STATE OF NEW YORK

8414

IN SENATE

May 24, 2020

Introduced by Sen. BAILEY -- 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 conducting hearings on a felony complaint during a state disaster emergency; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The criminal procedure law is amended by adding a new section 180.65 to read as follows:

§ 180.65 Hearing upon felony complaint; emergency provision during disaster emergency.

During the period of the COVID-19 state disaster emergency, as declared pursuant to executive order number two hundred two of two thousand twenty and extensions thereof and article two-B of the executive law, the following additional provisions shall apply to the conduct of a hearing on a felony complaint pursuant to this article:

1. The appearance of any party and any witness at such hearing may be by electronic appearance through an independent audio-visual system, as such terms are defined in section 182.10 of this title, where the court finds after hearing from the parties and any such witness, either in person or by electronic appearance, that due to the person's circumstances and such disaster emergency a personal appearance by such party or witness would be an unreasonable hardship to such person or witness.

2. At any such hearing on the felony complaint, the judge must be able to hear and see the image of each witness clearly though the independent audio-visual system and such sound and visual image shall be similar to the sound and image the judge would hear and see if the witness were present together with the judge testifying in the courtroom. Documents, photographs and the like offered at the hearing may be exchanged among the parties by electronic means. A stenographic transcription or appropriate audio recording of the proceedings shall be maintained, and the live testimony received by electronic appearance, and other electronic appearances where practicable, shall be video recorded.

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

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3. The authority for an electronic appearance pursuant to this section shall be considered sufficient means to enable the court to conduct a hearing on a felony complaint within the meaning of section 180.80 of this article.

§ 2. The opening paragraph of subdivision 3 of section 180.80 of the criminal procedure law is designated paragraph (a) and a new paragraph (b) is added to read as follows:

(b) In the event of a state disaster emergency, declared in accordance with article two-B of the executive law, electronic appearances at a hearing on a felony complaint shall be governed by section 180.65 of this article.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law and shall expire and be deemed repealed on April 30, 2021.