S T A T E O F N E W Y O R K

7592--A

I N S E N A T E

June 5, 2012

Introduced by Sen. SALAND -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. 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, is amended by adding three new sections 6-a, 6-b and 6-c to read as follows:

S 6-A. (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 SUPREME COURT AND IN THE COUNTY COURT FOR: (1) THE FILING WITH A COURT OF AN ACCUSATORY INSTRUMENT FOR THE PURPOSE OF ACQUIRING JURISDICTION IN A SUPERIOR COURT, AS PROVIDED BY ARTICLES 195 AND 200 OF THE CRIMINAL PROCEDURE LAW, AND (2) THE FILING AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS AND 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 CRIMINAL ACTION OR PROCEEDING;

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

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EXCEPT THAT A PARTY'S FAILURE TO CONSENT TO PARTICIPATION SHALL NOT BAR ANY OTHER PARTY TO THE ACTION FROM FILING AND SERVING PAPERS BY ELECTRONIC MEANS UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR PROCEEDING WHO HAS CONSENTED TO PARTICIPATION. FILING AN ACCUSATORY INSTRUMENT BY ELECTRONIC MEANS WITH THE COURT FOR THE PURPOSE OF CONFERRING JURISDICTION OVER A CRIMINAL ACTION UPON SUCH COURT SHALL NOT REQUIRE THE CONSENT OF ANY OTHER PARTY; PROVIDED, HOWEVER, THAT UPON SUCH FILING ANY PERSON WHO IS THE SUBJECT OF SUCH ACCUSATORY INSTRUMENT AND ANY ATTORNEY FOR SUCH PERSON SHALL BE PERMITTED TO IMMEDIATELY REVIEW AND OBTAIN COPIES OF SUCH INSTRUMENT IF SUCH PERSON OR ATTORNEY WOULD HAVE BEEN AUTHORIZED BY LAW TO REVIEW OR COPY SUCH INSTRUMENT IF IT HAD BEEN FILED WITH THE COURT IN PAPER FORM.

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

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

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

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

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

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

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

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

(III) THE FILING AND SERVICE OF PAPERS IN PROCEEDINGS SPECIFIED IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH WHERE, PURSUANT TO SUCH SUBPARAGRAPHS, SUCH PROCEEDINGS WERE ORIGINATED IN THE COURT BY ELECTRONIC FILING.

NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION WITHOUT THE CONSENT OF EACH AUTHORIZED PRESENTMENT AGENCY, CHILD PROTECTIVE AGENCY OF AN AFFECTED COUNTY, THE FAMILY COURT BAR PROVIDING REPRESENTATION TO PARENTS, AND THE FAMILY COURT BAR PROVIDING REPRESENTATION TO CHILDREN (AS REPRESENTED BY THE HEAD OF EACH LEGAL SERVICES ORGANIZATION REPRESENTING PARENTS AND/OR CHILDREN, THE HEAD OF EACH PUBLIC DEFENDER ORGANIZATION, AND PRESIDENT OF THE LOCAL BAR ASSOCIATION AS APPLICABLE) IN ANY COUNTY IN WHICH SUCH ELIMINATION SHALL APPLY.

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

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

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

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

NOTWITHSTANDING THE FOREGOING: (I) WHERE A PARTY OR A PERSON ENTITLED TO NOTICE OF THE PROCEEDINGS IS NOT REPRESENTED BY COUNSEL, HE OR SHE MAY NOT PARTICIPATE IN THE PROGRAM EXCEPT UPON HIS OR HER REQUEST AND PERMISSION OF THE COURT; (II) A PARTY WHO IS NOT REPRESENTED BY COUNSEL THAT HAS OPTED IN, SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF THE

PROGRAM FOR ANY REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING; AND (III) A COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE THEREFOR.

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

(E) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, NO PAPER OR DOCUMENT THAT IS FILED BY ELECTRONIC MEANS IN A PROCEEDING IN FAMILY 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.

(F) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN FAMILY COURT 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.

(G) 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 FAMILY COURT ACT AND THE CIVIL PRACTICE LAW AND RULES.

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

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

S 2. Subparagraphs 1 and 2 of paragraph (B) of subdivision (b) of section 6 of 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, are REPEALED, subparagraphs 3, 4 and 5 of paragraph (B) are renumbered subparagraphs 1, 2 and 3 and subparagraph 1, as amended by chapter 543 of the laws of 2011, is amended to read as follows:

1. One or more classes of cases (excluding matrimonial actions as defined by the civil practice law and rules, election law proceedings, proceedings brought pursuant to article 78 of the civil practice law and

rules, and proceedings brought pursuant to the mental hygiene law) in 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.

(d) (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 origination of juvenile delinquency proceedings under article 3 of the family court act and abuse or neglect proceedings pursuant to article 10 of the family court act in family court and the filing and service of papers in such pending 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 [programs] PROGRAM, and such members shall include chief clerks of family courts; representatives of authorized presentment and child protective agencies; other appropriate county and city government officials; institutional providers of legal services for children and/or parents; not-for-profit legal service providers; public defenders; attorneys assigned pursuant to article 18-B of the county law; and other members of the family court 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 family practice 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 representatives of authorized presentment and child protective agencies, other appropriate county and city government officials, institutional providers of legal services for children and/or parents, not-for-profit legal service providers, public defenders, attorneys assigned pursuant to article 18-B of the county law and other members of the family court 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, 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 origination of juvenile delinquency proceedings under article 3 of the family court act and abuse or neglect proceedings pursuant to article 10 of the family court act in family court and the filing and service of papers in such pending proceedings.

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