

8083

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 5, 2015

---

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, the civil practice law and rules, the court of claims act, the criminal procedure law, the family court act, the New York city civil court act and the surrogate's court procedure act, in relation to use of electronic means for the commencement and filing of papers in certain actions and proceedings; and providing for the repeal of certain provisions upon expiration thereof

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

1     Section 1. Subdivision 2 of section 212 of the judiciary law is  
2     amended by adding a new paragraph (t) to read as follows:  
3     (T) (I) (A) NOT LATER THAN APRIL FIRST IN EACH CALENDAR YEAR, THE  
4     CHIEF ADMINISTRATOR OF THE COURTS SHALL SUBMIT TO THE LEGISLATURE, THE  
5     GOVERNOR AND THE CHIEF JUDGE OF THE STATE A REPORT EVALUATING THE  
6     STATE'S EXPERIENCE WITH PROGRAMS IN THE USE OF ELECTRONIC MEANS FOR THE  
7     COMMENCEMENT OF ACTIONS AND PROCEEDINGS AND THE SERVICE OF PAPERS THERE-  
8     IN AS AUTHORIZED BY LAW AND CONTAINING SUCH RECOMMENDATIONS FOR FURTHER  
9     LEGISLATION AS HE OR SHE SHALL DEEM APPROPRIATE. IN THE PREPARATION OF  
10    SUCH REPORT, THE CHIEF ADMINISTRATOR SHALL CONSULT WITH EACH COUNTY  
11    CLERK IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN CIVIL CASES IN  
12    THE SUPREME COURT, THE ADVISORY COMMITTEES ESTABLISHED PURSUANT TO  
13    SUBPARAGRAPHS (II) THROUGH (VI) OF THIS PARAGRAPH, THE ORGANIZED BAR  
14    INCLUDING BUT NOT LIMITED TO CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCI-  
15    ATIONS; THE OFFICE OF INDIGENT LEGAL SERVICES; INSTITUTIONAL LEGAL  
16    SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; PUBLIC DEFEN-  
17    DERS; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY  
18    LAW; UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE  
19    OR HAVE BEEN AFFECTED BY ANY PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO  
20    MAY BE AFFECTED BY THE PROPOSED RECOMMENDATIONS FOR FURTHER LEGISLATION;

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

LBD07846-04-5

1 REPRESENTATIVES OF VICTIMS' RIGHTS ORGANIZATIONS; AND ANY OTHER PERSONS  
2 IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE COURTS  
3 THEREIN AS DEEMED TO BE APPROPRIATE BY THE CHIEF ADMINISTRATOR, AND  
4 AFFORD THEM AN OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT TO SUCH  
5 IMPLEMENTATION FOR INCLUSION IN THE REPORT AND ADDRESS ANY SUCH  
6 COMMENTS.

7 PUBLIC COMMENTS SHALL ALSO BE SOUGHT VIA A PROMINENT POSTING ON THE  
8 WEBSITE OF THE OFFICE OF COURT ADMINISTRATION. ALL COMMENTS RECEIVED  
9 FROM ANY SOURCE SHALL BE POSTED FOR PUBLIC REVIEW ON THE SAME WEBSITE.

10 (B) THE REPORT SUBMITTED HEREUNDER IN THE TWO THOUSAND SEVENTEEN  
11 CALENDAR YEAR SHALL INCLUDE:

12 (I) THE EVALUATION SPECIFIED IN SUBPARAGRAPH (VI) OF THIS PARAGRAPH,  
13 INCLUDING THE ENTITIES OR INDIVIDUALS CONSULTED, INPUT RECEIVED, ALL  
14 ISSUES ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF  
15 ADMINISTRATOR OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE  
16 ISSUES, PRESENTMENT OF ALL OUTSTANDING ISSUES, INCLUDING BUT NOT LIMITED  
17 TO ANY ISSUES RELATING TO THE USE OF ELECTRONIC MEANS FOR FILING BY  
18 UNREPRESENTED LITIGANTS, ANY RECOMMENDATIONS OF THE ADVISORY COMMITTEE  
19 TO THE CHIEF ADMINISTRATOR, ALONG WITH RECOMMENDATIONS FOR LEGISLATION  
20 IN RELATION TO THE USE OF ELECTRONIC MEANS FOR THE ORIGINATION OF JUVENILE  
21 DELINQUENCY PROCEEDINGS UNDER ARTICLE THREE OF THE FAMILY COURT ACT  
22 AND ABUSE OR NEGLECT PROCEEDINGS PURSUANT TO ARTICLE TEN OF THE FAMILY  
23 COURT ACT IN FAMILY COURT AND THE FILING AND SERVICE OF PAPERS IN SUCH  
24 PENDING PROCEEDINGS.

25 (II) THE EVALUATION SPECIFIED IN SUBPARAGRAPH (V) OF THIS PARAGRAPH,  
26 INCLUDING THE ENTITIES OR INDIVIDUALS CONSULTED, THE INPUT RECEIVED, ALL  
27 ISSUES ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF  
28 ADMINISTRATOR OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE  
29 ISSUES, PRESENTMENT OF ALL OUTSTANDING ISSUES, INCLUDING BUT NOT LIMITED  
30 TO ANY ISSUES RELATING TO THE USE OF ELECTRONIC MEANS FOR FILING BY  
31 UNREPRESENTED LITIGANTS, RECOMMENDATIONS OF THE ADVISORY COMMITTEE TO  
32 THE CHIEF ADMINISTRATOR, ALONG WITH RECOMMENDATIONS FOR LEGISLATION IN  
33 RELATION TO THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF CRIMINAL  
34 ACTIONS AND THE FILING AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS  
35 AND PROCEEDINGS.

36 (III) THE EVALUATION SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
37 INCLUDING THE ENTITIES OR INDIVIDUALS CONSULTED, INPUT RECEIVED, ALL  
38 ISSUES ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF  
39 ADMINISTRATOR OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE  
40 ISSUES, PRESENTMENT OF ALL OUTSTANDING ISSUES, INCLUDING BUT NOT LIMITED  
41 TO ANY ISSUES RELATING TO THE USE OF ELECTRONIC MEANS FOR FILING BY  
42 UNREPRESENTED LITIGANTS, ANY RECOMMENDATIONS OF THE ADVISORY COMMITTEE  
43 TO THE CHIEF ADMINISTRATOR, ALONG WITH RECOMMENDATIONS FOR LEGISLATION  
44 IN RELATION TO THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF  
45 ACTIONS AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN  
46 THE SUPREME COURT.

47 (IV) THE EVALUATION SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH,  
48 INCLUDING THE ENTITIES OR INDIVIDUALS CONSULTED, INPUT RECEIVED, ALL  
49 ISSUES ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF  
50 ADMINISTRATOR OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE  
51 ISSUES, PRESENTMENT OF ALL OUTSTANDING ISSUES, INCLUDING BUT NOT LIMITED  
52 TO ANY ISSUES RELATING TO THE USE OF ELECTRONIC MEANS FOR FILING BY  
53 UNREPRESENTED LITIGANTS, ANY RECOMMENDATIONS OF THE ADVISORY COMMITTEE  
54 TO THE CHIEF ADMINISTRATOR, ALONG WITH RECOMMENDATIONS FOR LEGISLATION  
55 IN RELATION TO THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF

1 ACTIONS AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN  
2 THE SURROGATE'S COURT.

3 (V) THE EVALUATION SPECIFIED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH,  
4 INCLUDING THE ENTITIES OR INDIVIDUALS CONSULTED, INPUT RECEIVED, ALL  
5 ISSUES ENCOUNTERED OR OTHERWISE BROUGHT TO THE ATTENTION OF THE CHIEF  
6 ADMINISTRATOR OR HIS OR HER AGENTS, ALL SOLUTIONS DEVISED TO ADDRESS THE  
7 ISSUES, PRESENTMENT OF ALL OUTSTANDING ISSUES, INCLUDING BUT NOT LIMITED  
8 TO ANY ISSUES RELATING TO THE USE OF ELECTRONIC MEANS FOR FILING BY  
9 UNREPRESENTED LITIGANTS, ANY RECOMMENDATIONS OF THE ADVISORY COMMITTEE  
10 TO THE CHIEF ADMINISTRATOR, ALONG WITH RECOMMENDATIONS FOR LEGISLATION  
11 IN RELATION TO THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF  
12 ACTIONS AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN  
13 THE CIVIL COURT OF THE CITY OF NEW YORK.

