

7541

I N   S E N A T E

April 20, 2010

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Introduced by Sen. STAVISKY -- 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 the ability of defendants to call for counsel upon being charged with a crime

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

1     Section 1. Subdivision 8 of section 120.90 of the criminal procedure  
2     law, as added by a chapter of the laws of 2010 amending the criminal  
3     procedure law relating to providing defendants the ability to call any  
4     telephone number located in the United States or Puerto Rico for the  
5     purpose of obtaining counsel and informing a relative or friend that  
6     they have been charged with a crime, as proposed in legislative bills  
7     numbers S.5688-D and A.8530-E, is amended to read as follows:  
8     8. Upon arresting a defendant, other than a juvenile offender, for any  
9     offense pursuant to a warrant of arrest, a police officer shall, upon  
10    the defendant's request, permit the defendant to communicate by tele-  
11    phone provided by the law enforcement facility where the defendant is  
12    held to a phone number located anywhere in the United States or Puerto  
13    Rico, for the purposes of obtaining counsel and informing a relative or  
14    friend that he or she has been arrested, unless granting the call will  
15    compromise an ongoing investigation or the prosecution of the defendant.  
16    [If the officer has seized a cellphone or other digital device from the  
17    defendant, the officer shall grant the defendant access to the cellphone  
18    or device, for the purpose of locating a telephone number contained  
19    therein, unless granting such access will compromise an ongoing investi-  
20    gation or the prosecution of the defendant.]  
21    S 2. Subdivision 7 of section 140.20 of the criminal procedure law, as  
22    added by a chapter of the laws of 2010 amending the criminal procedure  
23    law relating to providing defendants the ability to call any telephone  
24    number located in the United States or Puerto Rico for the purpose of  
25    obtaining counsel and informing a relative or friend that they have been  
26    charged with a crime, as proposed in legislative bills numbers S.5688-D  
27    and A.8530-E, is amended to read as follows:

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

LBD16935-01-0

1       7. Upon arresting a person, other than a juvenile offender, for any  
2 offense without a warrant, a police officer shall, upon the arrested  
3 person's request, permit him or her to communicate by telephone provided  
4 by the law enforcement facility where the defendant is held to a phone  
5 number located in the United States or Puerto Rico, for the purposes of  
6 obtaining counsel and informing a relative or friend that he or she has  
7 been arrested, unless granting the call will compromise an ongoing  
8 investigation or the prosecution of the defendant. [If the officer has  
9 seized a cellphone or other digital device from the person, the officer  
10 shall grant him or her access to the cellphone or device, for the  
11 purpose of locating a telephone number contained therein, unless grant-  
12 ing such access will compromise an ongoing investigation or the prose-  
13 cution of the defendant.]

14       S 3. This act shall take effect on the same date and in the same  
15 manner as a chapter of the laws of 2010 amending the criminal procedure  
16 law relating to providing defendants the ability to call any telephone  
17 number located in the United States or Puerto Rico for the purpose of  
18 obtaining counsel and informing a relative or friend that they have been  
19 charged with a crime, as proposed in legislative bills numbers S.5688-D  
20 and A.8530-E, takes effect.