

10706

I N   A S S E M B L Y

June 15, 2012

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein)  
-- (at request of the Office of Court Administration) -- read once and  
referred to the Committee on Judiciary

AN ACT to amend chapter 367 of the laws of 1999, amending the civil practice law and rules and the judiciary law relating to authorization of pilot programs permitting use of facsimile transmission or electronic means to commence an action or special proceeding, in relation to authorization of pilot programs permitting use of electronic means in certain courts; and to amend chapter 416 of the laws of 2009, amending the civil practice law and rules relating to service of papers by electronic means, in relation to development of a program relating to the use of electronic means for the commencement of certain actions; and providing for the repeal of certain provisions of chapter 367 of the laws of 1999 upon expiration thereof

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

1     Section 1. Chapter 367 of the laws of 1999, amending the civil prac-  
2     tice law and rules and the judiciary law relating to authorization of  
3     pilot programs permitting use of facsimile transmission or electronic  
4     means to commence an action or special proceeding, is amended by adding  
5     three new sections 6-a, 6-b and 6-c to read as follows:  
6     S 6-A. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF  
7     ADMINISTRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINISTRATIVE  
8     BOARD OF THE COURTS, MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN THE  
9     USE OF ELECTRONIC MEANS IN THE SUPREME COURT AND IN THE COUNTY COURT  
10    FOR: (1) THE FILING WITH A COURT OF AN ACCUSATORY INSTRUMENT FOR THE  
11    PURPOSE OF ACQUIRING JURISDICTION IN A SUPERIOR COURT, AS PROVIDED BY  
12    ARTICLES 195 AND 200 OF THE CRIMINAL PROCEDURE LAW, AND (2) THE FILING  
13    AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS AND PROCEEDINGS.  
14    (B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, PARTIC-  
15    IPATION IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY AND WILL TAKE PLACE  
16    ONLY UPON CONSENT OF ALL PARTIES IN THE CRIMINAL ACTION OR PROCEEDING;  
17    EXCEPT THAT A PARTY'S FAILURE TO CONSENT TO PARTICIPATION SHALL NOT BAR  
18    ANY OTHER PARTY TO THE ACTION FROM FILING AND SERVING PAPERS BY ELEC-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 TRONIC MEANS UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR  
2 PROCEEDING WHO HAS CONSENTED TO PARTICIPATION. FILING AN ACCUSATORY  
3 INSTRUMENT BY ELECTRONIC MEANS WITH THE COURT FOR THE PURPOSE OF CONFER-  
4 RING JURISDICTION OVER A CRIMINAL ACTION UPON SUCH COURT SHALL NOT  
5 REQUIRE THE CONSENT OF ANY OTHER PARTY; PROVIDED, HOWEVER, THAT UPON  
6 SUCH FILING ANY PERSON WHO IS THE SUBJECT OF SUCH ACCUSATORY INSTRUMENT  
7 AND ANY ATTORNEY FOR SUCH PERSON SHALL BE PERMITTED TO IMMEDIATELY  
8 REVIEW AND OBTAIN COPIES OF SUCH INSTRUMENT IF SUCH PERSON OR ATTORNEY  
9 WOULD HAVE BEEN AUTHORIZED BY LAW TO REVIEW OR COPY SUCH INSTRUMENT IF  
10 IT HAD BEEN FILED WITH THE COURT IN PAPER FORM.

