

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:

1 Section 1. Chapter 367 of the laws of 1999, amending the civil practice law and rules and the judiciary law relating to authorization of
2 pilot programs permitting use of facsimile transmission or electronic
3 means to commence an action or special proceeding, is amended by adding
4 three new sections 6-a, 6-b and 6-c to read as follows:
5
6 S 6-A. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF
7 ADMINISTRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINISTRATIVE
8 BOARD OF THE COURTS, MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN THE
9 USE OF ELECTRONIC MEANS IN THE SUPREME COURT AND IN THE COUNTY COURT
10 FOR: (1) THE FILING WITH A COURT OF AN ACCUSATORY INSTRUMENT FOR THE
11 PURPOSE OF ACQUIRING JURISDICTION IN A SUPERIOR COURT, AS PROVIDED BY
12 ARTICLES 195 AND 200 OF THE CRIMINAL PROCEDURE LAW, AND (2) THE FILING
13 AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS AND PROCEEDINGS.
14 (B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, PARTIC-
15 IPATION IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY AND WILL TAKE PLACE
16 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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1 EXCEPT THAT A PARTY'S FAILURE TO CONSENT TO PARTICIPATION SHALL NOT BAR
2 ANY OTHER PARTY TO THE ACTION FROM FILING AND SERVING PAPERS BY ELEC-
3 TRONIC MEANS UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR
4 PROCEEDING WHO HAS CONSENTED TO PARTICIPATION. FILING AN ACCUSATORY
5 INSTRUMENT BY ELECTRONIC MEANS WITH THE COURT FOR THE PURPOSE OF CONFER-
6 RING JURISDICTION OVER A CRIMINAL ACTION UPON SUCH COURT SHALL NOT
7 REQUIRE THE CONSENT OF ANY OTHER PARTY; PROVIDED, HOWEVER, THAT UPON
8 SUCH FILING ANY PERSON WHO IS THE SUBJECT OF SUCH ACCUSATORY INSTRUMENT
9 AND ANY ATTORNEY FOR SUCH PERSON SHALL BE PERMITTED TO IMMEDIATELY
10 REVIEW AND OBTAIN COPIES OF SUCH INSTRUMENT IF SUCH PERSON OR ATTORNEY
11 WOULD HAVE BEEN AUTHORIZED BY LAW TO REVIEW OR COPY SUCH INSTRUMENT IF
12 IT HAD BEEN FILED WITH THE COURT IN PAPER FORM.

13 (2) THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT
14 TO PARTICIPATION IN THIS PROGRAM IN SUPREME AND COUNTY COURTS OF NOT
15 MORE THAN SIX COUNTIES PROVIDED HE OR SHE MAY NOT ELIMINATE SUCH
16 REQUIREMENT FOR A COURT WITHOUT THE CONSENT OF THE DISTRICT ATTORNEY,
17 THE CONSENT OF THE CRIMINAL DEFENSE BAR AS DEFINED IN SECTION SIX-C OF
18 THIS ACT AND THE CONSENT OF THE COUNTY CLERK OF THE COUNTY IN WHICH SUCH
19 COURT PRESIDES. NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR
20 MAY NOT ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUN-
21 TY HEREUNDER UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGAN-
22 IZATIONS, OR THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY
23 APPEAR IN CRIMINAL ACTIONS OR PROCEEDINGS IN THE SUPERIOR COURT OF SUCH
24 COUNTY WITH REASONABLE NOTICE AND AN OPPORTUNITY TO SUBMIT COMMENTS WITH
25 RESPECT THERETO AND SHALL HAVE GIVEN DUE CONSIDERATION TO ALL SUCH
26 COMMENTS, NOR UNTIL HE OR SHE SHALL HAVE CONSULTED WITH THE MEMBERS OF
27 THE ADVISORY COMMITTEE CONTINUED PURSUANT TO SUBDIVISION (C) OF SECTION
28 6 OF CHAPTER 416 OF THE LAWS OF 2009, AS AMENDED.

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

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

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

47 NOTWITHSTANDING THE FOREGOING: (I) WHERE A PARTY IS NOT REPRESENTED BY
48 COUNSEL, HE OR SHE MAY NOT PARTICIPATE IN THE PROGRAM EXCEPT UPON HIS OR
49 HER REQUEST AND PERMISSION OF THE COURT; (II) A PARTY NOT REPRESENTED BY
50 COUNSEL WHO HAS OPTED IN SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF
51 THE PROGRAM FOR ANY REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE
52 FILED WITH THE CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING; AND
53 (III) A COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE
54 IN THE PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE
55 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

1 CONSENT TO PARTICIPATION IN THIS PROGRAM IN FAMILY COURTS OF NOT MORE
2 THAN SIX COUNTIES FOR:

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

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

10 (III) THE FILING AND SERVICE OF PAPERS IN PROCEEDINGS SPECIFIED IN
11 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH WHERE, PURSUANT TO SUCH
12 SUBPARAGRAPHS, SUCH PROCEEDINGS WERE ORIGINATED IN THE COURT BY ELEC-
13 TRONIC FILING.

