

5833

2015-2016 Regular Sessions

I N S E N A T E

June 5, 2015

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed 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.

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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 JUVE-
21 NILE 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

1 LEGAL SERVICE PROVIDERS; PUBLIC DEFENDERS; REPRESENTATIVES OF THE OFFICE
 2 OF INDIGENT LEGAL SERVICES; ATTORNEYS ASSIGNED PURSUANT TO ARTICLE EIGH-
 3 TEEN-B OF THE COUNTY LAW; AND OTHER MEMBERS OF THE FAMILY COURT BAR;
 4 REPRESENTATIVES OF VICTIMS' RIGHTS ORGANIZATIONS; UNAFFILIATED ATTORNEYS
 5 WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE OR WOULD BE AFFECTED BY
 6 SUCH ELECTRONIC FILING PROGRAM; AND OTHER INTERESTED MEMBERS OF THE
 7 FAMILY PRACTICE COMMUNITY. SUCH COMMITTEE SHALL HELP THE CHIEF ADMINIS-
 8 TRATOR TO EVALUATE THE IMPACT OF SUCH ELECTRONIC FILING PROGRAM ON LITI-
 9 GANTS INCLUDING UNREPRESENTED PARTIES, PRACTITIONERS AND THE COURTS AND
 10 TO OBTAIN INPUT FROM THOSE WHO ARE OR WOULD BE AFFECTED BY SUCH ELEC-
 11 TRONIC FILING PROGRAM, INCLUDING UNREPRESENTED PARTIES, REPRESENTATIVES
 12 OF AUTHORIZED PRESENTMENT AND CHILD PROTECTIVE AGENCIES, OTHER APPROPRI-
 13 ATE COUNTY AND CITY GOVERNMENT OFFICIALS, INSTITUTIONAL PROVIDERS OF
 14 LEGAL SERVICES FOR CHILDREN AND/OR PARENTS, NOT-FOR-PROFIT LEGAL SERVICE
 15 PROVIDERS, PUBLIC DEFENDERS, ATTORNEYS ASSIGNED PURSUANT TO ARTICLE
 16 EIGHTEEN-B OF THE COUNTY LAW AND OTHER MEMBERS OF THE FAMILY COURT BAR,
 17 REPRESENTATIVES OF VICTIMS' RIGHTS ORGANIZATIONS, UNAFFILIATED ATTORNEYS
 18 WHO REGULARLY APPEAR IN PROCEEDINGS THAT ARE OR WOULD BE AFFECTED BY
 19 SUCH ELECTRONIC FILING PROGRAM, AND OTHER INTERESTED MEMBERS OF THE
 20 CRIMINAL JUSTICE COMMUNITY.

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

23 ARTICLE 21-A

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

26 SECTION 2110. DEFINITIONS.

27 2111. FILING OF PAPERS IN THE TRIAL COURTS BY FACSIMILE TRANS-
 28 MISSION AND BY ELECTRONIC MEANS.

29 2112. FILING OF PAPERS IN THE APPELLATE DIVISION BY ELECTRONIC
 30 MEANS.

31 S 2110. DEFINITIONS. FOR PURPOSES OF THIS SECTION, "FACSIMILE TRANS-
 32 MISSION" AND "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F)
 33 OF RULE 2103 OF THIS CHAPTER.