14 IN THE REPORT, THE CHIEF ADMINISTRATOR ALSO SHALL ADDRESS ISSUES THAT  
15 BEAR UPON THE NEED FOR THE COURTS, DISTRICT ATTORNEYS AND OTHERS TO  
16 RETAIN PAPERS FILED WITH COURTS OR SERVED UPON PARTIES IN CRIMINAL  
17 PROCEEDINGS WHERE ELECTRONIC MEANS CAN OR HAVE BEEN USED AND MAKE RECOM-  
18 MENDATIONS FOR SUCH CHANGES IN LAWS REQUIRING RETENTION OF SUCH PAPERS  
19 AS THE CHIEF ADMINISTRATOR MAY DEEM APPROPRIATE.

20 (II) THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN ADVISORY COMMITTEE TO  
21 CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF LAWS AFFECTING THE  
22 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF CIVIL  
23 ACTIONS AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN  
24 THE SUPREME COURT. THIS COMMITTEE SHALL CONSIST OF SUCH NUMBER OF  
25 MEMBERS AS THE CHIEF ADMINISTRATOR SHALL DESIGNATE, AMONG WHICH THERE  
26 SHALL BE REPRESENTATIVES OF THE ORGANIZED BAR INCLUDING BUT NOT LIMITED  
27 TO CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL LEGAL  
28 SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTORNEYS  
29 ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFILIATED  
30 ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE BEEN  
31 AFFECTED BY THE PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE  
32 AFFECTED BY ANY RECOMMENDATIONS FOR FURTHER LEGISLATION CONCERNING THE  
33 USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF ACTIONS AND PROCEEDINGS  
34 AND THE SERVICE AND FILING OF PAPERS THEREIN IN THE SUPREME COURT; AND  
35 ANY OTHER PERSONS IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY  
36 OF THE COURTS THEREIN AS DEEMED TO BE APPROPRIATE BY THE CHIEF ADMINIS-  
37 TRATOR. NO FEWER THAN HALF OF THE MEMBERS OF THIS ADVISORY COMMITTEE  
38 SHALL BE UPON THE RECOMMENDATION OF THE NEW YORK STATE ASSOCIATION OF  
39 COUNTY CLERKS. SUCH COMMITTEE SHALL HELP THE CHIEF ADMINISTRATOR TO  
40 EVALUATE THE IMPACT OF SUCH ELECTRONIC FILING PROGRAM ON LITIGANTS  
41 INCLUDING UNREPRESENTED PARTIES, PRACTITIONERS AND THE COURTS AND TO  
42 OBTAIN INPUT FROM THOSE WHO ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC  
43 FILING PROGRAM, INCLUDING UNREPRESENTED PARTIES, CITY, STATE, COUNTY AND  
44 WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL LEGAL SERVICE PROVIDERS;  
45 NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTORNEYS ASSIGNED PURSUANT TO  
46 ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFILIATED ATTORNEYS WHO REGU-  
47 LARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY THE  
48 PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE AFFECTED BY ANY RECOM-  
49 MENDATIONS FOR FURTHER LEGISLATION CONCERNING THE USE OF THE ELECTRONIC  
50 FILING PROGRAM IN THE SUPREME COURT; AND ANY OTHER PERSONS IN WHOSE  
51 COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE COURTS THEREIN AS  
52 DEEMED TO BE APPROPRIATE BY THE CHIEF ADMINISTRATOR.

53 (III) THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN ADVISORY COMMITTEE TO  
54 CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF LAWS AFFECTING THE  
55 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF ACTIONS  
56 AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN THE

1 SURROGATE'S COURT. THIS COMMITTEE SHALL CONSIST OF SUCH NUMBER OF  
2 MEMBERS AS THE CHIEF ADMINISTRATOR SHALL DESIGNATE AMONG WHICH THERE  
3 SHALL BE CHIEF CLERKS OF SURROGATE'S COURTS; REPRESENTATIVES OF THE  
4 ORGANIZED BAR INCLUDING BUT NOT LIMITED TO CITY, STATE, COUNTY AND  
5 WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL PROVIDERS OF LEGAL SERVICES;  
6 NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTORNEYS ASSIGNED PURSUANT TO  
7 ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFILIATED ATTORNEYS WHO REGU-  
8 LARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY THE  
9 PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE AFFECTED BY ANY RECOM-  
10 MENDATIONS FOR FURTHER LEGISLATION CONCERNING THE USE OF ELECTRONIC  
11 MEANS FOR THE COMMENCEMENT OF ACTIONS AND PROCEEDINGS AND THE SERVICE  
12 AND FILING OF PAPERS THEREIN IN THE SURROGATE'S COURT; AND ANY OTHER  
13 PERSONS IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE  
14 COURTS THEREIN AS DEEMED TO BE APPROPRIATE BY THE CHIEF ADMINISTRATOR.  
15 SUCH COMMITTEE SHALL HELP THE CHIEF ADMINISTRATOR TO EVALUATE THE IMPACT  
16 OF SUCH ELECTRONIC FILING PROGRAM ON LITIGANTS INCLUDING UNREPRESENTED  
17 PARTIES, PRACTITIONERS AND THE COURTS AND TO OBTAIN INPUT FROM THOSE WHO  
18 ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC FILING PROGRAM, INCLUDING  
19 UNREPRESENTED PARTIES, CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS;  
20 INSTITUTIONAL LEGAL SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE  
21 PROVIDERS; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE  
22 COUNTY LAW; UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS  
23 THAT ARE OR HAVE BEEN AFFECTED BY THE PROGRAMS THAT HAVE BEEN IMPLE-  
24 MENTED OR WHO MAY BE AFFECTED BY ANY RECOMMENDATIONS FOR FURTHER LEGIS-  
25 LATION CONCERNING THE USE OF THE ELECTRONIC FILING PROGRAM IN THE SURRO-  
26 GATE'S COURT; AND ANY OTHER PERSONS IN WHOSE COUNTY A PROGRAM HAS BEEN  
27 IMPLEMENTED IN ANY OF THE COURTS THEREIN AS DEEMED TO BE APPROPRIATE BY  
28 THE CHIEF ADMINISTRATOR.

29 (IV) THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN ADVISORY COMMITTEE TO  
30 CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF LAWS AFFECTING THE  
31 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF ACTIONS  
32 AND PROCEEDINGS AND THE SERVICE AND FILING OF PAPERS THEREIN IN THE  
33 CIVIL COURT OF THE CITY OF NEW YORK. THIS COMMITTEE SHALL CONSIST OF  
34 SUCH NUMBER OF MEMBERS AS THE CHIEF ADMINISTRATOR SHALL DESIGNATE, AMONG  
35 WHICH THERE SHALL BE THE CHIEF CLERK OF THE CIVIL COURT OF THE CITY OF  
36 NEW YORK; REPRESENTATIVES OF THE ORGANIZED BAR INCLUDING BUT NOT LIMITED  
37 TO CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; ATTORNEYS WHO REGU-  
38 LARLY APPEAR IN ACTIONS SPECIFIED IN SUBPARAGRAPH (C) OF PARAGRAPH TWO  
39 OF SUBDIVISION (B) OF SECTION TWENTY-ONE HUNDRED ELEVEN OF THE CIVIL  
40 PRACTICE LAW AND RULES; AND UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR  
41 IN PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY THE PROGRAMS THAT HAVE  
42 BEEN IMPLEMENTED OR WHO MAY BE AFFECTED BY ANY RECOMMENDATIONS FOR  
43 FURTHER LEGISLATION CONCERNING THE USE OF ELECTRONIC MEANS FOR THE  
44 COMMENCEMENT OF ACTIONS AND PROCEEDINGS AND THE SERVICE AND FILING OF  
45 PAPERS THEREIN IN THE CIVIL COURT OF THE CITY OF NEW YORK; AND ANY OTHER  
46 PERSONS AS DEEMED APPROPRIATE BY THE CHIEF ADMINISTRATOR. SUCH COMMITTEE  
47 SHALL HELP THE CHIEF ADMINISTRATOR TO EVALUATE THE IMPACT OF SUCH ELEC-  
48 TRONIC FILING PROGRAM ON LITIGANTS INCLUDING UNREPRESENTED PARTIES,  
49 PRACTITIONERS AND THE COURTS AND TO OBTAIN INPUT FROM THOSE WHO ARE OR  
50 WOULD BE AFFECTED BY SUCH ELECTRONIC FILING PROGRAM, INCLUDING UNREPRE-  
51 SENTED PARTIES, CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; INSTI-  
52 TUTIONAL LEGAL SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE PROVID-  
53 ERS; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY  
54 LAW; UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE  
55 OR HAVE BEEN AFFECTED BY THE PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO  
56 MAY BE AFFECTED BY ANY RECOMMENDATIONS FOR FURTHER LEGISLATION CONCERN-

1 ING THE USE OF THE ELECTRONIC FILING PROGRAM IN THE CIVIL COURT OF THE  
2 CITY OF NEW YORK; AND ANY OTHER PERSONS IN WHOSE COUNTY A PROGRAM HAS  
3 BEEN IMPLEMENTED IN ANY OF THE COURTS THEREIN AS DEEMED TO BE APPROPRI-  
4 ATE BY THE CHIEF ADMINISTRATOR.