14 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMI-
15 NATE THE REQUIREMENT OF CONSENT TO PARTICIPATION WITHOUT THE CONSENT OF
16 EACH AUTHORIZED PRESENTMENT AGENCY, CHILD PROTECTIVE AGENCY OF AN
17 AFFECTED COUNTY, THE FAMILY COURT BAR PROVIDING REPRESENTATION TO
18 PARENTS, AND THE FAMILY COURT BAR PROVIDING REPRESENTATION TO CHILDREN
19 (AS REPRESENTED BY THE HEAD OF EACH LEGAL SERVICES ORGANIZATION REPRES-
20 ENTING PARENTS AND/OR CHILDREN, THE HEAD OF EACH PUBLIC DEFENDER ORGAN-
21 IZATION, AND PRESIDENT OF THE LOCAL BAR ASSOCIATION AS APPLICABLE) IN
22 ANY COUNTY IN WHICH SUCH ELIMINATION SHALL APPLY.

23 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMI-
24 NATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUNTY HEREUNDER
25 UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGANIZATIONS, OR
26 THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY APPEAR IN
27 PROCEEDINGS IN THE FAMILY COURT OF SUCH COUNTY, IN WHICH PROCEEDINGS THE
28 REQUIREMENT OF CONSENT IS TO BE ELIMINATED, WITH REASONABLE NOTICE AND
29 AN OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO AND SHALL HAVE
30 GIVEN DUE CONSIDERATION TO ALL SUCH COMMENTS, NOR UNTIL HE OR SHE SHALL
31 HAVE CONSULTED WITH THE MEMBERS OF THE ADVISORY COMMITTEE CONTINUED
32 PURSUANT TO SUBDIVISION (D) OF SECTION 6 OF CHAPTER 416 OF THE LAWS OF
33 2009, AS AMENDED.

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

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

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

52 NOTWITHSTANDING THE FOREGOING: (I) WHERE A PARTY OR A PERSON ENTITLED
53 TO NOTICE OF THE PROCEEDINGS IS NOT REPRESENTED BY COUNSEL, HE OR SHE
54 MAY NOT PARTICIPATE IN THE PROGRAM EXCEPT UPON HIS OR HER REQUEST AND
55 PERMISSION OF THE COURT; (II) A PARTY WHO IS NOT REPRESENTED BY COUNSEL
56 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

1 rules, and proceedings brought pursuant to the mental hygiene law) in
2 supreme court in ERIE, Livingston, Monroe, Rockland, Tompkins, Allegany,
3 Essex, Onondaga, SUFFOLK and Westchester counties AND IN THE COUNTIES
4 WITHIN THE CITY OF NEW YORK, and

5 S 3. Subdivisions (c) and (d) of section 6 of chapter 416 of the laws
6 of 2009, amending the civil practice law and rules relating to service
7 of papers by electronic means, as added by chapter 543 of the laws of
8 2011, are amended to read as follows:

9 (c)(1) The [chief administrator shall create an] advisory committee to
10 consult with [him or her] THE CHIEF ADMINISTRATOR regarding the develop-
11 ment of a program relating to the use of electronic means for the
12 commencement of criminal actions and the filing and service of papers in
13 pending criminal actions and proceedings IS CONTINUED. The committee
14 shall consist of such number of members as will enable the chief admin-
15 istrator to obtain input from those who ARE OR would be affected by such
16 electronic filing program, and such members shall include county clerks;
17 chief clerks of supreme, county and other courts; district attorneys;
18 not-for-profit legal service providers; public defenders; statewide and
19 local specialty bar associations whose membership devotes a significant
20 portion of their practice to assigned criminal cases pursuant to subpar-
21 agraph (i) of paragraph (a) of subdivision 3 of section 722 of the coun-
22 ty law; institutional providers of criminal defense services and other
23 members of the criminal defense bar; representatives of victims' rights
24 organizations; unaffiliated attorneys who regularly appear in
25 proceedings that ARE OR would be affected by such electronic filing
26 program and other interested members of the criminal justice community.
27 Such committee shall help the chief administrator to evaluate the impact
28 of such electronic filing program on litigants including unrepresented
29 parties, practitioners and the courts and to obtain input from those who
30 ARE OR would be affected by such electronic filing program, including
31 district attorneys, not-for-profit legal service providers, public
32 defenders, statewide and local specialty bar associations whose member-
33 ship devotes a significant portion of their practice to assigned crimi-
34 nal cases pursuant to subparagraph (i) of paragraph (a) of subdivision 3
35 of section 722 of the county law, institutional providers of criminal
36 defense services and other members of the criminal defense bar, repre-
37 sentatives of victims' rights organizations, unaffiliated attorneys who
38 regularly appear in proceedings that ARE OR would be affected by such
39 electronic filing program and other interested members of the criminal
40 justice community.