34 S 2111. FILING OF PAPERS IN THE TRIAL COURTS BY FACSIMILE TRANSMISSION
 35 AND BY ELECTRONIC MEANS. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
 36 THE CHIEF ADMINISTRATOR OF THE COURTS, WITH THE APPROVAL OF THE ADMINIS-
 37 TRATIVE BOARD OF THE COURTS, MAY PROMULGATE RULES AUTHORIZING A PROGRAM
 38 IN THE USE OF FACSIMILE TRANSMISSION ONLY IN THE COURT OF CLAIMS AND
 39 ELECTRONIC MEANS IN THE SUPREME COURT, THE CIVIL COURT OF THE CITY OF
 40 NEW YORK, SURROGATE'S COURTS AND THE COURT OF CLAIMS FOR: (I) THE
 41 COMMENCEMENT OF CIVIL ACTIONS AND PROCEEDINGS, AND (II) THE FILING AND
 42 SERVICE OF PAPERS IN PENDING ACTIONS AND PROCEEDINGS. PROVIDED, HOWEVER,
 43 THE CHIEF ADMINISTRATOR SHALL CONSULT WITH THE COUNTY CLERK OF A COUNTY
 44 OUTSIDE THE CITY OF NEW YORK BEFORE THE USE OF ELECTRONIC MEANS IS TO BE
 45 AUTHORIZED IN THE SUPREME COURT OF SUCH COUNTY, AFFORD HIM OR HER THE
 46 OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO, CONSIDER ANY SUCH
 47 COMMENTS AND OBTAIN THE AGREEMENT THERETO OF SUCH COUNTY CLERK.

48 (B) 1. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH TWO OF THIS SUBDIVI-
 49 SION, PARTICIPATION IN THIS PROGRAM SHALL BE STRICTLY VOLUNTARY, AND
 50 WILL TAKE PLACE ONLY UPON CONSENT OF ALL PARTIES IN THE ACTION OR
 51 SPECIAL PROCEEDING; EXCEPT THAT A PARTY'S FAILURE TO CONSENT TO PARTICI-
 52 PATION SHALL NOT BAR ANY OTHER PARTY TO THE ACTION OR PROCEEDING FROM
 53 FILING AND SERVING PAPERS BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS
 54 UPON THE COURT OR ANY OTHER PARTY TO SUCH ACTION OR PROCEEDING WHO HAS
 55 CONSENTED TO PARTICIPATION. COMMENCEMENT OF AN ACTION BY ELECTRONIC
 56 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 REPRESENTED
25 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 REGULATIONS
38 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-

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

5 2-A. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVI-
6 SION, THE EXCLUSION IN SUCH PARAGRAPH OF RESIDENTIAL FORECLOSURE ACTIONS
7 INVOLVING A HOME LOAN AS SUCH TERM IS DEFINED IN SECTION THIRTEEN
8 HUNDRED FOUR OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW FROM THOSE
9 CLASSES OF CASES IN WHICH THE CHIEF ADMINISTRATOR MAY ELIMINATE THE
10 REQUIREMENT OF CONSENT TO PARTICIPATION IN A PROGRAM IN THE USE OF ELEC-
11 TRONIC MEANS SHALL NOT APPLY TO ANY COUNTY IN WHICH, PRIOR TO THE EFFEC-
12 TIVE DATE OF THIS SECTION, THE CHIEF ADMINISTRATOR HAD ELIMINATED THE
13 REQUIREMENT OF CONSENT TO PARTICIPATION IN SUCH A PROGRAM IN SUCH FORE-
14 CLOSURE ACTIONS, SPECIFICALLY ERIE, ESSEX, NEW YORK, QUEENS, ROCKLAND,
15 SUFFOLK AND WESTCHESTER COUNTIES; AND THE EXCLUSION IN SUCH PARAGRAPH OF
16 PROCEEDINGS RELATED TO CONSUMER CREDIT TRANSACTIONS AS DEFINED IN SUBDI-
17 VISION (F) OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER FROM THOSE CLASS-
18 ES OF CASES IN WHICH THE CHIEF ADMINISTRATOR MAY ELIMINATE THE REQUIRE-
19 MENT OF CONSENT TO PARTICIPATION IN A PROGRAM IN THE USE OF ELECTRONIC
20 MEANS SHALL NOT APPLY TO ANY COUNTY IN WHICH, PRIOR TO THE EFFECTIVE
21 DATE OF THIS SECTION, THE CHIEF ADMINISTRATOR HAD ELIMINATED THE
22 REQUIREMENT OF CONSENT TO PARTICIPATION IN SUCH A PROGRAM IN SUCH
23 PROCEEDINGS RELATED TO CONSUMER CREDIT TRANSACTIONS, SPECIFICALLY ERIE,
24 NEW YORK, ONONDAGA, ROCKLAND AND WESTCHESTER COUNTIES.

