continue to refer you to the National Center for State Courts recent publication entitled, Guidelines for Implementing Best Practices in Court Building Security. The aforementioned report may be found at the following link to the National Center for State Courts website at:

<http://cdm16501.contentdm.oclc.org/cdm/ref/collection/facilities/id/153>

We also refer you to the following additional links highlighting Court Room Violence and the need for adequate security.

<http://www.americanbar.org/publications/youraba/2014/december-2014/a-judge-reflects-on-how-to-reduce-courtroom-violence.html>

<http://www.ncsc.org/sitecore/content/microsites/future-trends-2012/home/better-courts/1-1-courthouse-security-incidents.aspx>

Nonetheless, even in the face of this continued adversity, and during 2014, the Court took the action it could to better facilitate Court functions.

In 2014, we submitted application for the Unified Court Systems' 2014-2015 Justice Assistance Program (JCAP) grant. Our application included a request for a walk through metal detector as the current detector requires replacement, as well as funds to replace the flooring of the courtrooms. We are pleased to report that the Court has been awarded a grant in the amount of \$4,350.00 for security enhancements to utilize towards the purchase of security cameras, as previously mentioned, at our Justice Court window as well as the grant requested metal detector. As the awarded grant funds will fall short of the required amounts necessary to implement these necessary enhancements, we again urge the use of Town funds to supplement any uncovered balance.

Although we applied, through the JCAP grant, for an additional \$24,000 for courtroom improvements, for the third year in a row, that grant funding was not forthcoming. As previously referenced in this report, this means that our necessary requests will again be included in our upcoming budgetary proposal seeking Town Funds.

Through this Court's initial leading efforts to designate the Albany County Correctional facility as the Town's overnight holding facility, State legislation was signed into law as Chapter 343 of 2012 establishing the facility as an overnight housing facility for all of the Courts within the County (see addendum 4 attached). The cost savings and enhanced delivery of justice in implementing such Law are fully presented in our 2009 Report. With the assistance of Colonie Police Chief Heider and law enforcement agencies, we have begun to integrate this resource into our justice delivery system. As overnight holding was only a portion of our initial Greener Court proposal, which was to also include video arraignments with the Correctional Facility, we hope to make strides toward this goal, as well. Further utilization of Correctional Facility holding also works to eliminate arraignments without counsel which is the goal of our Judiciary.

In the wake of Chief Judge Jonathan Lippman's call, in his The State of the Judiciary 2012, for defense counsel to be present even at arraignment, at all hours of the night, the urgency in adopting proposals, which we have advocated for six (6) years, remain upon us.

The Judiciary should no longer be forced into arraignments without counsel present which further supports the full use of the overnight holding until counsel can be present in the morning.

Further, in the wake of the 2014 settlement concerning reformation of Public Defense in Hurrell-Harring v. State of New York, it is incomprehensible that this Court should engage in arraignments without counsel in 2016.

The Court continues to distinguish itself as a leader among the Judiciary. At a recent conference of the New York State Magistrates Court Clerks, Inc., the recently published Report of Examination for the Colonie Justice Court, prepared by the Office of the State Comptroller, was publically referenced as a **model audit** during the presentation by the New York State Office of the State Comptroller on fiscal responsibility. The Senior Examiner of Municipal Affairs from the State Comptroller's office shared excerpts from our Court's most recent state audit released in June, 2014, which "**commended the [Colonie] Justices for establishing strong internal controls over Court operations**" (pg. 4 of Audit).

