

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby promulgate, effective immediately, new Part 149 of the Rules of the Chief Administrator of the Courts, relating to the operation of Superior Court Adolescent Diversion Parts, to read as follows:

PART 149. SUPERIOR COURT ADOLESCENT DIVERSION PARTS

§149.1 Definitions

(a) “Adolescent Diversion Part” shall refer to a Part established in Supreme Court or County Court by the Chief Administrator of the Courts pursuant to section 149.2 of this Part.

(b) “Adolescent Diversion Part-eligible action or proceeding” shall refer to any action or proceeding pending in a court of criminal jurisdiction in the county where the defendant was 16 or 17 years of age at the time of the alleged commission of the offense being prosecuted and where the action or proceeding is appropriate for disposition in the Adolescent Diversion Part.

§ 149.2 Establishment of Superior Court Adolescent Diversion Parts

Following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, the Chief Administrator of the Courts may establish Adolescent Diversion Parts in Supreme Court or County Court in Bronx, Kings, New York, Queens, Richmond, Nassau, Westchester, Onondaga, and Erie Counties and assign one or more justices or judges to preside therein. Each such Part shall have as its purpose the hearing and determination of Adolescent Diversion Part-eligible actions or proceedings.

§ 149.3 Identification of Adolescent Diversion Part-Eligible Actions or Proceedings

Procedures shall be established in each criminal court in the county where an Adolescent Diversion Part has been created to identify matters eligible for transfer to such Part following arraignment.

§ 149.4 Transfer of Actions or Proceedings to Superior Court Adolescent Diversion Part

(a) Transfer of actions or proceedings pending in local criminal courts.

(1) Following arraignment in an Adolescent Diversion Part-eligible case, a local criminal court in a county in which an Adolescent Diversion Part has been established shall, upon motion of the court or of the defendant or the district attorney, and upon consent of all parties, cause originals or copies of papers and other documents filed in such case in the local criminal court to be sent to the Adolescent Diversion Part.

(2) Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the Adolescent Diversion Part shall determine whether or not a transfer of the action or proceeding to the Supreme or County Court where the Adolescent Diversion Part is established would promote the administration of justice. If the justice or judge presiding in such Part determines that it would, he or she may order such transfer, in which event the action or proceeding shall be transferred to the Supreme or County Court and referred for disposition to the Adolescent Diversion Part; all original papers, if not already sent, shall be sent from the originating court to the Adolescent Diversion Part, where all further proceedings shall be conducted. If the justice or judge determines that such a transfer would not promote the administration of justice, he or she shall notify the local criminal court from which the reference

was received of such determination and cause all original papers and other documents in the action or proceeding to be returned promptly to the court from which they were received, whereupon all further proceedings in such action or proceeding shall be conducted in accordance with law.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, where the defendant in a action or proceeding is held by the local criminal court for the action of a grand jury empaneled by a Supreme Court or a County Court, a copy of the papers and other documents filed with such local criminal court shall be delivered to the Adolescent Diversion Part; and the justice or judge presiding in the Adolescent Diversion Part may at any time order a transfer of the action or proceeding to the Supreme Court or County Court where the Adolescent Diversion Part is established provided he or she determines that such a transfer would promote the administration of justice. The original papers and other documents filed with the local criminal court shall be delivered to the Supreme Court or County Court as required by section 180.30(1) of the Criminal Procedure Law.

(b) Where an Adolescent Diversion Part-eligible action or proceeding is pending in the Supreme Court or County Court where the Adolescent Diversion Part is established, it may be referred for disposition to the Adolescent Diversion Part of such court and all further proceedings shall be conducted therein.

§149.5 Procedure in an Adolescent Diversion Part

Each action or proceeding transferred from a local criminal court to the Supreme Court or County Court and referred for disposition to an Adolescent Diversion Part thereof shall be

subject to the same substantive and procedural law as would have applied had there been no transfer.

Chief Administrative Judge of the Courts

Dated:

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