

## Memorandum in Support

### NEW YORK STATE BAR ASSOCIATION CRIMINAL JUSTICE SECTION

June 6, 2023

S. 6294  
A. 4024

By: Senator Liu  
By: M. of A. Gallagher  
Senate Committee: Transportation  
Assembly Committee: Transportation  
Effective Date: 30 days after it shall have  
Become a law.

**AN ACT** to amend the vehicle and traffic law, in relation to requiring in person hearings for traffic infractions.

**LAW AND SECTIONS REFERRED TO:** VTL Section 227.

#### **THE NYSBA CRIMINAL JUSTICE SECTION** **SUPPORTS THIS LEGISLATION**

The Criminal Justice Section of the New York State Bar Association strongly endorses the modification of New York State Vehicle and Traffic Law (VTL) Section 227 embodied in A04024/S6294. The proposed amendment aims to entrench the right to in-person adjournments and adjudications at the Traffic Violations Bureau (TVB), an arm of the Department of Motor Vehicles that adjudicates traffic tickets issued in New York City. This legislation is necessary to guarantee that all parties and witnesses have the right to appear physically at TVB hearings and protect those motorists who are not able to use or access virtual technology.

At TVB hearings, all not guilty pleas are considered contested trials (ie, no plea bargaining). At these hearings, witness credibility and evidence assessment are critical. In-person hearings provide an opportunity to evaluate witnesses' demeanor, facial expressions, and body language, as well as review documents such as notes and memo books. Therefore, a motorist should not be required to forgo an in-person hearing except upon his or her consent.

In 2020, the DMV attempted to relocate all hearings to a virtual WebEx system. The majority of contested moving violation summonses in New York City are issued to taxi and professional drivers, many of whom are first-generation immigrants with limited English proficiency, little knowledge of the American legal system, and inadequate access to reliable internet and technology. These respondents, who depend on their driver's licenses to make a living, would have been compelled to defend themselves

against the NYPD in a closed virtual hearing room. Although the DMV eventually permitted the NYPD to return to testify, they still require respondents to call a phone hotline if they wish to adjourn a hearing. They further maintain that their regulations permit them to convert all hearings to a virtual setting if they choose to do so.

The proposed legislation includes several key features. It codifies the respondent's right to an in-person hearing with all necessary parties present in the same room. It maintains open and public TVB hearings, ensuring that the judicial system remains accessible to all.

There are no additional costs associated with implementing this legislation, and the TVB is not required to change its current practices. Virtual appearances are permitted whenever the respondent or his/her attorney consents.

In summary, the Criminal Justice Section **SUPPORTS** this legislation. It is vital to protect the rights of all parties and ensure that the judicial system operates fairly and transparently.