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:

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

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

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

1. Except as provided in subdivision two, the mode of and time for perfecting an appeal which has been taken to an intermediate appellate court from a judgement, sentence or order of a criminal court are determined by rules of the appellate division of the department in which such appellate court is located. Among the matters to be determined by such court rules are the times when the appeal must be noticed for and 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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be served and filed, and the time when such records and briefs must be served and filed.

When an appeal is taken by a defendant pursuant to section 450.10, a transcript shall be prepared and settled and shall be filed with the criminal court by the court reporter. **Electronically recorded proceedings that were not recorded by a stenographer shall be transcribed and filed with the court as directed by the chief administrator of the courts.** The expense for such transcript and any reproduced copies of such transcript shall be paid by the defendant. Where the defendant is granted permission to proceed as a poor person by the appellate court, the court reporter shall promptly make and file with the criminal court a transcript of the stenographic minutes of such proceedings as the appellate court shall direct. The expense of transcripts and any reproduced copies of transcripts prepared for poor persons under this section shall be a state charge payable out of funds appropriated to the office of court administration for that purpose. The appellate court shall where such is necessary for perfection of the appeal, order that the criminal court furnish a reproduced copy of such transcript to the defendant or his counsel.

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