STATE OF NEW YORK

2033

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. STEC, BORRELLO, MATTERA, OBERACKER, ORTT, PALUMBO, TEDISCO -- 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 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:

Section 1. Subdivision 1 of section 182.20 of the criminal procedure law, as separately amended by chapters 242, 246, 252, 254, 321 and 351 of the laws of 2022, is amended and a new subdivision 5 is added to read as follows:

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

5. Where the court determines on its own motion, or on the motion of any party, that the personal appearance by any party, including the

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

LBD06129-01-3

defendant, would be impractical, unsafe or excessively burdensome, the court may conduct virtual appearances without the consent of the parties. The provisions of this subdivision shall not apply for hearings or trials.

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

§ 182.30 Electronic appearance; conditions and limitations.

The following conditions and limitations apply to all electronic appearances:

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

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

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

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

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

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

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

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