Further, Judge Crummey served as President of the Albany County Bar Association, established in 1900, and continued to serve as a delegate to the New York State Bar Association and on the New York State Bar Association's Special Committee on Youth Courts whose effort is to promote the creation of more Youth Courts throughout the State of New York. In 2013, Judge Crummey received the 2012 Distinguished Service Award from the New York State Bar Associations Law, Youth and Citizenship Committee. Judge Crummey also received the "Partners in Education Award" from the Capital District Council for Social Studies. Judge Massry continues to serve on US Senator Kirsten Gillebrand's Service Academy Nominating Panel. Further, Clerk of the Court Julie Gansle serves as President to the New York State Association of Magistrates Court Clerks, Inc., and was recently named 2014 Court Clerk of the Year. President Gansle serves on the New York State Task Force for Voluntary Reform of Justice Courts as well as the Town and Village Court Clerks Operations Manual Committee which recently released its Manual and she continues to instruct newly elected

Town and Village Justices as part of the Office of Justice Court Supports “Taking the Bench” classes as well as clerks as part of the Office of justice Court Supports “Supporting the Bench” curriculum.

As always, thank you for your consideration and support. Please feel free to contact us if you have any questions or comments. We would be pleased to provide a compact disc or paper copy of this report upon request.

Very truly yours,

A handwritten signature in cursive script that reads "Peter G. Crummey". The signature is written in black ink and has a long horizontal flourish extending to the right.

Hon. Peter G. Crummey
Senior Colonie Town Justice

A handwritten signature in cursive script that reads "Julie L. Gansle". The signature is written in black ink and has a long horizontal flourish extending to the right.

Julie L. Gansle
Clerk of the Court

Cc: Honorable Thomas A. Breslin, 3rd JD Administrative Judge
Honorable Andrew C. Sommers
Honorable Norman C. Massry
Hon. William E. Carl, Deputy Supervisor
Hon. Brian R. Haak, Town Board
Hon. David Green, Town Board
Hon. Linda J. Murphy, Town Board
Hon. Paul L. Rosano, Town Board
Hon. David C. Rowley, Town Board
Chief Steven H. Heider
Rosemary Newton, Human Resources Director

ADDENDUM # 1

2014 Court Reporting Activity				Aug 01 2014		Page 1 of 62
Court ID	Activity Placement		Court	Estimated Court Events	Not Reported	Percent Reported
	County	State				
Albany County						
NY001011J	1	13	Albany City Court	2379	296	87.56 %
NY001291J	17	301	Albany City Traffic Court	0	0	0.00 %
NY001013J	3	43	Albany County Court	667	9	98.65 %
NY001121J	17	301	Altamont Village Court	0	0	0.00 %
NY001271J	12	274	Berne Town Court	27	13	51.85 %
NY001061J	5	92	Bethlehem Town Court	291	17	94.16 %
NY001101J	10	233	Coeymans Town Court	68	36	47.06 %
NY001041J	6	102	Cohoes City Police Court	264	9	96.59 %
NY001131J	2	22	Colonie Town Court	1248	255	79.57 %
NY001241J	15	285	Green Island Town Court	16	7	56.25 %
NY001211J	4	47	Guilderland Town Court	611	138	77.41 %
NY001181J	14	277	Knox Town Court	24	6	75.00 %
NY001081J	8	213	Menands Village Court	89	4	95.51 %
NY001071J	9	221	New Scotland Town Court	80	48	40.00 %
NY001091J	11	258	Ravena Village Court	43	21	51.16 %
NY001111J	16	294	Rensselaerville Town Court	7	6	14.29 %
NY001051J	7	165	Watervliet City Court	145	21	85.52 %
NY001141J	13	276	Westerlo Town Court	25	15	40.00 %
Totals for	Albany		County are:	5984	901	84.94 %

