STATE OF NEW YORK

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1279

2021-2022 Regular Sessions

IN SENATE

January 8, 2021
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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 Assem-
  bly, do enact as follows:**

 1   Section 1. Section 380.55 of the criminal procedure law, as added by
 2 chapter 459 of the laws of 2016, is amended to read as follows:
 3 § 380.55 Application for poor person relief on appeal.
 4   **1.** Where counsel has been assigned to represent a defendant [~~at trial~~]
 5 **in a criminal action** on the ground that the defendant is financially
 6 unable to retain counsel, the court may in its discretion at the time of
 7 sentencing entertain an application to grant the defendant poor person
 8 relief on appeal. As part of an application for such relief, assigned
 9 counsel must represent that the defendant continues to be eligible for
10 assignment of counsel and that granting the application will expedite
11 the appeal. If the court grants the application, it shall file a written
12 order and shall provide a copy of the order to the appropriate appellate
13 court. The denial of an application shall not preclude the defendant
14 from making a de novo application for poor person relief to the appro-
15 priate appellate court.
16   **2. Where counsel has been assigned to represent a defendant in a crim-
17 inal action on the ground that the defendant is financially unable to
18 retain counsel, the appellate court shall presume the defendant eligible
19 for assignment of counsel on appeal without further proof of eligibil-
20 ity, and, thereby, issue an order assigning such counsel, if counsel
21 provides a sworn representation that the defendant continues to be
22 eligible for assignment of counsel.**
23   § 2. This act shall take effect on the sixtieth day after it shall
24 have become a law.

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