11 (2) THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT  
12 TO PARTICIPATION IN THIS PROGRAM IN SUPREME AND COUNTY COURTS OF NOT  
13 MORE THAN SIX COUNTIES PROVIDED HE OR SHE MAY NOT ELIMINATE SUCH  
14 REQUIREMENT FOR A COURT WITHOUT THE CONSENT OF THE DISTRICT ATTORNEY,  
15 THE CONSENT OF THE CRIMINAL DEFENSE BAR AS DEFINED IN SECTION SIX-C OF  
16 THIS ACT AND THE CONSENT OF THE COUNTY CLERK OF THE COUNTY IN WHICH SUCH  
17 COURT PRESIDES. NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR  
18 MAY NOT ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUN-  
19 TY HEREUNDER UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGAN-  
20 IZATIONS, OR THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY  
21 APPEAR IN CRIMINAL ACTIONS OR PROCEEDINGS IN THE SUPERIOR COURT OF SUCH  
22 COUNTY WITH REASONABLE NOTICE AND AN OPPORTUNITY TO SUBMIT COMMENTS WITH  
23 RESPECT THERETO AND SHALL HAVE GIVEN DUE CONSIDERATION TO ALL SUCH  
24 COMMENTS, NOR UNTIL HE OR SHE SHALL HAVE CONSULTED WITH THE MEMBERS OF  
25 THE ADVISORY COMMITTEE CONTINUED PURSUANT TO SUBDIVISION (C) OF SECTION  
26 6 OF CHAPTER 416 OF THE LAWS OF 2009, AS AMENDED.

27 (C) WHERE THE CHIEF ADMINISTRATOR ELIMINATES THE REQUIREMENT OF  
28 CONSENT AS PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION,  
29 HE OR SHE SHALL AFFORD COUNSEL THE OPPORTUNITY TO OPT OUT OF THE  
30 PROGRAM, VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE  
31 COURT WHERE THE CRIMINAL ACTION IS PENDING. SAID FORM, WHICH SHALL NOT  
32 BE PART OF THE CASE RECORD, SHALL PERMIT AN ATTORNEY TO OPT OUT OF  
33 PARTICIPATION IN THE PROGRAM UNDER ANY OF THE FOLLOWING CIRCUMSTANCES,  
34 IN WHICH EVENT, HE OR SHE WILL NOT BE COMPELLED TO PARTICIPATE:

35 (1) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
36 APPROPRIATE COMPUTER HARDWARE AND/OR CONNECTION TO THE INTERNET AND/OR  
37 SCANNER OR OTHER DEVICE BY WHICH DOCUMENTS MAY BE CONVERTED TO AN ELEC-  
38 TRONIC FORMAT; OR

39 (2) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
40 THE REQUISITE KNOWLEDGE IN THE OPERATION OF SUCH COMPUTERS AND/OR SCAN-  
41 NERS NECESSARY TO PARTICIPATE. FOR THE PURPOSES OF THIS PARAGRAPH, THE  
42 KNOWLEDGE OF ANY EMPLOYEE OF AN ATTORNEY, OR ANY EMPLOYEE OF THE ATTOR-  
43 NEY'S LAW FIRM, OFFICE OR BUSINESS WHO IS SUBJECT TO SUCH ATTORNEY'S  
44 DIRECTION, SHALL BE IMPUTED TO THE ATTORNEY.

45 NOTWITHSTANDING THE FOREGOING: (I) WHERE A PARTY IS NOT REPRESENTED BY  
46 COUNSEL, HE OR SHE MAY NOT PARTICIPATE IN THE PROGRAM EXCEPT UPON HIS OR  
47 HER REQUEST AND PERMISSION OF THE COURT; (II) A PARTY NOT REPRESENTED BY  
48 COUNSEL WHO HAS OPTED IN SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF  
49 THE PROGRAM FOR ANY REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE  
50 FILED WITH THE CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING; AND  
51 (III) A COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE  
52 IN THE PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE  
53 THEREFOR.

54 (D) FOR PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS  
55 DEFINED IN SUBDIVISION (F) OF RULE 2103 OF THE CIVIL PRACTICE LAW AND  
56 RULES.

