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

3937

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. RAIA, ALFANO, CALHOUN, McKEVITT, WALKER -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, BUTLER, CONTE, CROUCH, FINCH, KOLB, McDONOUGH, MILLER, O'MARA, RABBITT, TOWNSEND -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to authorizing the personal presence of crime victims during trial

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

Section 1. Legislative findings. The legislature hereby finds and determines that in the interest of the fair administration of justice that a victim of a criminal offense be afforded the opportunity to attend any trial or hearing conducted by any court which pertains to such criminal offense.

Further, the legislature hereby finds and determines, that in the interest of the fair administration of justice that a victim of a criminal offense not be excluded from any hearing or trial conducted by any court which pertains to such criminal offense merely because the victim has or may testify at such hearings or trial. The legislature finds that the right of the victim to be personally present during a trial or hearing should be guaranteed to further the interests of justice.

S 2. The criminal procedure law is amended by adding three new sections 260.25, 260.26 and 260.27 to read as follows:

S 260.25 CRIME VICTIM'S COURT ATTENDANCE.

THE VICTIM OF A CRIMINAL OFFENSE, OR HIS REPRESENTATIVE, SHALL BE ENTITLED TO BE PERSONALLY PRESENT DURING THE TRIAL OF AN INDICTMENT AND SHALL BE SEATED DURING SUCH TRIAL AT THE COUNSEL TABLE OF THE PROSECUTOR.

S 260.26 EXEMPTION FROM RULE REQUIRING EXCLUSION OF WITNESS FROM COURT; REMOVAL GENERALLY.

A CRIME VICTIM SHALL BE EXEMPT FROM THE OPERATION OF RULE OF COURT, REGULATION OR STATUTE OR OTHER LAW REQUIRING THE SEPARATION OR EXCLUSION

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

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OF WITNESSES FROM COURT IN CRIMINAL HEARINGS OR TRIALS. PROVIDED, HOWEVER, IF A CRIME VICTIM/WITNESS CONDUCTS HIMSELF IN SO DISORDERLY AND DISRUPTIVE A MANNER THAT THE TRIAL CANNOT BE CARRIED ON WITH HIM IN THE COURTROOM, HE MAY BE REMOVED FROM THE COURTROOM IF, AFTER HE HAS BEEN WARNED BY THE COURT THAT HE WILL BE REMOVED IF HE CONTINUES SUCH CONDUCT, HE CONTINUES TO ENGAGE IN SUCH CONDUCT.

S 260.27 DESIGNATION OF REPRESENTATIVE.

IF A VICTIM IS UNABLE TO ATTEND THE TRIAL OF AN INDICTMENT OR ANY PORTION THEREOF BY REASON OF DEATH, DISABILITY, HARDSHIP, INCAPACITY, PHYSICAL, MENTAL, OR EMOTIONAL CONDITION, AGE, OR OTHER INABILITY, THE VICTIM, THE VICTIM'S GUARDIAN OR THE VICTIM'S FAMILY MAY SELECT A REPRESENTATIVE WHO SHALL BE ENTITLED TO EXERCISE ANY RIGHT GRANTED TO THE VICTIM. PROVIDED, HOWEVER, IN THE EVENT OF A DISPUTE, THE COURT IN ITS DISCRETION MAY DESIGNATE SUCH REPRESENTATIVE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.