ADDENDUM # 2

	2014 Total	State	County	Town	Other	Hand Park
January	\$220,869.05	\$112,057.45	\$5,777.00	\$103,034.60	\$0.00	\$45.00
February	\$252,495.27	\$134,271.27	\$12,552.17	\$105,671.83	\$0.00	\$75.00
March	\$243,502.05	\$128,212.95	\$9,458.20	\$105,830.90	\$0.00	\$195.00
April	\$235,385.85	\$116,176.10	\$13,236.35	\$105,973.40	\$0.00	\$90.00
May	\$246,946.50	\$127,380.50	\$11,440.50	\$108,125.50	\$0.00	\$135.00
June	\$228,505.77	\$115,611.00	\$19,098.09	\$93,796.68	\$0.00	\$170.00
July	\$230,345.39	\$117,118.50	\$12,965.03	\$100,261.86	\$0.00	\$75.00
August	\$211,352.80	\$117,531.80	\$7,088.50	\$86,732.50	\$0.00	\$45.00
September	\$242,251.10	\$131,006.03	\$7,663.69	\$103,581.38	\$0.00	\$15.00
October	\$240,664.14	\$124,534.65	\$7,363.33	\$108,766.16	\$0.00	\$45.00
November	\$192,196.70	\$96,843.48	\$12,315.99	\$83,037.23	\$0.00	\$30.00
December	\$186,671.75	\$101,956.31	\$9,839.98	\$74,875.46	\$0.00	\$75.00
TOTALS	\$2,731,186.37	\$1,422,700.04	\$128,798.83	\$1,179,687.50	\$0.00	\$995.00

ADDENDUM # 3

TOWN OF COLONIE
2012 BUDGET ESTIMATE- WORK PAPERS
PERSONELL

Department: Justice Department

Page: 2 of 7

By: Hon. Peter G. Crummey & Julie Gansle

Date: 6/3/2011

1. Account Number: 01-1E-E12-1110-110 - Establish one position of Law Clerk to Judge(s) - Attorney to research and analyze legal questions and issues and prepare memoranda with recommendations, draft opinions, decisions, orders, jury charges, and other written material. Job description attached, with an annual salary of between \$50,000 and 80,000 depending on experience. As the case volume continues to expand and motion papers become an increasing part of the Court routine it is imperative that at least one position be established to assist the Court with legal research and opinions. This request was made in the 2010 and 2011 budget requests, as well.
2. Account Number: 01-1E-E12-1110-110 - As part of current footprint of the Justice Department, request \$2500 increase in salary for each of the Job Titles within the Department to include 6 current Typists, 2 Clerks to Town Justices, 1 Senior Clerk to Town Justice, and 1 Clerk of the Court. As outlined in our State of the Court Report, presented to the Town Board in January 2010 and updated in February 2011, the Colonie Court is recognized as one of the largest Town Courts in the State and continues to manage the caseload presented to it while the resources available continue to diminish. The courts volume and required knowledge demand of its staff an ever increasing workload. It has always been our goal that the title and salaries reflect that of the higher level courts, as the volume and workloads are reflective. As we continue to work with The Town on potential title changes, and providing the department the tools to meet the demands on our Court System it is our hope that this increase assists in reaching that goal.

3. Account Number: 01-1E-E12-1110-110 – As to the current state of the Judiciary, a cost of living adjustment (COLA) of 3% for each of the three Town Justices. For four of the past five years the Judges have not received any COLA. As the Judges continue to manage millions of dollars in funds as well as weekly caseloads in the hundreds, the commitment to the Court must meet the commitment of the Judiciary. Further, discussions continue between the Supervisor’s Office and the Justice Department in response to the aforesaid State of the Court Reports with an eye to addressing the needs and requirements of the Court in connection with establishing the judicial structure required to meet the ever growing demands on the Colonie Justice Court. Addressing this critical area could also alter the Judicial and staff line items but, as we know, court revenues not only support the entire department budget but also contribute to the Town’s General Fund.

TOWN OF COLONIE
2013 BUDGET ESTIMATE- WORK PAPERS
PERSONNEL

Department: Justice Department

Page: 2 of 7

By: Hon. Peter G. Crummey

Date: 6/4/2012

1. Account Number: 01-1E-E12-1110-110 - Establish one position of Law Clerk to Judge(s) - Attorney to research and analyze legal questions and issues and prepare memoranda with recommendations, draft opinions, decisions, orders, jury charges, and other written material. Job description attached, with an annual salary of between \$50,000 and 80,000 depending on experience. As the case volume continues to expand and motion papers become an increasing part of the Court routine it is imperative that at least one position be established to assist the Court with legal research and opinions. This request was made in the 2010, 2011 and 2012 budget requests, as well.