(E) (1) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN CRIMINAL PROCEEDINGS OR ACCESS TO COURT RECORDS BY THE PARTIES TO SUCH PROCEEDINGS, NOR SHALL THIS SECTION BE CONSTRUED TO COMPEL A PARTY TO FILE A SEALED DOCUMENT BY ELECTRONIC MEANS.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, NO PAPER OR DOCUMENT THAT IS FILED BY ELECTRONIC MEANS IN A CRIMINAL PROCEEDING IN SUPREME COURT OR COUNTY COURT SHALL BE AVAILABLE FOR PUBLIC INSPECTION ON-LINE. SUBJECT TO THE PROVISIONS OF EXISTING LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS, NOTHING HEREIN SHALL PREVENT THE UNIFIED COURT SYSTEM FROM SHARING STATISTICAL INFORMATION THAT DOES NOT INCLUDE ANY PAPERS OR DOCUMENTS FILED WITH THE ACTION; AND, PROVIDED FURTHER, THAT THIS PARAGRAPH SHALL NOT PROHIBIT THE CHIEF ADMINISTRATOR, IN THE EXERCISE OF HIS OR HER DISCRETION, FROM POSTING PAPERS OR DOCUMENTS THAT HAVE NOT BEEN SEALED PURSUANT TO LAW ON A PUBLIC WEBSITE MAINTAINED BY THE UNIFIED COURT SYSTEM WHERE: (I) THE WEBSITE IS NOT THE WEBSITE ESTABLISHED BY THE RULES PROMULGATED PURSUANT TO SUBDIVISION (A) OF THIS SECTION, AND (II) TO DO SO WOULD BE IN THE PUBLIC INTEREST. FOR PURPOSES OF THIS SUBDIVISION, THE CHIEF ADMINISTRATOR, IN DETERMINING WHETHER POSTING PAPERS OR DOCUMENTS ON A PUBLIC WEBSITE IS IN THE PUBLIC INTEREST, SHALL, AT A MINIMUM, TAKE INTO ACCOUNT FOR EACH POSTING THE FOLLOWING FACTORS: (I) THE TYPE OF CASE INVOLVED; (II) WHETHER SUCH POSTING WOULD CAUSE HARM TO ANY PERSON, INCLUDING ESPECIALLY A MINOR OR CRIME VICTIM; (III) WHETHER SUCH POSTING WOULD INCLUDE LEWD OR SCANDALOUS MATTERS; AND (IV) THE POSSIBILITY THAT SUCH PAPERS OR DOCUMENTS MAY ULTIMATELY BE SEALED.

(3) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE EXISTING LAWS GOVERNING SERVICE OF PROCESS, NOR SHALL THIS SECTION BE CONSTRUED TO ABROGATE EXISTING PERSONAL SERVICE REQUIREMENTS AS SET FORTH IN THE CRIMINAL PROCEDURE LAW.

S 6-B. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINISTRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS IN THE FAMILY COURT FOR: (1) THE ORIGINATION OF PROCEEDINGS IN SUCH COURT, AND (2) THE FILING AND SERVICE OF PAPERS IN PENDING PROCEEDINGS.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, PARTICIPATION IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY AND WILL TAKE PLACE ONLY UPON CONSENT OF ALL PARTIES IN THE PROCEEDING; EXCEPT THAT FAILURE OF A PARTY OR OTHER PERSON WHO IS ENTITLED TO NOTICE OF THE PROCEEDINGS TO CONSENT TO PARTICIPATION SHALL NOT BAR ANY OTHER PARTY FROM FILING AND SERVING PAPERS BY ELECTRONIC MEANS UPON THE COURT OR ANY OTHER PARTY OR PERSON ENTITLED TO RECEIVE NOTICE OF SUCH PROCEEDING WHO HAS CONSENTED TO PARTICIPATION. FILING A PETITION WITH THE COURT BY ELECTRONIC MEANS FOR THE PURPOSE OF ORIGINATING A PROCEEDING SHALL NOT REQUIRE THE CONSENT OF ANY OTHER PARTY; PROVIDED, HOWEVER, THAT, UPON SUCH FILING, A PARTY TO SUCH PROCEEDING AND ANY ATTORNEY FOR SUCH PERSON SHALL BE PERMITTED TO IMMEDIATELY REVIEW AND OBTAIN COPIES OF SUCH DOCUMENTS AND PAPERS IF SUCH PERSON OR ATTORNEY WOULD HAVE BEEN AUTHORIZED BY LAW TO REVIEW OR OBTAIN COPIES OF SUCH DOCUMENTS AND PAPERS IF THEY HAD BEEN FILED WITH THE COURT IN PAPER FORM.