5 (V) THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN ADVISORY COMMITTEE TO  
6 CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF LAWS AFFECTING THE  
7 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE COMMENCEMENT OF CRIMINAL  
8 ACTIONS AND THE FILING AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS  
9 AND PROCEEDINGS, AS FIRST AUTHORIZED BY PARAGRAPH ONE OF SUBDIVISION (C)  
10 OF SECTION SIX OF CHAPTER FOUR HUNDRED SIXTEEN OF THE LAWS OF TWO THOU-  
11 SAND NINE, AS AMENDED BY CHAPTER ONE HUNDRED EIGHTY-FOUR OF THE LAWS OF  
12 TWO THOUSAND TWELVE, IS CONTINUED. THE COMMITTEE SHALL CONSIST OF SUCH  
13 NUMBER OF MEMBERS AS WILL ENABLE THE CHIEF ADMINISTRATOR TO OBTAIN INPUT  
14 FROM THOSE WHO ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC FILING  
15 PROGRAM, AND SUCH MEMBERS SHALL INCLUDE COUNTY CLERKS; CHIEF CLERKS OF  
16 SUPREME, COUNTY AND OTHER COURTS; DISTRICT ATTORNEYS; REPRESENTATIVES OF  
17 THE OFFICE OF INDIGENT LEGAL SERVICES; NOT-FOR-PROFIT LEGAL SERVICE  
18 PROVIDERS; PUBLIC DEFENDERS; STATEWIDE AND LOCAL SPECIALTY BAR ASSOCI-  
19 ATIONS WHOSE MEMBERSHIP DEVOTES A SIGNIFICANT PORTION OF THEIR PRACTICE  
20 TO ASSIGNED CRIMINAL CASES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A)  
21 OF SUBDIVISION THREE OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY  
22 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 UNREPRESENTED PARTIES, DISTRICT ATTORNEYS, NOT-FOR-PROFIT LEGAL SERVICE  
32 PROVIDERS, PUBLIC DEFENDERS, STATEWIDE AND LOCAL SPECIALTY BAR ASSOCI-  
33 ATIONS WHOSE MEMBERSHIP DEVOTES A SIGNIFICANT PORTION OF THEIR PRACTICE  
34 TO ASSIGNED CRIMINAL CASES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A)  
35 OF SUBDIVISION THREE OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY  
36 LAW; INSTITUTIONAL PROVIDERS OF CRIMINAL DEFENSE SERVICES AND OTHER  
37 MEMBERS OF THE CRIMINAL DEFENSE BAR, REPRESENTATIVES OF VICTIMS' RIGHTS  
38 ORGANIZATIONS, UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN  
39 PROCEEDINGS THAT ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC FILING  
40 PROGRAM AND OTHER INTERESTED MEMBERS OF THE CRIMINAL JUSTICE COMMUNITY.

41 (VI) THE CHIEF ADMINISTRATOR SHALL MAINTAIN AN ADVISORY COMMITTEE TO  
42 CONSULT WITH HIM OR HER IN THE IMPLEMENTATION OF LAWS AFFECTING THE  
43 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE ORIGINATION OF JUVENILE  
44 DELINQUENCY PROCEEDINGS UNDER ARTICLE THREE OF THE FAMILY COURT ACT AND  
45 ABUSE OR NEGLECT PROCEEDINGS PURSUANT TO ARTICLE TEN OF THE FAMILY COURT  
46 ACT IN FAMILY COURT AND THE FILING AND SERVICE OF PAPERS IN SUCH PENDING  
47 PROCEEDINGS, AS FIRST AUTHORIZED BY PARAGRAPH ONE OF SUBDIVISION (D) OF  
48 SECTION SIX OF CHAPTER FOUR HUNDRED SIXTEEN OF THE LAWS OF TWO THOUSAND  
49 NINE, AS AMENDED BY CHAPTER ONE HUNDRED EIGHTY-FOUR OF THE LAWS OF TWO  
50 THOUSAND TWELVE, IS CONTINUED. THE COMMITTEE SHALL CONSIST OF SUCH  
51 NUMBER OF MEMBERS AS WILL ENABLE THE CHIEF ADMINISTRATOR TO OBTAIN INPUT  
52 FROM THOSE WHO ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC FILING  
53 PROGRAM, AND SUCH MEMBERS SHALL INCLUDE CHIEF CLERKS OF FAMILY COURTS;  
54 REPRESENTATIVES OF AUTHORIZED PRESENTMENT AND CHILD PROTECTIVE AGENCIES;  
55 OTHER APPROPRIATE COUNTY AND CITY GOVERNMENT OFFICIALS; INSTITUTIONAL  
56 PROVIDERS OF LEGAL SERVICES FOR CHILDREN AND/OR PARENTS; NOT-FOR-PROFIT

LEGAL SERVICE PROVIDERS; PUBLIC DEFENDERS; REPRESENTATIVES OF THE OFFICE OF INDIGENT LEGAL SERVICES; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-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 UNREPRESENTED PARTIES, 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 EIGHTEEN-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.

S 2. The civil practice law and rules is amended by adding a new article 21-A to read as follows:

ARTICLE 21-A

FILING OF PAPERS IN THE COURTS BY FACSIMILE  
TRANSMISSION AND BY ELECTRONIC MEANS

SECTION 2110. DEFINITIONS.

2111. FILING OF PAPERS IN THE TRIAL COURTS BY FACSIMILE TRANSMISSION AND BY ELECTRONIC MEANS.

2112. FILING OF PAPERS IN THE APPELLATE DIVISION BY ELECTRONIC MEANS.

S 2110. DEFINITIONS. FOR PURPOSES OF THIS SECTION, "FACSIMILE TRANSMISSION" AND "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE 2103 OF THIS CHAPTER.

S 2111. FILING OF PAPERS IN THE TRIAL COURTS BY FACSIMILE TRANSMISSION AND BY ELECTRONIC MEANS. (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 FACSIMILE TRANSMISSION ONLY IN THE COURT OF CLAIMS AND ELECTRONIC MEANS IN THE SUPREME COURT, THE CIVIL COURT OF THE CITY OF NEW YORK, SURROGATE'S COURTS AND THE COURT OF CLAIMS FOR: (I) THE COMMENCEMENT OF CIVIL ACTIONS AND PROCEEDINGS, AND (II) THE FILING AND SERVICE OF PAPERS IN PENDING ACTIONS AND PROCEEDINGS. PROVIDED, HOWEVER, THE CHIEF ADMINISTRATOR SHALL CONSULT WITH THE COUNTY CLERK OF A COUNTY OUTSIDE THE CITY OF NEW YORK BEFORE THE USE OF ELECTRONIC MEANS IS TO BE AUTHORIZED IN THE SUPREME COURT OF SUCH COUNTY, AFFORD HIM OR HER THE OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO, CONSIDER ANY SUCH COMMENTS AND OBTAIN THE AGREEMENT THERETO OF SUCH COUNTY CLERK.

