STATE OF NEW YORK

1279

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

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 streamlining the assignment of appellate counsel for indigent criminal defendants

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

Section 1. Section 380.55 of the criminal procedure law, as added by chapter 459 of the laws of 2016, is amended to read as follows:

§ 380.55 Application for poor person relief on appeal.

1. Where counsel has been assigned to represent a defendant [~~at trial~~] **in a criminal action** on the ground that the defendant is financially unable to retain counsel, the court may in its discretion at the time of sentencing entertain an application to grant the defendant poor person relief on appeal. As part of an application for such relief, assigned counsel must represent that the defendant continues to be eligible for assignment of counsel and that granting the application will expedite the appeal. If the court grants the application, it shall file a written order and shall provide a copy of the order to the appropriate appellate court. The denial of an application shall not preclude the defendant from making a de novo application for poor person relief to the appropriate appellate court.

2. Where counsel has been assigned to represent a defendant in a criminal action on the ground that the defendant is financially unable to retain counsel, the appellate court shall presume the defendant eligible for assignment of counsel on appeal without further proof of eligibility, and, thereby, issue an order assigning such counsel, if counsel provides a sworn representation that the defendant continues to be eligible for assignment of counsel.

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

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

LBD02759-01-1