(2) IN THE RULES PROMULGATED PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN THIS PROGRAM IN FAMILY COURTS OF NOT MORE THAN SIX COUNTIES FOR:

1 (I) THE FILING WITH THE COURT OF A PETITION ORIGINATING A JUVENILE  
2 DELINQUENCY PROCEEDING UNDER ARTICLE 3 OF THE FAMILY COURT ACT BY A  
3 PRESENTMENT AGENCY AS DEFINED IN SECTION 301.2 OF SUCH ACT;

4 (II) THE FILING WITH THE COURT OF A PETITION ORIGINATING A PROCEEDING  
5 TO DETERMINE ABUSE OR NEGLECT PURSUANT TO ARTICLE 10 OF THE FAMILY COURT  
6 ACT BY A CHILD PROTECTIVE AGENCY, AS DEFINED IN SECTION 1012 OF SUCH  
7 ACT; AND

8 (III) THE FILING AND SERVICE OF PAPERS IN PROCEEDINGS SPECIFIED IN  
9 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH WHERE, PURSUANT TO SUCH  
10 SUBPARAGRAPHS, SUCH PROCEEDINGS WERE ORIGINATED IN THE COURT BY ELEC-  
11 TRONIC FILING.

12 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMI-  
13 NATE THE REQUIREMENT OF CONSENT TO PARTICIPATION WITHOUT THE CONSENT OF  
14 EACH AUTHORIZED PRESENTMENT AGENCY, CHILD PROTECTIVE AGENCY OF AN  
15 AFFECTED COUNTY, THE FAMILY COURT BAR PROVIDING REPRESENTATION TO  
16 PARENTS, AND THE FAMILY COURT BAR PROVIDING REPRESENTATION TO CHILDREN  
17 (AS REPRESENTED BY THE HEAD OF EACH LEGAL SERVICES ORGANIZATION REPRES-  
18 ENTING PARENTS AND/OR CHILDREN, THE HEAD OF EACH PUBLIC DEFENDER ORGAN-  
19 IZATION, AND PRESIDENT OF THE LOCAL BAR ASSOCIATION AS APPLICABLE) IN  
20 ANY COUNTY IN WHICH SUCH ELIMINATION SHALL APPLY.

21 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMI-  
22 NATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUNTY HEREUNDER  
23 UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGANIZATIONS, OR  
24 THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY APPEAR IN  
25 PROCEEDINGS IN THE FAMILY COURT OF SUCH COUNTY, IN WHICH PROCEEDINGS THE  
26 REQUIREMENT OF CONSENT IS TO BE ELIMINATED, WITH REASONABLE NOTICE AND  
27 AN OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO AND SHALL HAVE  
28 GIVEN DUE CONSIDERATION TO ALL SUCH COMMENTS, NOR UNTIL HE OR SHE SHALL  
29 HAVE CONSULTED WITH THE MEMBERS OF THE ADVISORY COMMITTEE CONTINUED  
30 PURSUANT TO SUBDIVISION (D) OF SECTION 6 OF CHAPTER 416 OF THE LAWS OF  
31 2009, AS AMENDED.

32 (C) WHERE THE CHIEF ADMINISTRATOR ELIMINATES THE REQUIREMENT OF  
33 CONSENT AS PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION,  
34 HE OR SHE SHALL AFFORD COUNSEL THE OPPORTUNITY TO OPT OUT OF THE  
35 PROGRAM, VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE  
36 CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING. SAID FORM, WHICH  
37 SHALL NOT BE PART OF THE CASE RECORD, SHALL PERMIT AN ATTORNEY TO OPT  
38 OUT OF PARTICIPATION IN THE PROGRAM UNDER ANY OF THE FOLLOWING CIRCUM-  
39 STANCES, IN WHICH EVENT, HE OR SHE WILL NOT BE COMPELLED TO PARTICIPATE:

40 (1) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
41 APPROPRIATE COMPUTER HARDWARE AND/OR CONNECTION TO THE INTERNET AND/OR  
42 SCANNER OR OTHER DEVICE BY WHICH DOCUMENTS MAY BE CONVERTED TO AN ELEC-  
43 TRONIC FORMAT; OR

44 (2) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
45 THE REQUISITE KNOWLEDGE IN THE OPERATION OF SUCH COMPUTERS AND/OR SCAN-  
46 NERS NECESSARY TO PARTICIPATE. FOR THE PURPOSES OF THIS PARAGRAPH, THE  
47 KNOWLEDGE OF ANY EMPLOYEE OF AN ATTORNEY, OR ANY EMPLOYEE OF THE ATTOR-  
48 NEY'S LAW FIRM, OFFICE OR BUSINESS WHO IS SUBJECT TO SUCH ATTORNEY'S  
49 DIRECTION, SHALL BE IMPUTED TO THE ATTORNEY.

