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

April 19, 2010

Introduced by M. of A. DenDEKKER -- read once and referred 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:

Section 1. Subdivision 8 of section 120.90 of the criminal procedure law, as added by a chapter of the laws of 2010 amending the criminal procedure law relating 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, as proposed in legislative bills numbers S.5688-D and A.8530-E, is amended to read as follows:

8. Upon arresting a defendant, other than a juvenile offender, for any offense pursuant to a warrant of arrest, a police officer shall, upon the defendant's request, permit the defendant to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located anywhere in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant. [If the officer has seized a cellphone or other digital device from the defendant, the officer shall grant the defendant access to the cellphone or device, for the purpose of locating a telephone number contained therein, unless granting such access will compromise an ongoing investigation or the prosecution of the defendant.]

S 2. Subdivision 7 of section 140.20 of the criminal procedure law, as added by a chapter of the laws of 2010 amending the criminal procedure law relating 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, as proposed in legislative bills numbers S.5688-D 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.

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

S 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2010 amending the criminal procedure law relating 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, as proposed in legislative bills numbers S.5688-D and A.8530-E, takes effect.