

## A MESSAGE FROM THE STAFF OF PRISONERS' LEGAL SERVICES OF NEW YORK

### Changes in State Statutes of Limitations and Court Filing Deadlines

If you are thinking about filing a *pro se* lawsuit in a state court, or if you have a *pro se* lawsuit pending in a state court, the State of New York has significantly changed the state court filing deadlines.

These changes **do not** apply to Federal courts in New York.

#### **Executive Order 202.8**

On March 20, 2020, New York Governor Andrew Cuomo issued Executive Order 202.8. This Executive Order tolled (stopped the clock running) on all **state court filing deadlines**, including **state statutes of limitations**, through April 19, 2020. Included in the effected deadlines are any statute of limitation for commencing actions, as well as due dates for filing and service of motions and other filings in pending cases, that are set by criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation.

Specifically, the Executive Order, dated March 20, 2020, states:

*I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 19, 2020 the following:*

*In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020 . . .*

Example: On March 20, you received a decision on a Tier III appeal. The four month statute of limitation on your Article 78 would normally begin running on March 20. Due to the suspension of statutes of limitation, the clock stopped running on that deadline on March 20 and will recommence running on April 19, 2020. Thus, in the example, you will have 4 months from April 19, within which to file an Article 78 petition. In effect, the 30-day period during which all these deadlines are tolled does not count toward your deadline.

## **New York Courts Administrative Order AO/78/20**

In addition, with a few exceptions, the Chief Administrative Law Judge issued an order limiting the filing of actions and motions with the New York State courts between March 22, 2020 and April 19, 2020. This administrative order provides that only “essential” filings will be accepted for filing at this time. If you try to file any papers relating to matters not on the essential filings list, they will be rejected by the court until further notice.

At the time of this writing, none of these tolling provisions apply to **federal** cases or claims and you are still responsible for those statutes of limitations and deadlines.

### **Essential Proceedings Administrative Order AO/78/20 March 22, 2020**

#### **A. Criminal matters**

1. arraignments
2. bail applications, reviews and writs
3. temporary orders of protection
4. resentencing of retained and incarcerated def'ts
5. essential SORA matters

#### **C. Supreme Court**

1. Mental Hygiene Law (MHL) applications and hearings addressing patient retention or release
2. MHL hearings addressing the involuntary administration of medication and other medical care
3. newly filed MHL applications for an assisted outpatient treatment (AOT) plan
4. emergency applications in guardianship matters
5. temporary orders of protection
6. emergency applications related to the COVID-19
7. emergency Election Law applications
8. extreme risk protection orders (ERPO)

#### **B. Family Court**

1. child protection intake cases involving removal applications
2. newly filed juvenile delinquency intake cases involving remand placement applications, or modification thereof.
3. emergency family offense petitions/temporary orders of protection.
4. orders to show cause
5. stipulations on submission

#### **D. Civil/Housing matters**

1. applications addressing landlord lockouts
2. applications addressing serious code violations
3. applications addressing serious repair orders
4. applications for post-eviction relief

#### **E. All Courts**

1. any other matter that the court deems essential