(B) 1. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH TWO OF THIS SUBDIVISION, PARTICIPATION IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY, AND WILL TAKE PLACE ONLY UPON CONSENT OF ALL PARTIES IN THE ACTION OR SPECIAL PROCEEDING; EXCEPT THAT A PARTY'S FAILURE TO CONSENT TO PARTICIPATION SHALL NOT BAR ANY OTHER PARTY TO THE ACTION OR PROCEEDING FROM FILING AND SERVING PAPERS BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR PROCEEDING WHO HAS CONSENTED TO PARTICIPATION. COMMENCEMENT OF AN ACTION BY ELECTRONIC MEANS OR BY FACSIMILE TRANSMISSION SHALL NOT REQUIRE THE CONSENT OF ANY

1 OTHER PARTY. NO PARTY SHALL BE COMPELLED, DIRECTLY OR INDIRECTLY, TO  
2 PARTICIPATE IN E-FILING. ALL PARTIES SHALL BE NOTIFIED CLEARLY, IN PLAIN  
3 LANGUAGE, ABOUT THEIR OPTIONS TO PARTICIPATE IN E-FILING. WHERE A PARTY  
4 IS NOT REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH PARTY'S  
5 OPTIONS FOR ELECTRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE OPTION  
6 FOR EXPEDITED PROCESSING, AND SHALL INQUIRE WHETHER HE OR SHE WISHES TO  
7 PARTICIPATE, PROVIDED HOWEVER THE UNREPRESENTED LITIGANT MAY PARTICIPATE  
8 IN THE PROGRAM ONLY UPON HIS OR HER REQUEST, WHICH SHALL BE DOCUMENTED  
9 IN THE CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT  
10 INFORMATION IN PLAIN LANGUAGE CONCERNING THE PROGRAM.

11 2. IN THE RULES PROMULGATED PURSUANT TO SUBDIVISION (A) OF THIS  
12 SECTION, THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF  
13 CONSENT TO PARTICIPATION IN THIS PROGRAM IN:

14 (A) ONE OR MORE CLASSES OF CASES (EXCLUDING MATRIMONIAL ACTIONS AS  
15 DEFINED BY THE CIVIL PRACTICE LAW AND RULES, ELECTION LAW PROCEEDINGS,  
16 PROCEEDINGS BROUGHT PURSUANT TO ARTICLE SEVENTY OR SEVENTY-EIGHT OF THIS  
17 CHAPTER, PROCEEDINGS BROUGHT PURSUANT TO THE MENTAL HYGIENE LAW, RESI-  
18 DENTIAL FORECLOSURE ACTIONS INVOLVING A HOME LOAN AS SUCH TERM IS  
19 DEFINED IN SECTION THIRTEEN HUNDRED FOUR OF THE REAL PROPERTY ACTIONS  
20 AND PROCEEDINGS LAW AND PROCEEDINGS RELATED TO CONSUMER CREDIT TRANS-  
21 ACTIONS AS DEFINED IN SUBDIVISION (F) OF SECTION ONE HUNDRED FIVE OF  
22 THIS CHAPTER, EXCEPT THAT THE CHIEF ADMINISTRATOR, IN ACCORDANCE WITH  
23 THIS PARAGRAPH, MAY ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATE  
24 IN THIS PROGRAM INsofar AS IT APPLIES TO THE INITIAL FILING BY A REPRES-  
25 ENTED PARTY OF PAPERS REQUIRED FOR THE COMMENCEMENT OF RESIDENTIAL FORE-  
26 CLOSURE ACTIONS INVOLVING A HOME LOAN AS SUCH TERM IS DEFINED IN SECTION  
27 THIRTEEN HUNDRED FOUR OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW  
28 AND THE INITIAL FILING BY A REPRESENTED PARTY OF PAPERS REQUIRED FOR THE  
29 COMMENCEMENT OF PROCEEDINGS RELATED TO CONSUMER CREDIT TRANSACTIONS AS  
30 DEFINED IN SUBDIVISION (F) OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER)  
31 IN SUPREME COURT IN SUCH COUNTIES AS HE OR SHE SHALL SPECIFY, AND

32 (B) ONE OR MORE CLASSES OF CASES IN SURROGATE'S COURT IN SUCH COUNTIES  
33 AS HE OR SHE SHALL SPECIFY, AND

34 (C) ACTIONS IN THE CIVIL COURT OF THE CITY OF NEW YORK BROUGHT BY A  
35 PROVIDER OF HEALTH CARE SERVICES SPECIFIED IN PARAGRAPH ONE OF  
36 SUBSECTION (A) OF SECTION FIVE THOUSAND ONE HUNDRED TWO OF THE INSURANCE  
37 LAW AGAINST AN INSURER FOR FAILURE TO COMPLY WITH THE RULES AND REGU-  
38 LATIONS PROMULGATED BY THE SUPERINTENDENT OF FINANCIAL SERVICES PURSUANT  
39 TO SUBSECTION (B) OF SECTION FIVE THOUSAND ONE HUNDRED EIGHT OF SUCH  
40 LAW.

41 (I) NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR SHALL NOT  
42 ELIMINATE THE REQUIREMENT OF CONSENT IN ANY COUNTY UNTIL AFTER HE OR SHE  
43 SHALL HAVE CONSULTED WITH MEMBERS OF THE ORGANIZED BAR INCLUDING BUT NOT  
44 LIMITED TO CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; WITH INSTI-  
45 TUTIONAL LEGAL SERVICE PROVIDERS; WITH NOT-FOR-PROFIT LEGAL SERVICE  
46 PROVIDERS; WITH ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE  
47 COUNTY LAW; WITH UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN  
48 PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY ANY PROGRAM OF ELECTRONIC  
49 FILING IN SUCH COUNTY THAT REQUIRES CONSENT OR WHO WOULD BE AFFECTED BY  
50 A PROGRAM OF ELECTRONIC FILING IN SUCH COUNTY SHOULD THE REQUIREMENT OF  
51 CONSENT BE ELIMINATED; WITH ANY OTHER PERSONS IN THE COUNTY AS DEEMED TO  
52 BE APPROPRIATE BY THE CHIEF ADMINISTRATOR; AND WITH THE COUNTY CLERK OF  
53 SUCH COUNTY (WHERE THE AFFECTED COURT IS THE SUPREME COURT OF A COUNTY  
54 OUTSIDE THE CITY OF NEW YORK), AND

55 (II) ONLY AFTER AFFORDING THEM THE OPPORTUNITY TO SUBMIT COMMENTS WITH  
56 RESPECT THERETO, CONSIDERING ANY SUCH COMMENTS, INCLUDING BUT NOT LIMIT-

ED TO COMMENTS RELATED TO UNREPRESENTED LITIGANTS AND, IN THE INSTANCE OF ANY COUNTY OUTSIDE THE CITY OF NEW YORK, OBTAINING THE AGREEMENT THERETO OF THE COUNTY CLERK THEREOF. ALL SUCH COMMENTS SHALL BE POSTED FOR PUBLIC REVIEW ON THE OFFICE OF COURT ADMINISTRATION'S WEBSITE.

2-A. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVISION, THE EXCLUSION IN SUCH PARAGRAPH OF RESIDENTIAL FORECLOSURE ACTIONS INVOLVING A HOME LOAN AS SUCH TERM IS DEFINED IN SECTION THIRTEEN HUNDRED FOUR OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW FROM THOSE CLASSES OF CASES IN WHICH THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A PROGRAM IN THE USE OF ELECTRONIC MEANS SHALL NOT APPLY TO ANY COUNTY IN WHICH, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE CHIEF ADMINISTRATOR HAD ELIMINATED THE REQUIREMENT OF CONSENT TO PARTICIPATION IN SUCH A PROGRAM IN SUCH FORECLOSURE ACTIONS, SPECIFICALLY ERIE, ESSEX, NEW YORK, QUEENS, ROCKLAND, SUFFOLK AND WESTCHESTER COUNTIES; AND THE EXCLUSION IN SUCH PARAGRAPH OF PROCEEDINGS RELATED TO CONSUMER CREDIT TRANSACTIONS AS DEFINED IN SUBDIVISION (F) OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER FROM THOSE CLASSES OF CASES IN WHICH THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A PROGRAM IN THE USE OF ELECTRONIC MEANS SHALL NOT APPLY TO ANY COUNTY IN WHICH, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE CHIEF ADMINISTRATOR HAD ELIMINATED THE REQUIREMENT OF CONSENT TO PARTICIPATION IN SUCH A PROGRAM IN SUCH PROCEEDINGS RELATED TO CONSUMER CREDIT TRANSACTIONS, SPECIFICALLY ERIE, NEW YORK, ONONDAGA, ROCKLAND AND WESTCHESTER COUNTIES.

