S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 23, 2016

Introduced by M. of A. LENTOL, BUCHWALD -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the judiciary law, the criminal procedure law and the uniform justice court act, in relation to off-hours arraignment parts in counties outside of the city of New York

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

Section 1. Subdivision 1 of section 212 of the judiciary law is amended by adding a new paragraph (w) to read as follows:

(W) ADOPT, AFTER CONSULTATION WITH THE OFFICE OF INDIGENT LEGAL SERVICES, THE APPROPRIATE LOCAL MAGISTRATES ASSOCIATION, INSTITUTIONAL PROVIDERS OF CRIMINAL DEFENSE SERVICES AND OTHER MEMBERS OF THE CRIMINAL DEFENSE BAR, LOCAL GOVERNMENT OFFICIALS, INCLUDING THE DISTRICT ATTORNEY, AND WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, A PLAN FOR THE ESTABLISHMENT, IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION, OF OFF-HOURS ARRAIGNMENT PARTS IN SELECT LOCAL CRIMINAL COURTS OF A COUNTY TO BE HELD IN SUCH COURTS ON A ROTATING BASIS FOR THE CONDUCT OF ARRAIGNMENTS AND OTHER PRELIMINARY PROCEEDINGS INCIDENTAL THERETO, AND FOR ARREST WARRANT RETURNS IN CRIMINAL CASES, WHERE THE USE OF SUCH PARTS WILL FACILITATE THE AVAILABILITY OF PUBLIC DEFENDERS OR ASSIGNED COUNSEL FOR DEFENDANTS IN NEED OF LEGAL REPRESENTATION AT SUCH PROCEEDINGS. TO THE EXTENT PRACTICABLE, AND NOTWITHSTANDING THAT ANY SUCH PLAN SHALL DESIGNATE OFF-HOURS ARRAIGNMENT PARTS IN FEWER THAN ALL OF THE LOCAL CRIMINAL COURTS OF A COUNTY, EACH PLAN AUTHORIZED BY THIS PARAGRAPH SHALL PROVIDE FOR THE PERIODIC ASSIGNMENT OF ALL OF THE JUDGES AND JUSTICES OF ALL OF THE LOCAL CRIMINAL COURTS IN THE AFFECTED COUNTY TO THE OFF-HOURS ARRAIGNMENT PARTS DESIGNATED THEREIN. THE CHIEF ADMINISTRATOR SHALL GIVE APPROPRIATE PUBLIC NOTICE OF EACH OFF-HOURS ARRAIGNMENT PART ESTABLISHED HEREUNDER AND EACH JUDICIAL ASSIGNMENT MADE THERETO.

S 2. Section 100.55 of the criminal procedure law is amended by adding a new subdivision 11 to read as follows:

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

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11. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A LOCAL CRIMINAL COURT ACCUSATORY INSTRUMENT MAY BE FILED WITH A LOCAL CRIMINAL COURT WHILE IT IS OPERATING AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW PROVIDED THAT AN OFFENSE CHARGED THEREIN WAS ALLEGEDLY COMMITTED IN THE COUNTY IN WHICH THE LOCAL CRIMINAL COURT IS LOCATED.

S 3. Subdivision 1 of section 120.90 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

1. Upon arresting a defendant for any offense pursuant to a warrant of arrest in the county in which the warrant is returnable or in any adjoining county, or upon so arresting him OR HER for a felony in any other county, a police officer, if he OR SHE be one to whom the warrant is addressed, must without unnecessary delay bring the defendant before the local criminal court in which such warrant is returnable, PROVIDED THAT, WHERE A LOCAL CRIMINAL COURT IN THE COUNTY IN WHICH THE WARRANT IS RETURNABLE HEREUNDER IS OPERATING AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW AT THE TIME OF DEFENDANT'S RETURN, SUCH POLICE OFFICER MAY BRING THE DEFENDANT BEFORE SUCH LOCAL CRIMINAL COURT.

S 4. Paragraph (d) of subdivision 1 of section 140.20 of the criminal procedure law, as amended by chapter 549 of the laws of 1987, is amended and a new paragraph (e) is added to read as follows:

(d) If the arrest is for a traffic infraction or for a misdemeanor relating to traffic, the police officer may, instead of bringing the arrested person before the local criminal court of the political subdivision or locality in which the offense was allegedly committed, bring him OR HER before the local criminal court of the same county nearest available by highway travel to the point of arrest[.]; AND

(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WHERE A LOCAL CRIMINAL COURT IN THE COUNTY IN WHICH THE DEFENDANT IS ARRESTED IS OPERATING AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW AT THE TIME OF DEFENDANT'S ARREST, THE ARRESTED PERSON MAY BE BROUGHT BEFORE SUCH LOCAL CRIMINAL COURT.

S 5. Section 170.10 of the criminal procedure law is amended by adding a new subdivision 10 to read as follows:

10. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, WHEN AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW IS IN OPERATION IN THE COUNTY IN WHICH THE COURT IS LOCATED, THE COURT MUST ADJOURN THE PROCEEDINGS BEFORE IT, AND DIRECT THAT THE PROCEEDINGS BE CONTINUED IN SUCH OFF-HOURS PART WHEN THE DEFENDANT HAS APPEARED BEFORE THE COURT WITHOUT COUNSEL AND NO COUNSEL IS OTHERWISE AVAILABLE AT THE TIME OF SUCH APPEARANCE TO AID THE DEFENDANT, UNLESS THE DEFENDANT DESIRES TO PROCEED WITHOUT THE AID OF COUNSEL AND THE COURT IS SATISFIED, PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THAT THE DEFENDANT MADE SUCH DECISION WITH KNOWLEDGE OF THE SIGNIFICANCE THEREOF.

S 6. Section 180.10 of the criminal procedure law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, WHEN AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW IS IN OPERATION IN THE COUNTY IN WHICH THE COURT IS LOCATED, THE COURT MUST

ADJOURN THE PROCEEDINGS BEFORE IT, AND DIRECT THAT THE PROCEEDINGS BE CONTINUED IN SUCH OFF-HOURS PART WHEN THE DEFENDANT HAS APPEARED BEFORE THE COURT WITHOUT COUNSEL AND NO COUNSEL IS OTHERWISE AVAILABLE AT THE TIME OF SUCH APPEARANCE TO AID THE DEFENDANT.

S 7. Subdivision 2 of section 106 of the uniform justice court act, as added by chapter 321 of the laws of 2007, is amended to read as follows:

2. The chief administrator of the courts may temporarily assign any justice of another town or village court, or a judge of a city court, to a town or village court within the county of such judge's or justice's residence or an adjoining county. While temporarily assigned hereunder, any such judge or justice shall have the powers, duties and jurisdiction of a justice of the court to which the assignment is made, INCLUDING THE POWER TO PRESIDE OVER AN OFF-HOURS ARRAIGNMENT PART ESTABLISHED IN SUCH COURT PURSUANT TO PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW. After the expiration of any tempo-rary assignment hereunder, the judge or justice assigned shall have all the powers, duties and jurisdiction of a judge or justice of the court to which the assignment was made with respect to all matters pending during the term of such temporary assignment. Such judge or justice shall be entitled to such compensation and travel expenses as the chief administrator shall prescribe by rule, payable out of funds appropriated to the state judiciary for such purpose.

S 8. This act shall take effect on the ninetieth day after it shall have become a law.