

STATE OF NEW YORK

5069

2017-2018 Regular Sessions

IN SENATE

March 6, 2017

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

AN ACT to amend the criminal procedure law, in relation to procedures for taking an appeal from a court that is not designated a court of record

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 3 of section 460.10 of the
2 criminal procedure law, as added by chapter 671 of the laws of 1971, is
3 amended to read as follows:

4 (a) Within thirty days after entry or imposition in such local criminal
5 court of the judgment, sentence or order being appealed, the appellant
6 must file with such court either (i) an affidavit of errors,
7 setting forth alleged errors or defects in the proceedings which are the
8 subjects of the appeal, or (ii) a notice of appeal. Where a notice of
9 appeal is filed, the appellant must serve a copy thereof upon the
10 respondent in the manner provided in paragraphs (b) and (c) of subdivision
11 one, and, within [~~thirty~~] sixty days after [~~the filing thereof~~] the
12 appellant receives a transcript of the electronically recorded
13 proceedings, must file with such court an affidavit of errors.

14 § 2. Subdivision 1 of section 460.70 of the criminal procedure law, as
15 amended by chapter 83 of the laws of 1995, is amended to read as
16 follows:

17 1. Except as provided in subdivision two, the mode of and time for
18 perfecting an appeal which has been taken to an intermediate appellate
19 court from a judgement, sentence or order of a criminal court are determined
20 by rules of the appellate division of the department in which such
21 appellate court is located. Among the matters to be determined by such
22 court rules are the times when the appeal must be noticed for and
23 brought to argument, the content and form of the records and briefs to

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

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1 be served and filed, and the time when such records and briefs must be
2 served and filed.

3 When an appeal is taken by a defendant pursuant to section 450.10, a
4 transcript shall be prepared and settled and shall be filed with the
5 criminal court by the court reporter. Electronically recorded
6 proceedings that were not recorded by a stenographer shall be tran-
7 scribed and filed with the court as directed by the chief administrator
8 of the courts. The expense for such transcript and any reproduced copies
9 of such transcript shall be paid by the defendant. Where the defendant
10 is granted permission to proceed as a poor person by the appellate
11 court, the court reporter shall promptly make and file with the criminal
12 court a transcript of the stenographic minutes of such proceedings as
13 the appellate court shall direct. The expense of transcripts and any
14 reproduced copies of transcripts prepared for poor persons under this
15 section shall be a state charge payable out of funds appropriated to the
16 office of court administration for that purpose. The appellate court
17 shall where such is necessary for perfection of the appeal, order that
18 the criminal court furnish a reproduced copy of such transcript to the
19 defendant or his counsel.

20 § 3. This act shall take effect on the sixtieth day after it shall
21 have become a law.