50 NOTWITHSTANDING THE FOREGOING: (I) WHERE A PARTY OR A PERSON ENTITLED  
51 TO NOTICE OF THE PROCEEDINGS IS NOT REPRESENTED BY COUNSEL, HE OR SHE  
52 MAY NOT PARTICIPATE IN THE PROGRAM EXCEPT UPON HIS OR HER REQUEST AND  
53 PERMISSION OF THE COURT; (II) A PARTY WHO IS NOT REPRESENTED BY COUNSEL  
54 THAT HAS OPTED IN, SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF THE  
55 PROGRAM FOR ANY REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED  
56 WITH THE CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING; AND (III) A

1 COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE  
2 PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE THERE-  
3 FOR.

4 (D) FOR PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS  
5 DEFINED IN SUBDIVISION (F) OF RULE 2103 OF THE CIVIL PRACTICE LAW AND  
6 RULES.

7 (E) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, NO PAPER OR DOCU-  
8 MENT THAT IS FILED BY ELECTRONIC MEANS IN A PROCEEDING IN FAMILY COURT  
9 SHALL BE AVAILABLE FOR PUBLIC INSPECTION ON-LINE. SUBJECT TO THE  
10 PROVISIONS OF EXISTING LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF  
11 COURT RECORDS, NOTHING HEREIN SHALL PREVENT THE UNIFIED COURT SYSTEM  
12 FROM SHARING STATISTICAL INFORMATION THAT DOES NOT INCLUDE ANY PAPERS OR  
13 DOCUMENTS FILED WITH THE ACTION.

14 (F) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING LAWS  
15 GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN FAMILY  
16 COURT PROCEEDINGS OR ACCESS TO COURT RECORDS BY THE PARTIES TO SUCH  
17 PROCEEDINGS, NOR SHALL THIS SECTION BE CONSTRUED TO COMPEL A PARTY TO  
18 FILE A SEALED DOCUMENT BY ELECTRONIC MEANS.

19 (G) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE EXISTING LAWS  
20 GOVERNING SERVICE OF PROCESS, NOR SHALL THIS SECTION BE CONSTRUED TO  
21 ABROGATE EXISTING PERSONAL SERVICE REQUIREMENTS AS SET FORTH IN THE  
22 FAMILY COURT ACT AND THE CIVIL PRACTICE LAW AND RULES.

23 S 6-C. (A) FOR PURPOSES OF SECTION SIX-A OF THIS ACT, "CONSENT OF THE  
24 CRIMINAL DEFENSE BAR" SHALL MEAN THAT CONSENT HAS BEEN OBTAINED FROM ALL  
25 PROVIDER OFFICES AND/OR ORGANIZATIONS IN THE COUNTY THAT REPRESENTED  
26 TWENTY-FIVE PERCENT OR MORE OF THE PERSONS REPRESENTED BY PUBLIC DEFENSE  
27 PROVIDERS PURSUANT TO SECTION 722 OF THE COUNTY LAW, AS SHOWN IN THE  
28 MOST RECENT ANNUAL REPORTS FILED PURSUANT TO SUBDIVISION ONE OF SECTION  
29 722-F OF THE COUNTY LAW. SUCH CONSENT, WHEN GIVEN, MUST BE EXPRESSED IN  
30 A WRITTEN DOCUMENT THAT IS PROVIDED BY A PERSON WHO IS AUTHORIZED TO  
31 CONSENT ON BEHALF OF THE RELEVANT PUBLIC DEFENDER ORGANIZATION, AGENCY  
32 OR OFFICE.