2. Account Number: 01-1E-E12-1110-110 - As part of current footprint of the Justice Department, establish proper Job Titles within the Department. The titles of typist, as they apply to certain court personnel, should be reconsidered to accurately reflect the duties of said personnel. As outlined in our State of the Court Report, presented to the Town Board in January 2010 and updated in February 2011 and 2012, the Colonie Court is recognized as one of the largest Town Courts in the State and continues to manage the caseload presented to it while the resources available continue to diminish. The Court's volume and required knowledge demand of its staff an ever increasing workload. It has always been our goal that the title and salaries reflect that of comparable courts, with similar volume and workloads. As we continue to work with The Town on potential title changes, and providing the department the tools to meet the demands on our Court System it is our hope that this increase assists in reaching that goal.

3. Account Number: 01-1E-E12-1110-110 – As to the current state of the Judiciary, a cost of living adjustment (COLA) of 3% for each of the three Town Justices and retroactive

COLAS to readdress prior requests for relief in this regard. For five of the past six years the Judges have not received any COLA. As the Judges continue to manage millions of dollars in funds as well as weekly caseloads in the hundreds, the commitment to the Court must meet the commitment of the Judiciary. Further, discussions continue between the Supervisor's Office and the Justice Department in response to the aforesaid State of the Court Reports with an eye to addressing the needs and requirements of the Court in connection with establishing the judicial structure required to meet the ever growing demands on the Colonie Justice Court. Addressing this critical area could also alter the Judicial and staff line items but, as we know, court revenues not only support the entire department budget but also contribute to the Town's General Fund.

Page: 3 of 7

4. Account Number: 01-1E-E12-1110-110- As to the current salary of the Clerk of the Court, Julie Gansle, an increase in current base salary of \$10,000. She has remained at the same salary without any adjustment yet continues to expand her knowledge and experience. The Colonie Court is recognized as one of the largest Town Courts in the State of New York and our recognition is due to the continued efforts and contributions of the Clerk of the Court in managing the daily operations of the Court. Our Court is looked to as an example and footprint for other Courts to mirror. The Clerk of the Court is continually called upon for her knowledge and experience in managing this Court. The Clerk of the Court serves on multiple New York State Unified Court committees and continues to ascend on the Executive Board of the New York State Magistrate's Court Clerks Association. There are very few, if any, Court Clerks that have obtained their Juris Doctorate while continuing to maintain the level of excellence this Court is known for. To give a point of comparison, a Deputy Chief Clerk IV with the Unified Court System in 2010 had a base salary of \$85,000 with only a Bachelor's degree requirement and a Chief Clerk VI had a base salary of over \$105,000. The responsibilities continue to grow and at the very least a request for reclassification of the Deputy Department Head-grade 1 should be addressed.

PERSONNEL

Department: Justice Department
7

Page: 2 of

By: Hon. Peter G. Crummey
6/4/2013

Date:

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3. Account Number: 01-1E-E12-1110-110 – As to the current state of the Judiciary, a cost of living adjustment (COLA) of 3% for each of the three Town Justices and retroactive COLAS to readdress prior denied requests for relief in this regard. For six of the past seven years the Judges have not received any COLA. Most Town employees have received salary increases during this time period. Further, the State of New York has provided raises for its Judiciary and it remains unconscionable that not even COLAS are provided to Colonies' Judiciary. As

the Judges continue to manage millions of dollars in funds as well as weekly caseloads in the hundreds, the commitment to the Court must meet the commitment of the Judiciary. Further, a positive response to the aforesaid State of the Court Reports with an eye to addressing the needs and requirements of the Court in connection with establishing the judicial structure required to meet the ever growing demands on the Colonie Justice Court remains imperative. Addressing this critical area could also alter the Judicial and staff line items but, as we know, court revenues not only support the entire department budget but also contribute to the Town's General Fund.