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

32 (A) 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 (B) 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 SUBPARAGRAPH,
39 THE KNOWLEDGE OF ANY EMPLOYEE OF AN ATTORNEY, OR ANY EMPLOYEE OF THE
40 ATTORNEY'S LAW FIRM, OFFICE OR BUSINESS WHO IS SUBJECT TO SUCH ATTOR-
41 NEY'S DIRECTION, SHALL BE IMPUTED TO THE ATTORNEY.

42 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, WHERE A PARTY
43 IS NOT REPRESENTED BY COUNSEL, THE CLERK SHALL EXPLAIN SUCH PARTY'S
44 OPTIONS FOR ELECTRONIC FILING IN PLAIN LANGUAGE AND SHALL INQUIRE WHETH-
45 ER HE OR SHE WISHES TO PARTICIPATE, PROVIDED HOWEVER THE UNREPRESENTED
46 LITIGANT MAY PARTICIPATE IN THE PROGRAM ONLY UPON HIS OR HER REQUEST
47 AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMATION IN PLAIN
48 LANGUAGE CONCERNING THE PROGRAM; AND A PARTY NOT REPRESENTED BY COUNSEL
49 WHO HAS CHOSEN TO PARTICIPATE IN THE PROGRAM SHALL BE AFFORDED THE
50 OPPORTUNITY TO OPT OUT OF THE PROGRAM FOR ANY REASON VIA PRESENTATION OF
51 A PRESCRIBED FORM TO BE FILED WITH THE CLERK OF THE COURT WHERE THE
52 PROCEEDING IS PENDING; AND A COURT MAY EXEMPT ANY ATTORNEY FROM BEING
53 REQUIRED TO PARTICIPATE IN THE PROGRAM UPON APPLICATION FOR SUCH
54 EXEMPTION, SHOWING GOOD CAUSE THEREFOR.

55 (C) FOR PURPOSES OF THIS SECTION, "THE FILING AND SERVICE OF PAPERS IN
56 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 TIVES, 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.

1 FOR PURPOSES OF THIS SUBPARAGRAPH, THE CHIEF ADMINISTRATOR, IN DETERMIN-
2 ING WHETHER POSTING PAPERS OR DOCUMENTS ON A PUBLIC WEBSITE IS IN THE
3 PUBLIC INTEREST, SHALL, AT A MINIMUM, TAKE INTO ACCOUNT FOR EACH POSTING
4 THE FOLLOWING FACTORS: (A) THE TYPE OF CASE INVOLVED; (B) WHETHER SUCH
5 POSTING WOULD CAUSE HARM TO ANY PERSON, INCLUDING ESPECIALLY A MINOR OR
6 CRIME VICTIM; (C) WHETHER SUCH POSTING WOULD INCLUDE LEWD OR SCANDALOUS
7 MATTERS; AND (D) THE POSSIBILITY THAT SUCH PAPERS OR DOCUMENTS MAY ULTI-
8 MATELY BE SEALED.

9 (III) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE EXISTING LAWS
10 GOVERNING SERVICE OF PROCESS, NOR SHALL THIS SECTION BE CONSTRUED TO
11 ABROGATE EXISTING PERSONAL SERVICE REQUIREMENTS AS SET FORTH IN THE
12 CRIMINAL PROCEDURE LAW.

