

5688--D

2009-2010 Regular Sessions

I N S E N A T E

May 27, 2009

Introduced by Sens. STAVISKY, ADAMS, ESPADA, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONSERRATE, MONTGOMERY, ONORATO, OPPENHEIMER, SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to providing defendants the ability to call any telephone number located in the United States or Puerto Rico for the purpose of obtaining counsel and informing a relative or friend that they have been charged with a crime

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 120.90 of the criminal procedure law is amended by
2 adding a new subdivision 8 to read as follows:
3 8. UPON ARRESTING A DEFENDANT, OTHER THAN A JUVENILE OFFENDER, FOR ANY
4 OFFENSE PURSUANT TO A WARRANT OF ARREST, A POLICE OFFICER SHALL, UPON
5 THE DEFENDANT'S REQUEST, PERMIT THE DEFENDANT TO COMMUNICATE BY TELE-
6 PHONE PROVIDED BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS
7 HELD TO A PHONE NUMBER LOCATED ANYWHERE IN THE UNITED STATES OR PUERTO
8 RICO, FOR THE PURPOSES OF OBTAINING COUNSEL AND INFORMING A RELATIVE OR
9 FRIEND THAT HE OR SHE HAS BEEN ARRESTED, UNLESS GRANTING THE CALL WILL
10 COMPROMISE AN ONGOING INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT.
11 IF THE OFFICER HAS SEIZED A CELLPHONE OR OTHER DIGITAL DEVICE FROM THE
12 DEFENDANT, THE OFFICER SHALL GRANT THE DEFENDANT ACCESS TO THE CELLPHONE
13 OR DEVICE, FOR THE PURPOSE OF LOCATING A TELEPHONE NUMBER CONTAINED

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

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1 THEREIN, UNLESS GRANTING SUCH ACCESS WILL COMPROMISE AN ONGOING INVESTI-
2 GATION OR THE PROSECUTION OF THE DEFENDANT.

3 S 2. Section 140.20 of the criminal procedure law is amended by adding
4 a new subdivision 7 to read as follows:

5 7. UPON ARRESTING A PERSON, OTHER THAN A JUVENILE OFFENDER, FOR ANY
6 OFFENSE WITHOUT A WARRANT, A POLICE OFFICER SHALL, UPON THE ARRESTED
7 PERSON'S REQUEST, PERMIT HIM OR HER TO COMMUNICATE BY TELEPHONE PROVIDED
8 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
9 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, FOR THE PURPOSES OF
10 OBTAINING COUNSEL AND INFORMING A RELATIVE OR FRIEND THAT HE OR SHE HAS
11 BEEN ARRESTED, UNLESS GRANTING THE CALL WILL COMPROMISE AN ONGOING
12 INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT. IF THE OFFICER HAS
13 SEIZED A CELLPHONE OR OTHER DIGITAL DEVICE FROM THE PERSON, THE OFFICER
14 SHALL GRANT HIM OR HER ACCESS TO THE CELLPHONE OR DEVICE, FOR THE
15 PURPOSE OF LOCATING A TELEPHONE NUMBER CONTAINED THEREIN, UNLESS GRANT-
16 ING SUCH ACCESS WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSE-
17 CUTION OF THE DEFENDANT.

18 S 3. Paragraph (b) of subdivision 3 of section 170.10 of the criminal
19 procedure law is amended to read as follows:

20 (b) To communicate, free of charge, by letter or by telephone PROVIDED
21 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
22 NUMBER LOCATED IN THE UNITED STATES, OR PUERTO RICO, for the purposes of
23 obtaining counsel and informing a relative or friend that he OR SHE has
24 been charged with an offense; and

25 S 4. Paragraph (b) of subdivision 3 of section 180.10 of the criminal
26 procedure law is amended to read as follows:

27 (b) To communicate, free of charge, by letter or by telephone PROVIDED
28 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
29 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, for the purpose of
30 obtaining counsel and informing a relative or friend that he OR SHE has
31 been charged with an offense; and

32 S 5. Paragraph (b) of subdivision 2 of section 210.15 of the criminal
33 procedure law is amended to read as follows:

34 (b) To communicate, free of charge, by letter or by telephone PROVIDED
35 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
36 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, for the purposes of
37 obtaining counsel and informing a relative or friend that he OR SHE has
38 been charged with an offense; and

39 S 6. This act shall take effect on the sixtieth day after it shall
40 have become a law.