

# STATE OF NEW YORK

3743

2023-2024 Regular Sessions

## IN ASSEMBLY

February 7, 2023

Introduced by M. of A. SIMPSON, J. M. GIGLIO, DURSO, GALLAHAN -- 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 separately amended by chapters 242, 246, 252, 254, 321 and 351  
3 of the laws of 2022, is amended and a new subdivision 5 is added to read  
4 as follows:

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

20 5. Where the court determines on its own motion, or on the motion of  
21 any party, that the personal appearance by any party, including the  
22 defendant, would be impractical, unsafe or excessively burdensome, the

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

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1 court may conduct virtual appearances without the consent of the  
2 parties. The provisions of this subdivision shall not apply for hear-  
3 ings or trials.

4 § 2. Section 182.30 of the criminal procedure law, as added by chapter  
5 689 of the laws of 1993, is amended to read as follows:

6 § 182.30 Electronic appearance; conditions and limitations.

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

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

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

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

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

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

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

29 § 2. This act shall take effect immediately, except that the  
30 provisions of this act shall be deemed to have been in full force and  
31 effect since July 1, 1992 and the provisions of this act shall expire  
32 September 1, [~~2023~~] 2026 when upon such date the provisions of this act  
33 shall be deemed repealed.

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