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

15 (A) "CONSENT OF THE CRIMINAL DEFENSE BAR" SHALL MEAN THAT CONSENT HAS
16 BEEN OBTAINED FROM ALL PROVIDER OFFICES AND/OR ORGANIZATIONS IN THE
17 COUNTY THAT REPRESENTED TWENTY-FIVE PERCENT OR MORE OF THE PERSONS
18 REPRESENTED BY PUBLIC DEFENSE PROVIDERS PURSUANT TO SECTION SEVEN
19 HUNDRED TWENTY-TWO OF THE COUNTY LAW, AS SHOWN IN THE MOST RECENT ANNUAL
20 REPORTS FILED PURSUANT TO SUBDIVISION ONE OF SECTION SEVEN HUNDRED TWEN-
21 TY-TWO-F OF THE COUNTY LAW. SUCH CONSENT, WHEN GIVEN, MUST BE EXPRESSED
22 IN A WRITTEN DOCUMENT THAT IS PROVIDED BY A PERSON WHO IS AUTHORIZED TO
23 CONSENT ON BEHALF OF THE RELEVANT PUBLIC DEFENDER ORGANIZATION, AGENCY
24 OR OFFICE; AND

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

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

30 S 5. The criminal procedure law is amended by adding a new section
31 460.90 to read as follows:

32 S 460.90 FILING OF PAPERS ON APPEAL TO THE APPELLATE DIVISION BY ELEC-
33 TRONIC MEANS.

34 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE APPELLATE DIVISION IN
35 EACH JUDICIAL DEPARTMENT MAY PROMULGATE RULES AUTHORIZING A PROGRAM IN
36 THE USE OF ELECTRONIC MEANS FOR THE TAKING AND PERFECTION OF APPEALS IN
37 ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-ONE HUNDRED TWELVE OF
38 THE CIVIL PRACTICE LAW AND RULES. PROVIDED HOWEVER, SUCH RULES SHALL
39 NOT REQUIRE AN UNREPRESENTED PARTY OR ANY ATTORNEY WHO FURNISHES A
40 CERTIFICATION SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (C) OF
41 SUBDIVISION TWO OF SECTION 10.40 OF THIS CHAPTER TO TAKE OR PERFECT AN
42 APPEAL BY ELECTRONIC MEANS. PROVIDED FURTHER, HOWEVER, BEFORE PROMULGAT-
43 ING ANY SUCH RULES, THE APPELLATE DIVISION IN EACH JUDICIAL DEPARTMENT
44 SHALL CONSULT WITH THE CHIEF ADMINISTRATOR OF THE COURTS AND SHALL
45 PROVIDE AN OPPORTUNITY FOR REVIEW AND COMMENT BY ALL THOSE WHO ARE OR
46 WOULD BE AFFECTED INCLUDING DISTRICT ATTORNEYS; REPRESENTATIVES OF THE
47 OFFICE OF INDIGENT LEGAL SERVICES; NOT-FOR-PROFIT LEGAL SERVICE PROVID-
48 ERS; PUBLIC DEFENDERS; STATEWIDE AND LOCAL SPECIALTY BAR ASSOCIATIONS
49 WHOSE MEMBERSHIP DEVOTES A SIGNIFICANT PORTION OF THEIR PRACTICE TO
50 ASSIGNED CRIMINAL CASES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A) OF
51 SUBDIVISION THREE OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW;
52 INSTITUTIONAL PROVIDERS OF CRIMINAL DEFENSE SERVICES AND OTHER MEMBERS
53 OF THE CRIMINAL DEFENSE BAR; REPRESENTATIVES OF VICTIMS' RIGHTS ORGAN-
54 IZATIONS; UNAFFILIATED ATTORNEYS WHO REGULARLY APPEAR IN PROCEEDINGS
55 THAT ARE OR WOULD BE AFFECTED BY SUCH ELECTRONIC FILING PROGRAM; INTER-
56 ESTED 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 REPRESENTING PARENTS AND/OR CHILDREN, THE HEAD OF EACH PUBLIC DEFENDER ORGANIZATION, AND PRESIDENT OF THE LOCAL BAR ASSOCIATION AS APPLICABLE) IN ANY COUNTY IN WHICH SUCH ELIMINATION SHALL APPLY.

