

STATE OF NEW YORK

8127

2017-2018 Regular Sessions

IN ASSEMBLY

May 31, 2017

Introduced by 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 the judiciary law, the civil practice law and rules and chapter 237 of the laws of 2015 amending the judiciary law, the civil practice law and rules and other laws relating to use of electronic means for the commencement and filing of papers in certain actions and proceedings, in relation to the use of electronic means for the commencement and filing of papers in certain actions and proceedings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Clause (A) of subparagraph (i) of paragraph (t) of subdivision 2 of section 212 of the judiciary law, as added by chapter 237 of the laws of 2015, is amended to read as follows:

(A) Not later than ~~April~~ February first in each calendar year, the chief administrator of the courts shall submit to the legislature, the governor and the chief judge of the state a report evaluating the state's experience with programs in the use of electronic means for the commencement of actions and proceedings and the service of papers therein as authorized by law and containing such recommendations for further legislation as he or she shall deem appropriate. In the preparation of such report, the chief administrator shall consult with each county clerk in whose county a program has been implemented in civil cases in the supreme court, the advisory committees established pursuant to subparagraphs (ii) through (vi) of this paragraph, the organized bar including but not limited to city, state, county and women's bar associations; the office of indigent legal services; institutional legal service providers; not-for-profit legal service providers; public defenders; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by any programs that have been implemented or who

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

LBD11264-04-7

1 may be affected by the proposed recommendations for further legislation;
2 representatives of victims' rights organizations; and any other persons
3 in whose county a program has been implemented in any of the courts
4 therein as deemed to be appropriate by the chief administrator, and
5 afford them an opportunity to submit comments with respect to such
6 implementation for inclusion in the report and address any such
7 comments.

8 Public comments shall also be sought via a prominent posting on the
9 website of the office of court administration. All comments received
10 from any source shall be posted for public review on the same website.

11 § 1-a. Clause (A) of subparagraph (i) of paragraph (u) of subdivision
12 2 of section 212 of the judiciary law, as added by chapter 237 of the
13 laws of 2015 and as relettered by section 1 of part BB of chapter 55 of
14 the laws of 2017, is amended to read as follows:

15 (A) Not later than ~~April~~ February first in each calendar year, the
16 chief administrator of the courts shall submit to the legislature, the
17 governor and the chief judge of the state a report evaluating the
18 state's experience with programs in the use of electronic means for the
19 commencement of actions and proceedings and the service of papers there-
20 in as authorized by law and containing such recommendations for further
21 legislation as he or she shall deem appropriate. In the preparation of
22 such report, the chief administrator shall consult with each county
23 clerk in whose county a program has been implemented in civil cases in
24 the supreme court, the advisory committees established pursuant to
25 subparagraphs (ii) through (vi) of this paragraph, the organized bar
26 including but not limited to city, state, county and women's bar associ-
27 ations; the office of indigent legal services; institutional legal
28 service providers; not-for-profit legal service providers; public defen-
29 ders; attorneys assigned pursuant to article eighteen-B of the county
30 law; unaffiliated attorneys who regularly appear in proceedings that are
31 or have been affected by any programs that have been implemented or who
32 may be affected by the proposed recommendations for further legislation;
33 representatives of victims' rights organizations; and any other persons
34 in whose county a program has been implemented in any of the courts
35 therein as deemed to be appropriate by the chief administrator, and
36 afford them an opportunity to submit comments with respect to such
37 implementation for inclusion in the report and address any such
38 comments.

39 Public comments shall also be sought via a prominent posting on the
40 website of the office of court administration. All comments received
41 from any source shall be posted for public review on the same website.

42 § 2. Section 2112 of the civil practice law and rules, as added by
43 chapter 237 of the laws of 2015, is amended to read as follows:

44 § 2112. Filing of papers in the appellate division by electronic
45 means. Notwithstanding any other provision of law, and except as other-
46 wise provided in subdivision (c) of section twenty-one hundred eleven of
47 this article, the appellate division in each judicial department may
48 promulgate rules authorizing a program in the use of electronic means
49 for: (i) appeals to such court from the judgment or order of a court of
50 original instance or from that of another appellate court, (ii) making a
51 motion for permission to appeal to such court, (iii) commencement of any
52 other proceeding that may be brought in such court, and (iv) the filing
53 and service of papers in pending actions and proceedings. Provided
54 however, ~~[the appellate division may not eliminate the requirement of~~
55 ~~consent to participation in appeals in such a program involving matrimo-~~
56 ~~nial actions as defined by this chapter, election law proceedings,~~

~~proceedings brought pursuant to article seventy or seventy eight of this chapter, proceedings brought pursuant to the mental hygiene law, residential foreclosure actions involving a home loan as such term is defined in section thirteen hundred four of the real property actions and proceedings law and proceedings related to consumer credit transactions as defined in subdivision (f) of section one hundred five of this chapter; and]~~ such rules shall not require an unrepresented party

or any attorney who furnishes a certificate specified in subparagraph (A) or (B) of paragraph three of subdivision (b) of section twenty-one hundred eleven of this article to take or perfect an appeal by electronic means. Provided further, however, before promulgating any such rules, the appellate division in each judicial department shall consult with the chief administrator of the courts and shall provide an opportunity for review and comment by all those who are or would be affected including city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by promulgation of rules concerning the use of the electronic filing program in the appellate division of any judicial department; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by any appellate division. To the extent practicable, rules promulgated by the appellate division in each judicial department pursuant to this section shall be uniform.

§ 3. Section 11 of chapter 237 of the laws of 2015 amending the judiciary law, the civil practice law and rules and other laws relating to use of electronic means for the commencement and filing of papers in certain actions and proceedings is amended to read as follows:

§ 11. This act shall take effect immediately; provided that sections four, five, six and seven of this act shall **each** expire and be deemed repealed September 1, 2019; and provided that paragraph 2-a of subdivision (b) of section 2111 of the civil practice law and rules, as added by section two of this act, shall expire and be deemed repealed September 1, ~~2017~~ **2018**.

§ 4. This act shall take effect immediately provided, however the amendments to subdivision 2 of section 212 of the judiciary law made by section one-a of this act shall take effect on the same date and in the same manner as section 1 of part BB of chapter 55 of the laws of 2017, takes effect.