41 (2) No later than January 1, [2012] 2015, the chief administrator of
42 the courts shall submit to the legislature, the governor and the chief
43 judge of the state a report of the evaluation including the entities or
44 individuals consulted, the input received, ALL PROBLEMS ENCOUNTERED OR
45 OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF ADMINISTRATOR OF THE
46 COURTS OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE PROB-
47 LEMS, PRESENTMENT OF ALL OUTSTANDING PROBLEMS, any recommendations of
48 the advisory committee to the chief administrator, along with recommen-
49 dations for legislation [authorizing the development of a program relat-
50 ing] IN RELATION to the use of electronic means for the commencement of
51 criminal actions and the filing and service of papers in pending crimi-
52 nal actions and proceedings. IN THE REPORT, THE CHIEF ADMINISTRATOR ALSO
53 SHALL ADDRESS ISSUES THAT BEAR UPON THE NEED FOR THE COURTS, DISTRICT
54 ATTORNEYS AND OTHERS TO RETAIN PAPERS FILED WITH COURTS OR SERVED UPON
55 PARTIES IN CRIMINAL PROCEEDINGS WHERE ELECTRONIC MEANS CAN OR HAVE BEEN
56 USED AND MAKE RECOMMENDATIONS FOR SUCH CHANGES IN LAWS REQUIRING

1 RETENTION OF SUCH PAPERS AS TO THE CHIEF ADMINISTRATOR MAY SEEM APPRO-
2 PRIATE.

3 (d) (1) The [chief administrator shall create an] advisory committee
4 to consult with [him or her] THE CHIEF ADMINISTRATOR regarding the
5 development of a program relating to the use of electronic means for the
6 origination of juvenile delinquency proceedings under article 3 of the
7 family court act and abuse or neglect proceedings pursuant to article 10
8 of the family court act in family court and the filing and service of
9 papers in such pending proceedings IS CONTINUED. The committee shall
10 consist of such number of members as will enable the chief administrator
11 to obtain input from those who ARE OR would be affected by such elec-
12 tronic filing [programs] PROGRAM, and such members shall include chief
13 clerks of family courts; representatives of authorized presentment and
14 child protective agencies; other appropriate county and city government
15 officials; institutional providers of legal services for children and/or
16 parents; not-for-profit legal service providers; public defenders;
17 attorneys assigned pursuant to article 18-B of the county law; and other
18 members of the family court bar; representatives of victims' rights
19 organizations; unaffiliated attorneys who regularly appear in
20 proceedings that ARE OR would be affected by such electronic filing
21 program; and other interested members of the family practice community.
22 Such committee shall help the chief administrator to evaluate the impact
23 of such electronic filing program on litigants including unrepresented
24 parties, practitioners and the courts and to obtain input from those who
25 ARE OR would be affected by such electronic filing program, including
26 representatives of authorized presentment and child protective agencies,
27 other appropriate county and city government officials, institutional
28 providers of legal services for children and/or parents, not-for-profit
29 legal service providers, public defenders, attorneys assigned pursuant
30 to article 18-B of the county law and other members of the family court
31 bar, representatives of victims' rights organizations, unaffiliated
32 attorneys who regularly appear in proceedings that ARE OR would be
33 affected by such electronic filing program, and other interested members
34 of the criminal justice community.

35 (2) No later than January 1, [2012] 2015, the chief administrator of
36 the courts shall submit to the legislature, the governor and the chief
37 judge of the state a report of the evaluation including the entities or
38 individuals consulted, input received, ALL PROBLEMS ENCOUNTERED OR
39 OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF ADMINISTRATOR OF THE
40 COURTS OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE PROB-
41 LEMS, PRESENTMENT OF ALL OUTSTANDING PROBLEMS, any recommendations of
42 the advisory committee to the chief administrator, along with recommen-
43 dations for legislation [authorizing the development of a program relat-
44 ing] IN RELATION to the use of electronic means for the origination of
45 juvenile delinquency proceedings under article 3 of the family court act
46 and abuse or neglect proceedings pursuant to article 10 of the family
47 court act in family court and the filing and service of papers in such
48 pending proceedings.

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