3. WHERE THE CHIEF ADMINISTRATOR ELIMINATES THE REQUIREMENT OF CONSENT AS PROVIDED IN PARAGRAPH TWO OF THIS SUBDIVISION, 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 ACTION IS PENDING. SAID FORM 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:

(A) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS THE 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

(B) 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 SUBPARAGRAPH, 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 ANY OTHER PROVISION OF THIS SUBDIVISION, WHERE A PARTY IS NOT REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH PARTY'S OPTIONS FOR ELECTRONIC FILING IN PLAIN LANGUAGE AND SHALL INQUIRE WHETHER HE OR SHE WISHES TO PARTICIPATE, PROVIDED HOWEVER THE UNREPRESENTED LITIGANT MAY PARTICIPATE IN THE PROGRAM ONLY UPON HIS OR HER REQUEST AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMATION IN PLAIN LANGUAGE CONCERNING THE PROGRAM; AND A PARTY NOT REPRESENTED BY COUNSEL WHO HAS CHOSEN TO PARTICIPATE IN THE PROGRAM 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 A COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE THEREFOR.

(C) FOR PURPOSES OF THIS SECTION, "THE FILING AND SERVICE OF PAPERS IN PENDING ACTIONS AND PROCEEDINGS" SHALL INCLUDE THE FILING AND SERVICE OF



1 A NOTICE OF APPEAL PURSUANT TO SECTION FIFTY-FIVE HUNDRED FIFTEEN OF  
2 THIS CHAPTER.

3 S 2112. FILING OF PAPERS IN THE APPELLATE DIVISION BY ELECTRONIC  
4 MEANS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS OTHER-  
5 WISE PROVIDED IN SUBDIVISION (C) OF SECTION TWENTY-ONE HUNDRED ELEVEN OF  
6 THIS ARTICLE, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT MAY  
7 PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS  
8 FOR: (I) APPEALS TO SUCH COURT FROM THE JUDGMENT OR ORDER OF A COURT OF  
9 ORIGINAL INSTANCE OR FROM THAT OF ANOTHER APPELLATE COURT, (II) MAKING A  
10 MOTION FOR PERMISSION TO APPEAL TO SUCH COURT, (III) COMMENCEMENT OF ANY  
11 OTHER PROCEEDING THAT MAY BE BROUGHT IN SUCH COURT, AND (IV) THE FILING  
12 AND SERVICE OF PAPERS IN PENDING ACTIONS AND PROCEEDINGS. PROVIDED  
13 HOWEVER, THE APPELLATE DIVISION MAY NOT ELIMINATE THE REQUIREMENT OF  
14 CONSENT TO PARTICIPATION IN APPEALS IN SUCH A PROGRAM INVOLVING MATRIMO-  
15 NIAL ACTIONS AS DEFINED BY THIS CHAPTER, ELECTION LAW PROCEEDINGS,  
16 PROCEEDINGS BROUGHT PURSUANT TO ARTICLE SEVENTY OR SEVENTY-EIGHT OF THIS  
17 CHAPTER, PROCEEDINGS BROUGHT PURSUANT TO THE MENTAL HYGIENE LAW, RESI-  
18 DENTIAL FORECLOSURE ACTIONS INVOLVING A HOME LOAN AS SUCH TERM IS  
19 DEFINED IN SECTION THIRTEEN HUNDRED FOUR OF THE REAL PROPERTY ACTIONS  
20 AND PROCEEDINGS LAW AND PROCEEDINGS RELATED TO CONSUMER CREDIT TRANS-  
21 ACTIONS AS DEFINED IN SUBDIVISION (F) OF SECTION ONE HUNDRED FIVE OF  
22 THIS CHAPTER; AND SUCH RULES SHALL NOT REQUIRE AN UNREPRESENTED PARTY OR  
23 ANY ATTORNEY WHO FURNISHES A CERTIFICATE SPECIFIED IN SUBPARAGRAPH (A)  
24 OR (B) OF PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION TWENTY-ONE  
25 HUNDRED ELEVEN OF THIS ARTICLE TO TAKE OR PERFECT AN APPEAL BY ELECTRON-  
26 IC MEANS. PROVIDED FURTHER, HOWEVER, BEFORE PROMULGATING ANY SUCH RULES,  
27 THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT SHALL CONSULT WITH  
28 THE CHIEF ADMINISTRATOR OF THE COURTS AND SHALL PROVIDE AN OPPORTUNITY  
29 FOR REVIEW AND COMMENT BY ALL THOSE WHO ARE OR WOULD BE AFFECTED INCLUD-  
30 ING CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL  
31 LEGAL SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTOR-  
32 NEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFIL-  
33 IATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE  
34 BEEN AFFECTED BY THE PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE  
35 AFFECTED BY PROMULGATION OF RULES CONCERNING THE USE OF THE ELECTRONIC  
36 FILING PROGRAM IN THE APPELLATE DIVISION OF ANY JUDICIAL DEPARTMENT; AND  
37 ANY OTHER PERSONS IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY  
38 OF THE COURTS THEREIN AS DEEMED TO BE APPROPRIATE BY ANY APPELLATE DIVI-  
39 SION. TO THE EXTENT PRACTICABLE, RULES PROMULGATED BY THE APPELLATE  
40 DIVISION IN EACH JUDICIAL DEPARTMENT PURSUANT TO THIS SECTION SHALL BE  
41 UNIFORM.

42 S 3. The court of claims act is amended by adding a new section 11-b  
43 to read as follows:

44 S 11-B. USE OF FACSIMILE TRANSMISSION AND ELECTRONIC FILING AUTHOR-  
45 IZED. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINIS-  
46 TRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF  
47 THE COURTS, MAY AUTHORIZE A PROGRAM IN THE VOLUNTARY USE OF FACSIMILE  
48 TRANSMISSION AND ELECTRONIC MEANS IN THE COURT AS PROVIDED IN ARTICLE  
49 TWENTY-ONE-A OF THE CIVIL PRACTICE LAW AND RULES.

50 2. FOR PURPOSES OF THIS SECTION, "FACSIMILE TRANSMISSION" AND "ELEC-  
51 TRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE  
52 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES.

53 S 4. Section 10.40 of the criminal procedure law, as added by chapter  
54 47 of the laws of 1984, is amended to read as follows:

55 S 10.40 Chief administrator to prescribe forms AND TO AUTHORIZE USE OF  
56 ELECTRONIC FILING.

1 1. The chief administrator of the courts shall have the power to  
2 adopt, amend and rescind forms for the efficient and just administration  
3 of this chapter. A failure by any party to submit papers in compliance  
4 with forms authorized by this section shall not be grounds for that  
5 reason alone for denial or granting of any motion.

6 2. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINIS-  
7 TRATOR, WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, MAY  
8 PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS  
9 ("E-FILING") IN THE SUPREME COURT AND IN THE COUNTY COURT FOR (I) THE  
10 FILING WITH A COURT OF AN ACCUSATORY INSTRUMENT FOR THE PURPOSE OF  
11 COMMENCEMENT OF A CRIMINAL ACTION OR PROCEEDING IN A SUPERIOR COURT, AS  
12 PROVIDED BY ARTICLES ONE HUNDRED NINETY-FIVE AND TWO HUNDRED OF THIS  
13 CHAPTER, AND (II) THE FILING AND SERVICE OF PAPERS IN PENDING CRIMINAL  
14 ACTIONS AND PROCEEDINGS. PROVIDED, HOWEVER, THE CHIEF ADMINISTRATOR  
15 SHALL CONSULT WITH THE COUNTY CLERK OF A COUNTY OUTSIDE THE CITY OF NEW  
16 YORK BEFORE THE USE OF ELECTRONIC MEANS IS TO BE AUTHORIZED IN THE  
17 SUPREME COURT OR COUNTY COURT OF SUCH COUNTY, AFFORD HIM OR HER THE  
18 OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO, CONSIDER ANY SUCH  
19 COMMENTS AND OBTAIN THE AGREEMENT THERETO OF SUCH COUNTY CLERK.