Page: 3 of 7

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5. Account Number: 01-1E-E12-1110-140 - Part-time hours totaling 1660 for Justice Court Senior Clerk, daily part-time hours as well as Criminal Court sessions. Part-time hours totaling 910 for Typist.
6. Account Number: 01-1E-E12-1110-130 - Overtime hours totaling 500 for Senior Clerk to Town Justice; 1000 hours for Clerk to Town Justices; 1200 hours for Typists. These hours account for the Courts weekly sessions of Traffic as well as Criminal Court.

TOWN OF COLONIE
2015 BUDGET ESTIMATE- WORK PAPERS
PERSONNEL

Department: Justice Department

Page: 2 of 7

By: Hon. Peter G. Crummev

Date: 6/9/2014

1. Account Number: 01-1E-E12-1110-110 - Establish one position of Law Clerk to Judge(s) - Attorney to research and analyze legal questions and issues and prepare memoranda with recommendations, draft opinions, decisions, orders, jury charges, and other written material. Job description attached, with an annual salary of between \$50,000 and 80,000 depending on experience. As the case volume continues to expand and motion papers become an increasing part of the Court routine it is imperative that at least one position be established to assist the Court with legal research and opinions. This request was made in the 2010, 2011, 2012, 2013 and 2014 budget requests, but has been denied each year.

2. Account Number: 01-1E-E12-1110-110 - As part of current footprint of the Justice Department, establish proper Job Titles within the Department. The titles of typist, as they apply to certain court personnel, should be reconsidered to accurately reflect the duties of said personnel. As outlined in our State of the Court Report, presented to the Town Board in January 2010 and updated in February 2011, 2012, 2013 and 2014 the Colonie Court is recognized as one of the largest Town Courts in the State and continues to manage the caseload presented to it while the resources available continue to diminish. The Court's volume and required knowledge demand of its staff an ever increasing workload, therefore the Typist position which was removed from our 2014 budget should be immediately replaced. It has always been our goal that the title and salaries reflect that of comparable courts, with similar volume and workloads. As we continue to work with The Town on potential title changes, and providing the department the tools to meet the demands on our Court System it is our hope that this increase assists in reaching that goal.

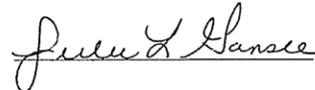
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4. Account Number: 01-1E-E12-1110-110- As to the current salary of the Clerk of the Court, Julie Gansle, an increase in current base salary of \$20,000. Although she received a 1% increase in 2014, she remains below the average salary of comparable OCA Chief Clerks. The Colonie Court is recognized as one of the largest Town Courts in the State of New York and our recognition is due to the continued efforts and contributions of the Clerk of the Court in managing the daily operations of the Court, as evidenced by the recent audit conducted by the Office of the State Comptroller. Our Court is looked to as an example and footprint for other Courts to mirror. The Clerk of the Court is continually called upon for her knowledge and experience in managing this Court. The Clerk of the Court serves on multiple New York State Unified Court committees and continues to ascend on the Executive Board of the New York State Magistrate's Court Clerks Association. There are very few, if any, Court Clerks that have obtained their Juris Doctorate while continuing to maintain the level of excellence this Court is known for. To give a point of comparison, a Deputy Chief Clerk IV with the Unified Court System in 2010 had a base salary of \$85,000 with only a Bachelors degree requirement and a Chief Clerk VI had a base salary of over \$105,000. The responsibilities continue to grow along with the salaries of the employees over which she supervises, at the very least a request for reclassification of the Deputy Department Head- grade 1 should be addressed.
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Respectfully Submitted:



Hon. Peter G. Crummey, Senior Town Justice



Julie Gansle, Clerk of the Court

.400 Contractual

TOWN OF COLONIE			
2015 BUDGET ESTIMATED WORKSHEET			
(Supplies, Repairs, Utilities, Outside Services etc.)			CONTRACTUAL EXPENSES 400 SERIES
Department: <u>Justice Department</u>	Acc't Number:		
Date: <u>June 11, 2014</u>	Page: 7 of 7		
Description of Item	\$2,014.00 Budgeted	\$2,015.00 Estimate	Remarks
461-Books & Periodicals	\$3,500.00	\$4,000.00	based on 3 yr average
Legal subscriptions -Thomson Reauter-West McGills			
462-Postage	\$12,500.00	\$12,500.00	
2% increase 3 yr average 12,200			
464-Printing	\$3,500.00	\$3,500.00	
Envelopes		\$1,000.00	
Receipt books		\$2,400.00	
Forms		\$100.00	
465-Education	\$1,000.00	\$1,000.00	
Conference/Training		\$700.00	
Education travel		\$200.00	
Misc. education expense		\$100.00	
477- Dues	\$900.00	\$640.00	
New York State Magistrates Association (3)		\$600.00	
New York State Association of Magistrates Court Clerks (1)		\$40.00	
Page Total:	\$21,400.00	\$21,640.00	
Account Total:	\$69,800.00	\$72,340.00	

S2343-2013: Creates an electronic arraignment pilot program for the Colonie town court; repealer

Same as: / Versions: [S2343-2013 Print HTML Page](#) / [Print Original Bill Format](#) / [Share This / Read or Leave Comments](#)

Creates an electronic arraignment pilot program for the Colonie town court.

Sponsor: [BRESLIN](#) / **Committee:** [CODES](#)

Law Section: [Criminal Procedure Law](#) / **Law:** Rpld & add Art 185 S185.10, CP L

S2343-2013 Actions

- Jan 16, 2013: REFERRED TO CODES

S2343-2013 Memo

BILL NUMBER: S2343

TITLE OF BILL: An act to amend the criminal procedure law, in relation to creating an electronic arraignment pilot program and to repeal article 185 of the criminal procedure law relating thereto; and providing for the repeal of such provisions upon expiration thereof

PURPOSE: To allow the Town of Colonie to create a pilot program of electronic arraignment for people awaiting arraignment following an arrest.

SUMMARY OF PROVISIONS: Creates a new Article 185 of the criminal procedure law by repealing an old law and adding a new Article.

JUSTIFICATION: In New York State people under arrest must be arraigned by a judge within 24 hours. In the Town of Colonie, people waiting for arraignment often face delays as Colonie has one of the busiest courts in the Capital District. Defendants awaiting arraignment could avoid such delays if arraignments were offered electronically. Costs associated with holding defendants awaiting arraignment could also be reduced with electronic arraignments. The Town of Colonie and the County of Albany have in place the equipment and technology necessary to implement electronic arraignments. This bill would allow the town and the county to work more efficiently and effectively in this area and help reduce town and county expenses related to arraignments.

LEGISLATIVE HISTORY: 2011/2012 - A.9984/5.7073 Referred to Senate and Assembly Committees on Codes

FISCAL IMPLICATIONS: None to State. Savings to the Town of Colonie and County of Albany.

<http://open.nysenate.gov/legislation/api/1.0/html-print/bill/S2343...> 3/21/2013

EFFECTIVE DATE: This act shall take effect January 1, 2014 and shall expire and be deemed repealed January 1, 2016.

S2343-2013 Text

S T A T E O F N E W Y O R K

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2343

2013-2014 Regular Sessions
I N SENATE
January 16, 2013

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to creating an electronic arraignment pilot program and to repeal article 185 of the criminal procedure law relating thereto; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 185 of the criminal procedure law is REPEALED and a new article 185 is added to read as follows:

ARTICLE 185 - ALTERNATIVE METHOD OF ARRAIGNMENT
SECTION 185.10. ELECTRONIC ARRAIGNMENT PILOT PROGRAM.

