STATE OF NEW YORK

7352

2025-2026 Regular Sessions

IN ASSEMBLY

March 25, 2025

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

AN ACT to amend the criminal procedure law, in relation to requiring applications for leave to appeal to the court of appeals to be made to the full court

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

Section 1. This act shall be known and may be cited as the "fair court of appeals access act".

§ 2. Section 460.20 of the criminal procedure law, subdivision 5 as added by chapter 699 of the laws of 1977, is amended to read as follows:

§ 460.20 Certificate granting leave to appeal to court of appeals.

1. A certificate granting leave to appeal to the court of appeals from an order of an intermediate appellate court is an order of [~~a judge~~] the court of appeals granting such permission and certifying that the case involves a question of law which ought to be reviewed by the court of appeals.

2. Such certificate may be issued [~~by the following judges~~] in the indicated situations:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) [~~a judge of~~] the court of appeals, upon the approval of two judges of such court after the full court's consideration of the motion for a certificate granting leave to appeal or (ii) a justice of the appellate division of the department which entered the order sought to be appealed.

(b) Where the appeal sought is from an order of an intermediate appellate court other than the appellate division, the certificate may be issued only by [~~a judge of~~] the court of appeals.

3. An application for such a certificate must be made in the following manner:

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

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(a) An application to a justice of the appellate division must be made upon reasonable notice to the respondent;

(b) An application seeking such a certificate from [~~a judge of~~] the court of appeals must be made [~~to the chief judge of such court by submission thereof, either~~] in writing [~~or first orally and then in writing,~~] to the clerk of the court of appeals. [~~The chief judge must then designate a judge of such court to determine the application.~~] The clerk must then notify the respondent of the application [~~and must inform both parties of such designation~~].

(c) The court of appeals shall have the authority to create rules governing applications for leave to appeal in criminal cases that are not inconsistent with this section.

4. A justice of the appellate division to whom such an application has been made[~~, or a judge of the court of appeals designated to determine such an application,~~] may in [~~his~~] **their** discretion determine it upon such papers as [~~he~~] **they** may request the parties to submit, or upon oral argument, or upon both.

5. [~~Every judge~~] **The court of appeals** or **an appellate division** justice acting pursuant to this section shall file with the clerk of the court of appeals, immediately upon issuance, a copy of every certificate granting or denying leave to appeal.

§ 3. This act shall take effect immediately and shall apply to any application for leave to appeal from an intermediate appellate court order entered on, or after, the effective date of this act.