20 (B) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, PARTICIPATION  
21 IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY AND WILL TAKE PLACE ONLY  
22 UPON CONSENT OF ALL PARTIES IN THE CRIMINAL ACTION OR PROCEEDING; EXCEPT  
23 THAT A PARTY'S FAILURE TO CONSENT TO PARTICIPATION SHALL NOT BAR ANY  
24 OTHER PARTY TO THE ACTION FROM FILING AND SERVING PAPERS BY ELECTRONIC  
25 MEANS UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR PROCEEDING WHO  
26 HAS CONSENTED TO PARTICIPATION. FILING AN ACCUSATORY INSTRUMENT BY  
27 ELECTRONIC MEANS WITH THE COURT FOR THE PURPOSE OF COMMENCEMENT OF A  
28 CRIMINAL ACTION OR PROCEEDING SHALL NOT REQUIRE THE CONSENT OF ANY OTHER  
29 PARTY; PROVIDED, HOWEVER, THAT UPON SUCH FILING ANY PERSON WHO IS THE  
30 SUBJECT OF SUCH ACCUSATORY INSTRUMENT AND ANY ATTORNEY FOR SUCH PERSON  
31 SHALL BE PERMITTED TO IMMEDIATELY REVIEW AND OBTAIN COPIES OF SUCH  
32 INSTRUMENT IF SUCH PERSON OR ATTORNEY WOULD HAVE BEEN AUTHORIZED BY LAW  
33 TO REVIEW OR COPY SUCH INSTRUMENT IF IT HAD BEEN FILED WITH THE COURT IN  
34 PAPER FORM.

35 NO PARTY SHALL BE COMPELLED, DIRECTLY OR INDIRECTLY, TO PARTICIPATE IN  
36 E-FILING. ALL PARTIES SHALL BE NOTIFIED CLEARLY, IN PLAIN LANGUAGE,  
37 ABOUT THEIR OPTIONS TO PARTICIPATE IN E-FILING. WHERE A PARTY IS NOT  
38 REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH PARTY'S OPTIONS FOR  
39 ELECTRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE OPTION FOR EXPEDITED  
40 PROCESSING, AND SHALL INQUIRE WHETHER HE OR SHE WISHES TO PARTICIPATE,  
41 PROVIDED HOWEVER THE UNREPRESENTED LITIGANT MAY PARTICIPATE IN THE  
42 PROGRAM ONLY UPON HIS OR HER REQUEST, WHICH SHALL BE DOCUMENTED IN THE  
43 CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMA-  
44 TION IN PLAIN LANGUAGE CONCERNING THE PROGRAM.

45 (II) THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT  
46 TO PARTICIPATION IN THIS PROGRAM IN SUPREME AND COUNTY COURTS OF NOT  
47 MORE THAN SIX COUNTIES PROVIDED HE OR SHE MAY NOT ELIMINATE SUCH  
48 REQUIREMENT FOR A COURT WITHOUT THE CONSENT OF THE DISTRICT ATTORNEY,  
49 THE CONSENT OF THE CRIMINAL DEFENSE BAR AS DEFINED IN SUBDIVISION THREE  
50 OF THIS SECTION AND THE CONSENT OF THE COUNTY CLERK OF THE COUNTY IN  
51 WHICH SUCH COURT PRESIDES.

52 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBPARAGRAPH, THE  
53 CHIEF ADMINISTRATOR SHALL NOT ELIMINATE THE REQUIREMENT OF CONSENT TO  
54 PARTICIPATION IN A COUNTY HEREUNDER UNTIL HE OR SHE SHALL HAVE PROVIDED  
55 ALL PERSONS AND ORGANIZATIONS, OR THEIR REPRESENTATIVE OR REPRESENT-  
56 TATIVES, WHO REGULARLY APPEAR IN CRIMINAL ACTIONS OR PROCEEDINGS IN THE

1 SUPERIOR COURT OF SUCH COUNTY WITH REASONABLE NOTICE AND OPPORTUNITY TO  
2 SUBMIT COMMENTS WITH RESPECT THERETO AND SHALL HAVE GIVEN DUE CONSIDER-  
3 ATION TO ALL SUCH COMMENTS, NOR UNTIL HE OR SHE SHALL HAVE CONSULTED  
4 WITH THE MEMBERS OF THE ADVISORY COMMITTEE SPECIFIED IN SUBPARAGRAPH (V)  
5 OF PARAGRAPH (T) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWELVE OF THE  
6 JUDICIARY LAW.

7 (C) WHERE THE CHIEF ADMINISTRATOR ELIMINATES THE REQUIREMENT OF  
8 CONSENT AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS SUBDI-  
9 VISION, HE OR SHE SHALL AFFORD COUNSEL THE OPPORTUNITY TO OPT OUT OF THE  
10 PROGRAM, VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE  
11 COURT WHERE THE CRIMINAL ACTION IS PENDING. SAID FORM SHALL PERMIT AN  
12 ATTORNEY TO OPT OUT OF PARTICIPATION IN THE PROGRAM UNDER ANY OF THE  
13 FOLLOWING CIRCUMSTANCES, IN WHICH EVENT, HE OR SHE WILL NOT BE COMPELLED  
14 TO PARTICIPATE:

15 (I) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
16 APPROPRIATE COMPUTER HARDWARE AND/OR CONNECTION TO THE INTERNET AND/OR  
17 SCANNER OR OTHER DEVICE BY WHICH DOCUMENTS MAY BE CONVERTED TO AN ELEC-  
18 TRONIC FORMAT; OR

19 (II) WHERE THE ATTORNEY CERTIFIES IN GOOD FAITH THAT HE OR SHE LACKS  
20 THE REQUISITE KNOWLEDGE IN THE OPERATION OF SUCH COMPUTERS AND/OR SCAN-  
21 NERS NECESSARY TO PARTICIPATE. FOR THE PURPOSES OF THIS SUBPARAGRAPH,  
22 THE KNOWLEDGE OF ANY EMPLOYEE OF AN ATTORNEY, OR ANY EMPLOYEE OF THE  
23 ATTORNEY'S LAW FIRM, OFFICE OR BUSINESS WHO IS SUBJECT TO SUCH ATTOR-  
24 NEY'S DIRECTION, SHALL BE IMPUTED TO THE ATTORNEY.

25 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH: (A) WHERE  
26 A PARTY IS NOT REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH  
27 PARTY'S OPTIONS FOR ELECTRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE  
28 OPTION FOR EXPEDITED PROCESSING, AND SHALL INQUIRE WHETHER HE OR SHE  
29 WISHES TO PARTICIPATE, PROVIDED HOWEVER THE UNREPRESENTED LITIGANT MAY  
30 PARTICIPATE IN THE PROGRAM ONLY UPON HIS OR HER REQUEST, WHICH SHALL BE  
31 DOCUMENTED IN THE CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH  
32 SUFFICIENT INFORMATION IN PLAIN LANGUAGE CONCERNING THE PROGRAM; (B) A  
33 PARTY NOT REPRESENTED BY COUNSEL WHO HAS CHOSEN TO PARTICIPATE IN THE  
34 PROGRAM SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF THE PROGRAM FOR  
35 ANY REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE  
36 CLERK OF THE COURT WHERE THE PROCEEDING IS PENDING; AND (C) A COURT MAY  
37 EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE PROGRAM  
38 UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE THEREFOR.

39 (D)(I) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING  
40 LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN CRIM-  
41 INAL PROCEEDINGS OR ACCESS TO COURT RECORDS BY THE PARTIES TO SUCH  
42 PROCEEDINGS, NOR SHALL THIS SECTION BE CONSTRUED TO COMPEL A PARTY TO  
43 FILE A SEALED DOCUMENT BY ELECTRONIC MEANS.

44 (II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO PAPER OR  
45 DOCUMENT THAT IS FILED BY ELECTRONIC MEANS IN A CRIMINAL PROCEEDING IN  
46 SUPREME COURT OR COUNTY COURT SHALL BE AVAILABLE FOR PUBLIC INSPECTION  
47 ON-LINE. SUBJECT TO THE PROVISIONS OF EXISTING LAWS GOVERNING THE SEAL-  
48 ING AND CONFIDENTIALITY OF COURT RECORDS, NOTHING HEREIN SHALL PREVENT  
49 THE UNIFIED COURT SYSTEM FROM SHARING STATISTICAL INFORMATION THAT DOES  
50 NOT INCLUDE ANY PAPERS OR DOCUMENTS FILED WITH THE ACTION; AND, PROVIDED  
51 FURTHER, THAT THIS PARAGRAPH SHALL NOT PROHIBIT THE CHIEF ADMINISTRATOR,  
52 IN THE EXERCISE OF HIS OR HER DISCRETION, FROM POSTING PAPERS OR DOCU-  
53 MENTS THAT HAVE NOT BEEN SEALED PURSUANT TO LAW ON A PUBLIC WEBSITE  
54 MAINTAINED BY THE UNIFIED COURT SYSTEM WHERE: (A) THE WEBSITE IS NOT THE  
55 WEBSITE ESTABLISHED BY THE RULES PROMULGATED PURSUANT TO PARAGRAPH (A)  
56 OF THIS SUBDIVISION, AND (B) TO DO SO WOULD BE IN THE PUBLIC INTEREST.