33 (B) NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, NO PARTY OR HIS  
34 OR HER COUNSEL SHALL BE CHARGED A FEE FOR VIEWING INFORMATION FILED BY  
35 ELECTRONIC MEANS, OR FOR DOWNLOADING OR PRINTING SUCH INFORMATION  
36 THROUGH THE USE OF SUCH PARTY'S OR COUNSEL'S OWN EQUIPMENT. THE CHIEF  
37 ADMINISTRATOR OF THE COURTS SHALL ENSURE THAT SUFFICIENT COMPUTER TERMI-  
38 NALS AND STAFF ARE AVAILABLE AT THE COURTHOUSE OF EACH COURT PARTICIPAT-  
39 ING IN THE PROGRAM IN THE USE OF ELECTRONIC MEANS, TO ENABLE PARTIES AND  
40 THEIR COUNSEL TO ACCESS INFORMATION, SUBJECT TO THE PROVISIONS OF  
41 SECTIONS SIX-A AND SIX-B OF THIS ACT AND LAWS GOVERNING THE SEALING AND  
42 CONFIDENTIALITY OF COURT RECORDS, FILED BY ELECTRONIC MEANS AT SUCH  
43 COURTHOUSE IN A PROMPT AND CONVENIENT MANNER.

44 S 2. Subparagraphs 1 and 2 of paragraph (B) of subdivision (b) of  
45 section 6 of chapter 367 of the laws of 1999, amending the civil prac-  
46 tice law and rules and the judiciary law relating to authorization of  
47 pilot programs permitting use of facsimile transmission or electronic  
48 means to commence an action or special proceeding, are REPEALED, subpar-  
49 agraphs 3, 4 and 5 of paragraph (B) are renumbered subparagraphs 1, 2  
50 and 3 and subparagraph 1, as amended by chapter 543 of the laws of 2011,  
51 is amended to read as follows:

52 1. One or more classes of cases (excluding matrimonial actions as  
53 defined by the civil practice law and rules, election law proceedings,  
54 proceedings brought pursuant to article 78 of the civil practice law and  
55 rules, and proceedings brought pursuant to the mental hygiene law) in  
56 supreme court in ERIE, Livingston, Monroe, Rockland, Tompkins, Allegany,

Essex, Onondaga, SUFFOLK and Westchester counties AND IN THE COUNTIES WITHIN THE CITY OF NEW YORK, and

S 3. Subdivisions (c) and (d) of section 6 of chapter 416 of the laws of 2009, amending the civil practice law and rules relating to service of papers by electronic means, as added by chapter 543 of the laws of 2011, are amended to read as follows:

(c)(1) The [chief administrator shall create an] advisory committee to consult with [him or her] THE CHIEF ADMINISTRATOR regarding the development of a program relating to the use of electronic means for the commencement of criminal actions and the filing and service of papers in pending criminal actions and proceedings IS CONTINUED. The committee shall consist of such number of members as will enable the chief administrator to obtain input from those who ARE OR would be affected by such electronic filing program, and such members shall include county clerks; chief clerks of supreme, county and other courts; district attorneys; not-for-profit legal service providers; public defenders; statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision 3 of section 722 of the county law; institutional providers of criminal defense services and other members of the criminal defense bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that ARE OR would be affected by such electronic filing program and other interested members of the criminal justice community. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who ARE OR would be affected by such electronic filing program, including district attorneys, not-for-profit legal service providers, public defenders, statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision 3 of section 722 of the county law, institutional providers of criminal defense services and other members of the criminal defense bar, representatives of victims' rights organizations, unaffiliated attorneys who regularly appear in proceedings that ARE OR would be affected by such electronic filing program and other interested members of the criminal justice community.