13 NOTWITHSTANDING THE FOREGOING, THE CHIEF ADMINISTRATOR MAY NOT ELIMINATE THE REQUIREMENT OF CONSENT TO PARTICIPATION IN A COUNTY HEREUNDER UNTIL HE OR SHE SHALL HAVE PROVIDED ALL PERSONS OR ORGANIZATIONS, OR THEIR REPRESENTATIVE OR REPRESENTATIVES, WHO REGULARLY APPEAR IN PROCEEDINGS IN THE FAMILY COURT OF SUCH COUNTY, IN WHICH PROCEEDINGS THE REQUIREMENT OF CONSENT IS TO BE ELIMINATED, WITH REASONABLE NOTICE AND AN OPPORTUNITY TO SUBMIT COMMENTS WITH RESPECT THERETO AND SHALL HAVE GIVEN DUE CONSIDERATION TO ALL SUCH COMMENTS, NOR UNTIL HE OR SHE SHALL HAVE CONSULTED WITH THE MEMBERS OF THE ADVISORY COMMITTEE CONTINUED PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (T) OF SUBDIVISION TWO OF 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 SCANNERS NECESSARY TO PARTICIPATE. FOR THE PURPOSES OF THIS PARAGRAPH, THE KNOWLEDGE OF ANY EMPLOYEE OF AN ATTORNEY, OR ANY EMPLOYEE OF THE ATTORNEY'S LAW FIRM, OFFICE OR BUSINESS WHO IS SUBJECT TO SUCH ATTORNEY'S DIRECTION, SHALL BE IMPUTED TO THE ATTORNEY.

42 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH: (A) WHERE
43 A PARTY OR A PERSON ENTITLED TO NOTICE OF THE PROCEEDINGS IS NOT REPRESENTED BY COUNSEL, THE COURT SHALL EXPLAIN SUCH PARTY'S OPTIONS FOR ELECTRONIC FILING IN PLAIN LANGUAGE, INCLUDING THE OPTION FOR EXPEDITED PROCESSING, 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, WHICH SHALL BE DOCUMENTED IN THE CASE FILE, AFTER SAID PARTY HAS BEEN PRESENTED WITH SUFFICIENT INFORMATION IN PLAIN LANGUAGE CONCERNING THE PROGRAM; (B) A PARTY WHO IS 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 (C) A COURT MAY EXEMPT ANY ATTORNEY FROM BEING REQUIRED TO PARTICIPATE IN THE PROGRAM UPON APPLICATION FOR SUCH EXEMPTION, SHOWING GOOD CAUSE THEREFOR.

1 (D) 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 (E) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, NO PAPER OR DOCU-
5 MENT THAT IS FILED BY ELECTRONIC MEANS IN A PROCEEDING IN FAMILY COURT
6 SHALL BE AVAILABLE FOR PUBLIC INSPECTION ON-LINE. SUBJECT TO THE
7 PROVISIONS OF EXISTING LAWS GOVERNING THE SEALING AND CONFIDENTIALITY OF
8 COURT RECORDS, NOTHING HEREIN SHALL PREVENT THE UNIFIED COURT SYSTEM
9 FROM SHARING STATISTICAL INFORMATION THAT DOES NOT INCLUDE ANY PAPERS OR
10 DOCUMENTS FILED WITH THE ACTION.

11 (F) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE ANY EXISTING LAWS
12 GOVERNING THE SEALING AND CONFIDENTIALITY OF COURT RECORDS IN FAMILY
13 COURT PROCEEDINGS OR ACCESS TO COURT RECORDS BY THE PARTIES TO SUCH
14 PROCEEDINGS, NOR SHALL THIS SECTION BE CONSTRUED TO COMPEL A PARTY TO
15 FILE A SEALED DOCUMENT BY ELECTRONIC MEANS.