FOR PURPOSES OF THIS SUBPARAGRAPH, 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: (A) THE TYPE OF CASE INVOLVED; (B) WHETHER SUCH POSTING WOULD CAUSE HARM TO ANY PERSON, INCLUDING ESPECIALLY A MINOR OR CRIME VICTIM; (C) WHETHER SUCH POSTING WOULD INCLUDE LEWD OR SCANDALOUS MATTERS; AND (D) THE POSSIBILITY THAT SUCH PAPERS OR DOCUMENTS MAY ULTIMATELY BE SEALED.

(III) 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.

3. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "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 SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW, AS SHOWN IN THE MOST RECENT ANNUAL REPORTS FILED PURSUANT TO SUBDIVISION ONE OF SECTION SEVEN HUNDRED TWENTY-TWO 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; AND

(B) "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES; AND

(C) THE "FILING AND SERVICE OF PAPERS IN PENDING CRIMINAL ACTIONS AND PROCEEDINGS" SHALL INCLUDE THE FILING AND SERVICE OF A NOTICE OF APPEAL PURSUANT TO SECTION 460.10 OF THIS CHAPTER.

S 5. The criminal procedure law is amended by adding a new section 460.90 to read as follows:

S 460.90 FILING OF PAPERS ON APPEAL TO THE APPELLATE DIVISION BY ELECTRONIC MEANS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE TAKING AND PERFECTION OF APPEALS IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-ONE HUNDRED TWELVE OF THE CIVIL PRACTICE LAW AND RULES. PROVIDED HOWEVER, SUCH RULES SHALL NOT REQUIRE AN UNREPRESENTED PARTY OR ANY ATTORNEY WHO FURNISHES A CERTIFICATION SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION 10.40 OF THIS CHAPTER TO TAKE OR PERFECT AN APPEAL BY ELECTRONIC MEANS. PROVIDED FURTHER, HOWEVER, BEFORE PROMULGATING ANY SUCH RULES, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT SHALL CONSULT WITH THE CHIEF ADMINISTRATOR OF THE COURTS AND SHALL PROVIDE AN OPPORTUNITY FOR REVIEW AND COMMENT BY ALL THOSE WHO ARE OR WOULD BE AFFECTED INCLUDING DISTRICT ATTORNEYS; REPRESENTATIVES OF THE OFFICE OF INDIGENT LEGAL SERVICES; 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 THREE OF SECTION SEVEN HUNDRED TWENTY-TWO 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; INTERESTED MEMBERS OF THE CRIMINAL JUSTICE COMMUNITY; AND ANY OTHER PERSONS

1 IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE COURTS  
2 THEREIN AS DEEMED TO BE APPROPRIATE BY ANY APPELLATE DIVISION. TO THE  
3 EXTENT PRACTICABLE, RULES PROMULGATED BY THE APPELLATE DIVISION IN EACH  
4 JUDICIAL DEPARTMENT PURSUANT TO THIS SECTION SHALL BE UNIFORM. FOR  
5 PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS DEFINED IN  
6 SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF SUCH LAW AND RULES.

7 S 6. Section 214 of the family court act, as amended by chapter 751 of  
8 the laws of 1989, is amended to read as follows:

9 S 214. [State] CHIEF administrator to prescribe forms; ELECTRONIC  
10 FILING IN FAMILY COURT. (A) The [state] CHIEF administrator OF THE  
11 COURTS shall promulgate a uniform, statewide petition for adoption and  
12 may prescribe such other forms as may be proper for the efficient and  
13 just administration of this act, including forms for petitions, summons,  
14 warrants, subpoenas, undertakings, and orders authorized by this act.

15 (B) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINIS-  
16 TRATOR, WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, MAY  
17 PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS  
18 ("E-FILING") IN THE FAMILY COURT FOR: (1) THE ORIGINATION OF PROCEEDINGS  
19 IN SUCH COURT, AND (2) THE FILING AND SERVICE OF PAPERS IN PENDING  
20 PROCEEDINGS.

21 (II) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, PARTICIPATION  
22 IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY AND WILL TAKE PLACE ONLY  
23 UPON CONSENT OF ALL PARTIES IN THE PROCEEDING; EXCEPT THAT FAILURE OF A  
24 PARTY OR OTHER PERSON WHO IS ENTITLED TO NOTICE OF THE PROCEEDINGS TO  
25 CONSENT TO PARTICIPATION SHALL NOT BAR ANY OTHER PARTY FROM FILING AND  
26 SERVING PAPERS BY ELECTRONIC MEANS UPON THE COURT OR ANY OTHER PARTY OR  
27 PERSON ENTITLED TO RECEIVE NOTICE OF SUCH PROCEEDING WHO HAS CONSENTED  
28 TO PARTICIPATION. FILING A PETITION WITH THE COURT BY ELECTRONIC MEANS  
29 FOR THE PURPOSE OF ORIGINATING A PROCEEDING SHALL NOT REQUIRE THE  
30 CONSENT OF ANY OTHER PARTY; PROVIDED, HOWEVER, THAT UPON SUCH FILING, A  
31 PARTY TO SUCH PROCEEDING AND ANY ATTORNEY FOR SUCH PERSON SHALL BE  
32 PERMITTED TO IMMEDIATELY REVIEW AND OBTAIN COPIES OF SUCH DOCUMENTS AND  
33 PAPERS IF SUCH PERSON OR ATTORNEY WOULD HAVE BEEN AUTHORIZED BY LAW TO  
34 REVIEW OR OBTAIN COPIES OF SUCH DOCUMENTS AND PAPERS IF THEY HAD BEEN  
35 FILED WITH THE COURT IN PAPER FORM.

36 NO PARTY SHALL BE COMPELLED, DIRECTLY OR INDIRECTLY, TO PARTICIPATE IN  
37 E-FILING. ALL PARTIES SHALL BE NOTIFIED CLEARLY, IN PLAIN LANGUAGE,  
38 ABOUT THEIR OPTIONS TO PARTICIPATE IN E-FILING. WHERE A PARTY IS NOT  
39 REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH PARTY'S OPTIONS FOR  
40 ELECTRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE OPTION FOR EXPEDITED  
41 PROCESSING, AND SHALL INQUIRE WHETHER HE OR SHE WISHES TO PARTICIPATE,  
42 PROVIDED HOWEVER THE UNREPRESENTED LITIGANT MAY PARTICIPATE IN THE  
43 PROGRAM ONLY UPON HIS OR HER REQUEST, WHICH SHALL BE DOCUMENTED IN THE  
44 CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMA-  
45 TION IN PLAIN LANGUAGE CONCERNING THE PROGRAM.

46 (2) IN THE RULES PROMULGATED PURSUANT TO PARAGRAPH (I) OF THIS SUBDI-  
47 VISION, THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIREMENT OF CONSENT  
48 TO PARTICIPATION IN THIS PROGRAM IN FAMILY COURTS OF NOT MORE THAN SIX  
49 COUNTIES FOR:

50 (A) THE FILING WITH THE COURT OF A PETITION ORIGINATING A JUVENILE  
51 DELINQUENCY PROCEEDING UNDER ARTICLE THREE OF THIS ACT BY A PRESENTMENT  
52 AGENCY AS DEFINED IN SECTION 301.2 OF SUCH ACT;

53 (B) THE FILING WITH THE COURT OF A PETITION ORIGINATING IN A PROCEED-  
54 ING TO DETERMINE ABUSE OR NEGLECT PURSUANT TO ARTICLE TEN OF THIS ACT BY  
55 A CHILD PROTECTIVE AGENCY, AS DEFINED IN SECTION ONE THOUSAND TWELVE OF  
56 SUCH ACT; AND

1 (C) THE FILING AND SERVICE OF PAPERS IN PROCEEDINGS SPECIFIED IN  
2 CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH WHERE, PURSUANT TO SUCH CLAUS-  
3 ES, SUCH PROCEEDINGS WERE ORIGINATED IN THE COURT BY ELECTRONIC FILING.