S 185.10 ELECTRONIC ARRAIGNMENT PILOT PROGRAM.

1. AS USED IN THIS SECTION:

(A) "INDEPENDENT AUDIO-VISUAL SYSTEM" MEANS AN ELECTRONIC SYSTEM FOR THE TRANSMISSION AND RECEIVING OF AUDIO AND VISUAL SIGNALS, ENCOMPASSING ENCODED SIGNALS, FREQUENCY DOMAIN MULTIPLEXING OR OTHER SUITABLE MEANS TO PRECLUDE THE UNAUTHORIZED RECEPTION AND DECODING OF THE SIGNALS BY COMMERCIALY AVAILABLE TELEVISION RECEIVERS OR MONITORS, CHANNEL CONVERTERS, OR OTHER AVAILABLE RECEIVING DEVICES.

(B) "ELECTRONIC ARRAIGNMENT" MEANS AN ARRAIGNMENT IN WHICH VARIOUS PARTICIPANTS, INCLUDING THE DEFENDANT, ARE NOT PERSONALLY PRESENT IN THE COURT BUT IN WHICH ALL OF THE PARTICIPANTS ARE SIMULTANEOUSLY ABLE TO SEE AND HEAR REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSELS, DEFENDANT, POLICE OFFICER AND ANY OTHER APPROPRIATE PARTICIPANT, BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM.

(C) "SECURE LOCATION" MEANS ANY FACILITY USED BY THE STATE, COUNTY, CITY, TOWN OR VILLAGE LAW ENFORCEMENT ENTITY TO TEMPORARILY HOLD A PERSON NOT RELEASED ON HIS OR HER OWN RECOGNIZANCE AND GIVEN AN APPEARANCE TICKET OR SUMMONS PENDING ARRAIGNMENT ON AN ACCUSATORY INSTRUMENT.
EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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2. THERE IS HEREBY ESTABLISHED AN "ELECTRONIC ARRAIGNMENT PILOT PROGRAM" TO BE ADMINISTERED IN THE TOWN OF COLONIE, COUNTY OF ALBANY. PURSUANT TO THIS PROGRAM AND NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION NINE OF SECTION 1.20, SECTIONS 110.10, 120.10, 120.40, 120.90, 140.20, 140.27, 140.40, 170.10 AND 180.10 OF THIS CHAPTER OR ANY OTHER PROVISION OF LAW AS THEY PERTAIN TO A DEFENDANT'S PERSONAL APPEARANCE AT ARRAIGNMENT, THE COLONIE TOWN COURT, IN ITS DISCRETION, MAY DISPENSE WITH THE DEFENDANT'S PERSONAL APPEARANCE AT THE ARRAIGNMENT, WHENEVER SUCH DEFENDANT IS BEING HELD AT A SECURE LOCATION OUTSIDE THE COURT HOUSE, AND CONDUCT AN ELECTRONIC ARRAIGNMENT UTILIZING AN INDEPENDENT AUDIO-VISUAL SYSTEM.

3. WHENEVER A PERSON IS ARRAIGNED BY MEANS OF AN ELECTRONIC ARRAIGNMENT, THE FOLLOWING CONDITIONS AND LIMITATIONS SHALL APPLY:

- (A) THE DEFENDANT MAY NOT ENTER A PLEA OF GUILTY;
- (B) NO ELECTRONIC RECORDING OF AN ELECTRONIC ARRAIGNMENT MAY BE MADE, VIEWED OR INSPECTED EXCEPT AS MAY BE AUTHORIZED BY RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS; AND
- (C) STENOGRAPHIC RECORDING OF THE ARRAIGNMENT SHALL BE MADE TO THE SAME EXTENT AS IF IT WERE AN ORDINARY ARRAIGNMENT RATHER THAN AN ELECTRONIC ARRAIGNMENT.

S 2. This act shall take effect January 1, 2014 and shall expire and be deemed repealed January 1, 2016.

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Discuss!

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