16 (G) NOTHING IN THIS SECTION SHALL AFFECT OR CHANGE EXISTING LAWS
17 GOVERNING SERVICE OF PROCESS, NOR SHALL THIS SECTION BE CONSTRUED TO
18 ABROGATE EXISTING PERSONAL SERVICE REQUIREMENTS AS SET FORTH IN THIS ACT
19 AND THE CIVIL PRACTICE LAW AND RULES.

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

22 S 1122. FILING OF PAPERS ON APPEAL TO THE APPELLATE DIVISION BY ELEC-
23 TRONIC MEANS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE APPELLATE
24 DIVISION IN EACH JUDICIAL DEPARTMENT MAY PROMULGATE RULES AUTHORIZING A
25 PROGRAM IN THE USE OF ELECTRONIC MEANS FOR THE TAKING AND PERFECTION OF
26 APPEALS IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-ONE HUNDRED
27 TWELVE OF THE CIVIL PRACTICE LAW AND RULES. FOR PURPOSES OF THIS
28 SECTION, "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF
29 RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES.
30 PROVIDED HOWEVER, SUCH RULES SHALL NOT REQUIRE AN UNREPRESENTED PARTY OR
31 ANY ATTORNEY WHO FURNISHES A CERTIFICATE SPECIFIED IN PARAGRAPH (I) OR
32 (II) OF SUBDIVISION (C) OF SECTION TWO HUNDRED FOURTEEN OF THIS CHAPTER
33 TO TAKE OR PERFECT AN APPEAL BY ELECTRONIC MEANS. PROVIDED FURTHER,
34 HOWEVER, BEFORE PROMULGATING ANY SUCH RULES, THE APPELLATE DIVISION IN
35 EACH JUDICIAL DEPARTMENT SHALL CONSULT WITH THE CHIEF ADMINISTRATOR OF
36 THE COURTS AND SHALL PROVIDE AN OPPORTUNITY FOR REVIEW AND COMMENT BY
37 ALL THOSE WHO ARE OR WOULD BE AFFECTED INCLUDING CITY, STATE, COUNTY AND
38 WOMEN'S BAR ASSOCIATIONS; INSTITUTIONAL LEGAL SERVICE PROVIDERS;
39 NOT-FOR-PROFIT LEGAL SERVICE PROVIDERS; ATTORNEYS ASSIGNED PURSUANT TO
40 ARTICLE EIGHTEEN-B OF THE COUNTY LAW; UNAFFILIATED ATTORNEYS WHO REGU-
41 LARLY APPEAR IN PROCEEDINGS THAT ARE OR HAVE BEEN AFFECTED BY THE
42 PROGRAMS THAT HAVE BEEN IMPLEMENTED OR WHO MAY BE AFFECTED BY PROMULGA-
43 TION OF RULES CONCERNING THE USE OF THE ELECTRONIC FILING PROGRAM IN THE
44 APPELLATE DIVISION OF ANY JUDICIAL DEPARTMENT; AND ANY OTHER PERSONS IN
45 WHOSE COUNTY A PROGRAM HAS BEEN IMPLEMENTED IN ANY OF THE COURTS THEREIN
46 AS DEEMED TO BE APPROPRIATE BY ANY APPELLATE DIVISION. TO THE EXTENT
47 PRACTICABLE, RULES PROMULGATED BY THE APPELLATE DIVISION IN EACH JUDI-
48 CIAL DEPARTMENT PURSUANT TO THIS SECTION SHALL BE UNIFORM.

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

51 S 2103-A. USE OF ELECTRONIC FILING AUTHORIZED. 1. NOTWITHSTANDING ANY
52 OTHER PROVISION OF LAW, THE CHIEF ADMINISTRATOR OF THE COURTS MAY
53 AUTHORIZE A PROGRAM IN THE USE OF ELECTRONIC MEANS IN THE CIVIL COURT OF
54 THE CITY OF NEW YORK AS PROVIDED IN ARTICLE TWENTY-ONE-A OF THE CIVIL
55 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.