4 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR SHALL NOT ELIM-  
5 INATE THE REQUIREMENT OF CONSENT TO PARTICIPATION WITHOUT THE CONSENT OF  
6 EACH AUTHORIZED PRESENTMENT AGENCY, CHILD PROTECTIVE AGENCY OF AN  
7 AFFECTED COUNTY, THE FAMILY COURT BAR PROVIDING REPRESENTATION TO  
8 PARENTS, AND THE FAMILY COURT BAR PROVIDING REPRESENTATION TO CHILDREN  
9 (AS REPRESENTED BY THE HEAD OF EACH LEGAL SERVICES ORGANIZATION REPRES-  
10 ENTING PARENTS AND/OR CHILDREN, THE HEAD OF EACH PUBLIC DEFENDER ORGAN-  
11 IZATION, AND PRESIDENT OF THE LOCAL BAR ASSOCIATION AS APPLICABLE) IN  
12 ANY COUNTY IN WHICH SUCH ELIMINATION SHALL APPLY.

13 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMI-  
14 NATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUNTY HEREUNDER  
15 UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGANIZATIONS, OR  
16 THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY APPEAR IN  
17 PROCEEDINGS IN THE FAMILY COURT OF SUCH COUNTY, IN WHICH PROCEEDINGS THE  
18 REQUIREMENT OF CONSENT IS TO BE ELIMINATED, WITH REASONABLE NOTICE AND  
19 AN OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO AND SHALL HAVE  
20 GIVEN DUE CONSIDERATION TO ALL SUCH COMMENTS, NOR UNTIL HE OR SHE SHALL  
21 HAVE CONSULTED WITH THE MEMBERS OF THE ADVISORY COMMITTEE CONTINUED  
22 PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (T) OF SUBDIVISION TWO OF  
23 SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW.

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

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

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

42 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH: (A) WHERE  
43 A PARTY OR A PERSON ENTITLED TO NOTICE OF THE PROCEEDINGS IS NOT REPRES-  
44 ENTED BY COUNSEL, THE COURT SHALL EXPLAIN SUCH PARTY'S OPTIONS FOR ELEC-  
45 TRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE OPTION FOR EXPEDITED  
46 PROCESSING, AND SHALL INQUIRE WHETHER HE OR SHE WISHES TO PARTICIPATE,  
47 PROVIDED HOWEVER, THE UNREPRESENTED LITIGANT MAY PARTICIPATE IN THE  
48 PROGRAM ONLY UPON HIS OR HER REQUEST, WHICH SHALL BE DOCUMENTED IN THE  
49 CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMA-  
50 TION IN PLAIN LANGUAGE CONCERNING THE PROGRAM; (B) A PARTY WHO IS NOT  
51 REPRESENTED BY COUNSEL WHO HAS CHOSEN TO PARTICIPATE IN THE PROGRAM  
52 SHALL BE AFFORDED THE OPPORTUNITY TO OPT OUT OF THE PROGRAM FOR ANY  
53 REASON VIA PRESENTATION OF A PRESCRIBED FORM TO BE FILED WITH THE CLERK  
54 OF THE COURT WHERE THE PROCEEDING IS PENDING; AND (C) A COURT MAY EXEMPT  
55 ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE PROGRAM UPON  
56 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 TWENTY-ONE HUNDRED THREE 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 THIS ACT AND THE CIVIL PRACTICE LAW AND RULES.

S 7. The family court act is amended by adding a new section 1122 to read as follows:

S 1122. FILING OF PAPERS ON APPEAL TO THE APPELLATE DIVISION BY ELECTRONIC MEANS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE TAKING AND PERFECTION OF APPEALS IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-ONE HUNDRED TWELVE OF THE CIVIL PRACTICE LAW AND RULES. FOR PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES. PROVIDED HOWEVER, SUCH RULES SHALL NOT REQUIRE AN UNREPRESENTED PARTY OR ANY ATTORNEY WHO FURNISHES A CERTIFICATE SPECIFIED IN PARAGRAPH (I) OR (II) OF SUBDIVISION (C) OF SECTION TWO HUNDRED FOURTEEN OF THIS CHAPTER TO TAKE OR PERFECT AN APPEAL BY ELECTRONIC MEANS. PROVIDED FURTHER, HOWEVER, BEFORE PROMULGATING ANY SUCH RULES, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT SHALL CONSULT WITH THE CHIEF ADMINISTRATOR OF THE COURTS AND SHALL PROVIDE AN OPPORTUNITY FOR REVIEW AND COMMENT BY ALL THOSE WHO ARE OR WOULD BE AFFECTED INCLUDING CITY, STATE, COUNTY AND WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL LEGAL SERVICE PROVIDERS; NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY THE PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE AFFECTED BY PROMULGATION OF RULES CONCERNING THE USE OF THE ELECTRONIC FILING PROGRAM IN THE APPELLATE DIVISION OF ANY JUDICIAL DEPARTMENT; AND ANY OTHER PERSONS IN WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE COURTS THEREIN AS DEEMED TO BE APPROPRIATE BY ANY APPELLATE DIVISION. TO THE EXTENT PRACTICABLE, RULES PROMULGATED BY THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT PURSUANT TO THIS SECTION SHALL BE UNIFORM.

S 8. The New York city civil court act is amended by adding a new section 2103-a to read as follows:

S 2103-A. USE OF ELECTRONIC FILING AUTHORIZED. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINISTRATOR OF THE COURTS MAY AUTHORIZE A PROGRAM IN THE USE OF ELECTRONIC MEANS IN THE CIVIL COURT OF THE CITY OF NEW YORK AS PROVIDED IN ARTICLE TWENTY-ONE-A OF THE CIVIL PRACTICE LAW AND RULES.

1 2. FOR PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS  
2 DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL  
3 PRACTICE LAW AND RULES.

4 S 9. The surrogate's court procedure act is amended by adding a new  
5 section 107 to read as follows:

6 S 107. USE OF ELECTRONIC FILING AUTHORIZED

7 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CHIEF ADMINISTRATOR  
8 OF THE COURTS MAY AUTHORIZE A PROGRAM IN THE USE OF ELECTRONIC MEANS IN  
9 THE SURROGATE'S COURT AS PROVIDED IN ARTICLE TWENTY-ONE-A OF THE CIVIL  
10 PRACTICE LAW AND RULES.

11 2. FOR PURPOSES OF THIS SECTION, "ELECTRONIC MEANS" SHALL BE AS  
12 DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL  
13 PRACTICE LAW AND RULES.

14 S 10. (a) Where rules authorizing a program in the use of electronic  
15 means for any purpose and in any court were promulgated by the chief  
16 administrator of the courts pursuant to law on or before August 31,  
17 2015, and such rules were in effect on such date, such rules shall  
18 remain in effect unless modified or abrogated by the chief administrator  
19 pursuant to law as provided in this act.

20 (b) Notwithstanding the provisions of any other law, no party or his  
21 or her counsel shall be charged a fee for viewing information filed by  
22 electronic means, or for downloading or printing such information  
23 through the use of such party's or counsel's own equipment. The chief  
24 administrator of the courts shall ensure that sufficient computer termi-  
25 nals and staff are available at the courthouse of each court participat-  
26 ing in the program in the use of electronic means, to enable parties and  
27 their counsel to access information, subject to the provisions of arti-  
28 cle 21-A of the civil practice law and rules, section 10.40 of the crim-  
29 inal procedure law and subdivision (b) of section 214 of the family  
30 court act, and laws governing the sealing and confidentiality of court  
31 records, filed by electronic means at such courthouse in a prompt and  
32 convenient manner.

33 S 11. This act shall take effect immediately; provided that sections  
34 four, five, six and seven of this act shall expire and be deemed  
35 repealed September 1, 2019; and provided that paragraph 2-a of subdivi-  
36 sion (b) of section 2111 of the civil practice law and rules, as added  
37 by section two of this act, shall expire and be deemed repealed Septem-  
38 ber 1, 2017.