

# STATE OF NEW YORK

8381

2021-2022 Regular Sessions

## IN ASSEMBLY

October 20, 2021

Introduced by M. of A. SIMPSON -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to authorizing certain electronic court appearances; and to amend chapter 689 of the laws of 1993, amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to the effectiveness thereof

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

1 Section 1. Subdivision 1 of section 182.20 of the criminal procedure  
2 law, as amended by chapter 332 of the laws of 2009, is amended and a new  
3 subdivision 5 is added to read as follows:

4 1. Notwithstanding any other provision of law and except as provided  
5 in section 182.30 of this article, the court, in its discretion, may  
6 dispense with the personal appearance of the defendant, except an  
7 appearance at a [~~hearing or~~] jury trial, and conduct an electronic  
8 appearance in connection with a criminal action pending in [~~Albany,~~  
9 ~~Bronx, Broome, Erie, Kings, New York, Niagara, Oneida, Onondaga, Ontar-~~  
10 ~~io, Orange, Putnam, Queens, Richmond, St. Lawrence, Tompkins, Chautau-~~  
11 ~~qua, Cattaraugus, Clinton, Essex, Montgomery, Rensselaer, Warren, West-~~  
12 ~~chester, Suffolk, Herkimer or Franklin~~] any county within the state,  
13 provided that the chief administrator of the courts has authorized the  
14 use of electronic appearance and the defendant, after consultation with  
15 counsel, consents on the record. Such consent shall be required at the  
16 commencement of each electronic appearance to such electronic appear-  
17 ance.

18 5. Where the court determines on its own motion, or on the motion of  
19 any party, that the personal appearance by any party, including the  
20 defendant, would be impractical, unsafe or excessively burdensome, the  
21 court may conduct virtual appearances without the consent of the

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

LBD11416-01-1

1 parties. The provisions of this subdivision shall not apply for hear-  
2 ings or trials.

3 § 2. Section 182.30 of the criminal procedure law, as added by chapter  
4 689 of the laws of 1993, is amended to read as follows:

5 § 182.30 Electronic appearance; conditions and limitations.

6 The following conditions and limitations apply to all electronic  
7 appearances:

8 1. ~~[The defendant may not enter a plea of guilty to, or be sentenced~~  
9 ~~upon a conviction of, a felony]~~ The defendant may not be sentenced to a  
10 period of incarceration, unless such defendant is already incarcerated  
11 in a county correctional facility or a correctional facility operated by  
12 the department of corrections and community supervision.

13 2. The defendant may not enter a plea of not responsible by reason of  
14 mental disease or defect.

15 3. The defendant may not be committed to the state department of  
16 mental hygiene pursuant to article seven hundred thirty of this chapter.

17 ~~[4. The defendant may not enter a plea of guilty to a misdemeanor~~  
18 ~~conditioned upon a promise of incarceration unless such incarceration~~  
19 ~~will be imposed only in the event that the defendant fails to comply~~  
20 ~~with a term or condition imposed under the original sentence.~~

21 ~~5. A defendant who has been convicted of a misdemeanor may not be~~  
22 ~~sentenced to a period of incarceration which exceeds the time the~~  
23 ~~defendant has already served when sentence is imposed.]~~

24 § 3. Section 2 of chapter 689 of the laws of 1993, amending the crimi-  
25 nal procedure law relating to electronic court appearance in certain  
26 counties, as amended by section 20 of part A of chapter 55 of the laws  
27 of 2021, is amended to read as follows:

28 § 2. This act shall take effect immediately, except that the  
29 provisions of this act shall be deemed to have been in full force and  
30 effect since July 1, 1992 and the provisions of this act shall expire  
31 September 1, ~~[2023]~~ 2024 when upon such date the provisions of this act  
32 shall be deemed repealed.

33 § 4. This act shall take effect immediately; provided, however, that  
34 the amendments to subdivision 1 of section 182.20 of the criminal proce-  
35 dure law made by section one of this act and the amendments to section  
36 182.30 of the criminal procedure law made by section two of this act  
37 shall not affect the expiration of such sections and shall be deemed  
38 repealed therewith.