

STATE OF NEW YORK

6408--A

Cal. No. 1137

2017-2018 Regular Sessions

IN SENATE

May 17, 2017

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 -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the judiciary law, the civil practice law and rules and chapter 237 of the laws of 2015 amending the judiciary law, the civil practice law and rules and other laws relating to use of electronic means for the commencement and filing of papers in certain actions and proceedings, in relation to the use of electronic means for the commencement and filing of papers in certain actions and proceedings

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

1 Section 1. Clause (A) of subparagraph (i) of paragraph (t) of subdivi-
2 sion 2 of section 212 of the judiciary law, as added by chapter 237 of
3 the laws of 2015, is amended to read as follows:

4 (A) Not later than [~~April~~] February first in each calendar year, the
5 chief administrator of the courts shall submit to the legislature, the
6 governor and the chief judge of the state a report evaluating the
7 state's experience with programs in the use of electronic means for the
8 commencement of actions and proceedings and the service of papers there-
9 in as authorized by law and containing such recommendations for further
10 legislation as he or she shall deem appropriate. In the preparation of
11 such report, the chief administrator shall consult with each county
12 clerk in whose county a program has been implemented in civil cases in
13 the supreme court, the advisory committees established pursuant to
14 subparagraphs (ii) through (vi) of this paragraph, the organized bar
15 including but not limited to city, state, county and women's bar associ-
16 ations; the office of indigent legal services; institutional legal
17 service providers; not-for-profit legal service providers; public defen-

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

LBD11264-03-7

ders; 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 any programs that have been implemented or who may be affected by the proposed recommendations for further legislation; representatives of victims' rights organizations; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator, and afford them an opportunity to submit comments with respect to such implementation for inclusion in the report and address any such comments.

Public comments shall also be sought via a prominent posting on the website of the office of court administration. All comments received from any source shall be posted for public review on the same website.

§ 1-a. Clause (A) of subparagraph (i) of paragraph (u) of subdivision 2 of section 212 of the judiciary law, as added by chapter 237 of the laws of 2015 and as relettered by section 1 of part BB of chapter 55 of the laws of 2017, is amended to read as follows:

(A) Not later than ~~April~~ February first in each calendar year, the chief administrator of the courts shall submit to the legislature, the governor and the chief judge of the state a report evaluating the state's experience with programs in the use of electronic means for the commencement of actions and proceedings and the service of papers therein as authorized by law and containing such recommendations for further legislation as he or she shall deem appropriate. In the preparation of such report, the chief administrator shall consult with each county clerk in whose county a program has been implemented in civil cases in the supreme court, the advisory committees established pursuant to subparagraphs (ii) through (vi) of this paragraph, the organized bar including but not limited to city, state, county and women's bar associations; the office of indigent legal services; institutional legal service providers; not-for-profit legal service providers; public defenders; 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 any programs that have been implemented or who may be affected by the proposed recommendations for further legislation; representatives of victims' rights organizations; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator, and afford them an opportunity to submit comments with respect to such implementation for inclusion in the report and address any such comments.

Public comments shall also be sought via a prominent posting on the website of the office of court administration. All comments received from any source shall be posted for public review on the same website.

§ 2. Section 2112 of the civil practice law and rules, as added by chapter 237 of the laws of 2015, is amended to read as follows:

§ 2112. Filing of papers in the appellate division by electronic means. Notwithstanding any other provision of law, and except as otherwise provided in subdivision (c) of section twenty-one hundred eleven of this article, the appellate division in each judicial department may promulgate rules authorizing a program in the use of electronic means for: (i) appeals to such court from the judgment or order of a court of original instance or from that of another appellate court, (ii) making a motion for permission to appeal to such court, (iii) commencement of any other proceeding that may be brought in such court, and (iv) the filing and service of papers in pending actions and proceedings. Provided

1 however, [~~the appellate division may not eliminate the requirement of~~
2 ~~consent to participation in appeals in such a program involving matrimo-~~
3 ~~nial actions as defined by this chapter, election law proceedings,~~
4 ~~proceedings brought pursuant to article seventy or seventy-eight of this~~
5 ~~chapter, proceedings brought pursuant to the mental hygiene law, resi-~~
6 ~~dential foreclosure actions involving a home loan as such term is~~
7 ~~defined in section thirteen hundred four of the real property actions~~
8 ~~and proceedings law and proceedings related to consumer credit trans-~~
9 ~~actions as defined in subdivision (f) of section one hundred five of~~
10 ~~this chapter, and]~~ such rules shall not require an unrepresented party
11 or any attorney who furnishes a certificate specified in subparagraph
12 (A) or (B) of paragraph three of subdivision (b) of section twenty-one
13 hundred eleven of this article to take or perfect an appeal by electron-
14 ic means. Provided further, however, before promulgating any such rules,
15 the appellate division in each judicial department shall consult with
16 the chief administrator of the courts and shall provide an opportunity
17 for review and comment by all those who are or would be affected includ-
18 ing city, state, county and women's bar associations; institutional
19 legal service providers; not-for-profit legal service providers; attor-
20 neys assigned pursuant to article eighteen-B of the county law; unaffil-
21 iated attorneys who regularly appear in proceedings that are or have
22 been affected by the programs that have been implemented or who may be
23 affected by promulgation of rules concerning the use of the electronic
24 filing program in the appellate division of any judicial department; and
25 any other persons in whose county a program has been implemented in any
26 of the courts therein as deemed to be appropriate by any appellate divi-
27 sion. To the extent practicable, rules promulgated by the appellate
28 division in each judicial department pursuant to this section shall be
29 uniform.

30 § 3. Section 11 of chapter 237 of the laws of 2015 amending the judi-
31 ciary law, the civil practice law and rules and other laws relating to
32 use of electronic means for the commencement and filing of papers in
33 certain actions and proceedings is amended to read as follows:

34 § 11. This act shall take effect immediately; provided that sections
35 four, five, six and seven of this act shall each expire and be deemed
36 repealed September 1, 2019; and provided that paragraph 2-a of subdivi-
37 sion (b) of section 2111 of the civil practice law and rules, as added
38 by section two of this act, shall expire and be deemed repealed Septem-
39 ber 1, ~~2017~~ 2018.

40 § 4. This act shall take effect immediately provided, however the
41 amendments to subdivision 2 of section 212 of the judiciary law made by
42 section one-a of this act shall take effect on the same date and in the
43 same manner as section 1 of part BB of chapter 55 of the laws of 2017,
44 takes effect.