

STATE OF NEW YORK

6001

2025-2026 Regular Sessions

IN SENATE

March 4, 2025

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring applications for leave to appeal to the court of appeals to be made to the full court

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

- 1 Section 1. This act shall be known and may be cited as the "fair court
2 of appeals access act".
- 3 § 2. Section 460.20 of the criminal procedure law, subdivision 5 as
4 added by chapter 699 of the laws of 1977, is amended to read as follows:
5 § 460.20 Certificate granting leave to appeal to court of appeals.
- 6 1. A certificate granting leave to appeal to the court of appeals
7 from an order of an intermediate appellate court is an order of [~~a~~
8 ~~judge~~] the court of appeals granting such permission and certifying that
9 the case involves a question of law which ought to be reviewed by the
10 court of appeals.
- 11 2. Such certificate may be issued [~~by the following judges~~] in the
12 indicated situations:
- 13 (a) Where the appeal sought is from an order of the appellate divi-
14 sion, the certificate may be issued by (i) [~~a judge of~~] the court of
15 appeals, upon the approval of two judges of such court after the full
16 court's consideration of the motion for a certificate granting leave to
17 appeal or (ii) a justice of the appellate division of the department
18 which entered the order sought to be appealed.
- 19 (b) Where the appeal sought is from an order of an intermediate
20 appellate court other than the appellate division, the certificate may
21 be issued only by [~~a judge of~~] the court of appeals.
- 22 3. An application for such a certificate must be made in the follow-
23 ing manner:

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

LBD10432-01-5

1 (a) An application to a justice of the appellate division must be
2 made upon reasonable notice to the respondent;

3 (b) An application seeking such a certificate from [~~a judge of~~] the
4 court of appeals must be made [~~to the chief judge of such court by~~
5 ~~submission thereof, either~~] in writing [~~or first orally and then in~~
6 ~~writing,~~] to the clerk of the court of appeals. [~~The chief judge must~~
7 ~~then designate a judge of such court to determine the application.~~] The
8 clerk must then notify the respondent of the application [~~and must~~
9 ~~inform both parties of such designation~~].

10 (c) The court of appeals shall have the authority to create rules
11 governing applications for leave to appeal in criminal cases that are
12 not inconsistent with this section.

13 4. A justice of the appellate division to whom such an application
14 has been made[~~, or a judge of the court of appeals designated to deter-~~
15 ~~mine such an application,~~] may in [~~his~~] their discretion determine it
16 upon such papers as [~~he~~] they may request the parties to submit, or upon
17 oral argument, or upon both.

18 5. [~~Every judge~~] The court of appeals or an appellate division
19 justice acting pursuant to this section shall file with the clerk of the
20 court of appeals, immediately upon issuance, a copy of every certificate
21 granting or denying leave to appeal.

22 § 3. This act shall take effect immediately and shall apply to any
23 application for leave to appeal from an intermediate appellate court
24 order entered on, or after, the effective date of this act.