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

837

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. YOUNG, BONACIC, RANZENHOFER -- 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 the use of video monitoring equipment to conduct arraignments; and to repeal article 185 of such law relating thereto

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

Section 1. Article 185 of the criminal procedure law is REPEALED and a new article 185 is added to read as follows:

ARTICLE 185
ALTERNATE METHOD OF ARRAIGNMENT

SECTION 185.10 DEFINITION OF TERMS.
185.20 ELECTRONIC ARRAIGNMENT.
185.30 CONDITIONS AND LIMITATIONS ON ELECTRONIC ARRAIGNMENT.
185.40 APPROVAL BY THE CHIEF ADMINISTRATOR OF THE COURTS.

S 185.10 DEFINITION OF TERMS.

AS USED IN THIS ARTICLE:

1. "INDEPENDENT AUDIO-VISUAL SYSTEM" MEANS AN ELECTRONIC SYSTEM FOR THE TRANSMISSION AND RECEIVING OF AUDIO AND VISUAL SIGNALS, ENCOMPASSING ENCODED SIGNALS, FREQUENCY DOMAIN MULTIPLEXING OR OTHER SUITABLE MEANS TO PRECLUDE THE UNAUTHORIZED RECEPTION AND DECODING OF THE SIGNALS BY COMMERCIALLY AVAILABLE TELEVISION RECEIVERS OR MONITORS, CHANNEL CONVERTERS, OR OTHER AVAILABLE RECEIVING DEVICES.

2. "ELECTRONIC ARRAIGNMENT" MEANS AN ARRAIGNMENT IN WHICH VARIOUS PARTICIPANTS, INCLUDING THE DEFENDANT, ARE NOT PERSONALLY PRESENT IN THE COURT BUT IN WHICH ALL OF THE PARTICIPANTS ARE SIMULTANEOUSLY ABLE TO

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

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SEE AND HEAR REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSELS, DEFENDANT, POLICE OFFICER AND ANY OTHER APPROPRIATE PARTICIPANT, BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM.

3. "SECURE LOCATION" MEANS ANY FACILITY USED BY THE STATE, COUNTY, CITY, TOWN OR VILLAGE LAW ENFORCEMENT ENTITY TO TEMPORARILY HOLD A PERSON NOT RELEASED ON HIS OR HER OWN RECOGNIZANCE AND GIVEN AN APPEARANCE TICKET OR SUMMONS PENDING ARRAIGNMENT ON AN ACCUSATORY INSTRUMENT.

S 185.20 ELECTRONIC ARRAIGNMENT.

NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION NINE OF SECTION 1.20, SECTIONS 110.10, 120.10, 120.40, 120.90, 140.20, 140.27, 140.40, 170.10 AND 180.10 OF THIS CHAPTER OR ANY OTHER PROVISION OF LAW AS THEY PERTAIN TO A DEFENDANT'S PERSONAL APPEARANCE AT ARRAIGNMENT, THE COURT IN ITS DISCRETION MAY DISPENSE WITH THE DEFENDANT'S PERSONAL APPEARANCE AT THE ARRAIGNMENT WHENEVER SUCH DEFENDANT IS BEING HELD AT A SECURE LOCATION OUTSIDE THE COURT HOUSE AND CONDUCT AN ELECTRONIC ARRAIGNMENT, PROVIDED THAT THE CHIEF ADMINISTRATOR OF THE COURTS HAS AUTHORIZED THE USE OF ELECTRONIC ARRAIGNMENTS FOR THE COURT, PURSUANT TO THE PROVISIONS OF SECTION 185.40 OF THIS ARTICLE.

S 185.30 CONDITIONS AND LIMITATIONS ON ELECTRONIC ARRAIGNMENT.

WHENEVER A PERSON IS ARRAIGNED BY MEANS OF AN ELECTRONIC ARRAIGNMENT, THE FOLLOWING CONDITIONS AND LIMITATIONS SHALL APPLY:

1. THE DEFENDANT MAY NOT ENTER A PLEA OF GUILTY;

2. NO ELECTRONIC RECORDING OF AN ELECTRONIC ARRAIGNMENT MAY BE MADE, VIEWED OR INSPECTED EXCEPT AS MAY BE AUTHORIZED BY RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS; AND

3. STENOGRAPHIC RECORDING OF THE ARRAIGNMENT SHALL BE MADE TO THE SAME EXTENT AS IF IT WERE AN ORDINARY ARRAIGNMENT RATHER THAN AN ELECTRONIC ARRAIGNMENT.

S 185.40 APPROVAL BY THE CHIEF ADMINISTRATOR OF THE COURTS.

1. THE APPROPRIATE ADMINISTRATIVE JUDGE SHALL SUBMIT TO THE CHIEF ADMINISTRATOR OF THE COURTS A WRITTEN PROPOSAL FOR THE USE OF ELECTRONIC ARRAIGNMENTS FOR A PARTICULAR COURT AND THE PRECINCTS UNDER THE JURISDICTION OF THAT COURT. IF THE CHIEF ADMINISTRATOR OF THE COURTS APPROVES THE PROPOSAL, INSTALLATION OF AN INDEPENDENT AUDIO-VISUAL SYSTEM MAY BEGIN.

2. UPON COMPLETION OF THE INSTALLATION OF AN INDEPENDENT AUDIO-VISUAL SYSTEM, THE COMMISSION ON CABLE TELEVISION SHALL INSPECT, TEST AND EXAMINE THE INDEPENDENT AUDIO-VISUAL SYSTEM AND CERTIFY TO THE CHIEF ADMINISTRATOR OF THE COURTS WHETHER THE SYSTEM COMPLIES WITH THE DEFINITION OF AN INDEPENDENT AUDIO-VISUAL SYSTEM AND IS TECHNICALLY SUITABLE FOR THE CONDUCTING OF ELECTRONIC ARRAIGNMENTS AS INTENDED.

3. THE USE BY A COURT OF AN APPROVED INDEPENDENT AUDIO-VISUAL SYSTEM FOR THE PURPOSE OF AUTHORIZED ELECTRONIC ARRAIGNMENTS, SHALL BE INSPECTED SUBJECT TO RENEWAL EVERY TWO YEARS FROM THE DATE OF AUTHORIZATION BY THE CHIEF ADMINISTRATOR OF THE COURTS.

4. THE CHIEF ADMINISTRATOR OF THE COURTS MAY WITHDRAW APPROVAL OF THE AUTHORIZATION AT ANY TIME.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.