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

S. 7073 A. 9984

S E N A T E - A S S E M B L Y

April 27, 2012

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

IN ASSEMBLY -- Introduced by M. of A. REILLY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to creating an electronic arraignment pilot program and to repeal article 185 of the criminal procedure law relating thereto; and providing for the repeal of such provisions upon expiration thereof

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 Article 185 of the criminal procedure law is REPEALED and a new article 185 is added to read as follows: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 - ALTERNATIVE METHOD OF ARRAIGNMENT

SECTION 185.10. ELECTRONIC ARRAIGNMENT PILOT PROGRAM.

S 185.10 ELECTRONIC ARRAIGNMENT PILOT PROGRAM.

1. AS USED IN THIS SECTION:

(A) "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.

(B) "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 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.

(C) "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.

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

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2. THERE IS HEREBY ESTABLISHED AN "ELECTRONIC ARRAIGNMENT PILOT PROGRAM" TO BE ADMINISTERED IN THE TOWN OF COLONIE, COUNTY OF ALBANY. PURSUANT TO THIS PROGRAM AND 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 COLONIE TOWN 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 UTILIZING AN INDEPENDENT AUDIO-VISUAL SYSTEM.

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

(A) THE DEFENDANT MAY NOT ENTER A PLEA OF GUILTY;

(B) 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

(C) 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 2. This act shall take effect January 1, 2013 and shall expire and be deemed repealed January 1, 2015.