(2) No later than January 1, [2012] 2015, the chief administrator of the courts shall submit to the legislature, the governor and the chief judge of the state a report of the evaluation including the entities or individuals consulted, the input received, ALL PROBLEMS ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF ADMINISTRATOR OF THE COURTS OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE PROBLEMS, PRESENTMENT OF ALL OUTSTANDING PROBLEMS, any recommendations of the advisory committee to the chief administrator, along with recommendations for legislation [authorizing the development of a program relating] IN RELATION to the use of electronic means for the commencement of criminal actions and the filing and service of papers in pending criminal actions and proceedings. IN THE REPORT, THE CHIEF ADMINISTRATOR ALSO SHALL ADDRESS ISSUES THAT BEAR UPON THE NEED FOR THE COURTS, DISTRICT ATTORNEYS AND OTHERS TO RETAIN PAPERS FILED WITH COURTS OR SERVED UPON PARTIES IN CRIMINAL PROCEEDINGS WHERE ELECTRONIC MEANS CAN OR HAVE BEEN USED AND MAKE RECOMMENDATIONS FOR SUCH CHANGES IN LAWS REQUIRING RETENTION OF SUCH PAPERS AS TO THE CHIEF ADMINISTRATOR MAY SEEM APPROPRIATE.

1 (d) (1) The [chief administrator shall create an] advisory committee  
2 to consult with [him or her] THE CHIEF ADMINISTRATOR regarding the  
3 development of a program relating to the use of electronic means for the  
4 origination of juvenile delinquency proceedings under article 3 of the  
5 family court act and abuse or neglect proceedings pursuant to article 10  
6 of the family court act in family court and the filing and service of  
7 papers in such pending proceedings IS CONTINUED. The committee shall  
8 consist of such number of members as will enable the chief administrator  
9 to obtain input from those who ARE OR would be affected by such elec-  
10 tronic filing [programs] PROGRAM, and such members shall include chief  
11 clerks of family courts; representatives of authorized presentment and  
12 child protective agencies; other appropriate county and city government  
13 officials; institutional providers of legal services for children and/or  
14 parents; not-for-profit legal service providers; public defenders;  
15 attorneys assigned pursuant to article 18-B of the county law; and other  
16 members of the family court bar; representatives of victims' rights  
17 organizations; unaffiliated attorneys who regularly appear in  
18 proceedings that ARE OR would be affected by such electronic filing  
19 program; and other interested members of the family practice community.  
20 Such committee shall help the chief administrator to evaluate the impact  
21 of such electronic filing program on litigants including unrepresented  
22 parties, practitioners and the courts and to obtain input from those who  
23 ARE OR would be affected by such electronic filing program, including  
24 representatives of authorized presentment and child protective agencies,  
25 other appropriate county and city government officials, institutional  
26 providers of legal services for children and/or parents, not-for-profit  
27 legal service providers, public defenders, attorneys assigned pursuant  
28 to article 18-B of the county law and other members of the family court  
29 bar, representatives of victims' rights organizations, unaffiliated  
30 attorneys who regularly appear in proceedings that ARE OR would be  
31 affected by such electronic filing program, and other interested members  
32 of the criminal justice community.

33 (2) No later than January 1, [2012] 2015, the chief administrator of  
34 the courts shall submit to the legislature, the governor and the chief  
35 judge of the state a report of the evaluation including the entities or  
36 individuals consulted, input received, ALL PROBLEMS ENCOUNTERED OR  
37 OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF ADMINISTRATOR OF THE  
38 COURTS OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE PROB-  
39 LEMS, PRESENTMENT OF ALL OUTSTANDING PROBLEMS, any recommendations of  
40 the advisory committee to the chief administrator, along with recommen-  
41 dations for legislation [authorizing the development of a program relat-  
42 ing] IN RELATION to the use of electronic means for the origination of  
43 juvenile delinquency proceedings under article 3 of the family court act  
44 and abuse or neglect proceedings pursuant to article 10 of the family  
45 court act in family court and the filing and service of papers in such  
46 pending proceedings.

47 S 4. This act shall take effect immediately; provided, however, that  
48 sections 6-a, 6-b, and 6-c of chapter 367 of the laws of 1999, as added  
49 by section one of this act, shall expire and be deemed repealed Septem-  
50 ber 1, 2015; and provided further that the amendments to paragraph (B)  
51 of subdivision (b) of section 6 of chapter 367 of the laws of 1999 made  
52 by section two of this act shall not affect the expiration of such  
53 provisions and shall be deemed to be repealed therewith.