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

5542--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. TITUS, ESPAILLAT, COOK, CLARK, O'DONNELL, WRIGHT -- Multi-Sponsored by -- M. of A. GOTTFRIED, JAFFEE, JEFFRIES, JOHN, PERRY, ZEBROWSKI -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to exoneration of bail

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

Section 1. Section 530.20 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. WHEN A LOCAL CRIMINAL COURT HAS, IN ACCORDANCE WITH THIS SECTION, ORDERED BAIL WITH RESPECT TO A DEFENDANT CHARGED BY FELONY COMPLAINT, AND THE DEFENDANT IS SUBSEQUENTLY AT LIBERTY IN THE ACTION FOLLOWING THE POSTING OF BAIL, SUCH COURT SHALL UPON APPLICATION OF THE DEFENDANT, EXONERATE BAIL AND ORDER RECOGNIZANCE WHEN, AT THE TIME OF THE DEFENDANT'S APPLICATION THEREFOR, THE FELONY COMPLAINT HAS BEEN PENDING IN SUCH LOCAL CRIMINAL COURT, WITH NO ACTION OF THE GRAND JURY, FOR A PERIOD OF AT LEAST FORTY-FIVE DAYS FROM THE DATE OF THE DEFENDANT'S ARRAIGNMENT THEREON; PROVIDED, HOWEVER, THAT THE COURT MAY DENY SUCH APPLICATION WHERE THE PEOPLE SHOW GOOD CAUSE WHY BAIL SHOULD NOT BE EXONERATED.

S 2. Section 530.40 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, WHERE A DEFENDANT CHARGED BY FELONY COMPLAINT IS AT LIBERTY IN THE ACTION FOLLOWING THE POSTING OF BAIL, THE COURT SHALL UPON APPLICATION OF THE DEFENDANT, EXONERATE BAIL AND ORDER RECOGNIZANCE WHEN, AT THE TIME OF THE DEFENDANT'S APPLICATION THEREFOR, SUCH FELONY COMPLAINT HAS BEEN PENDING, WITH NO ACTION OF THE GRAND JURY, FOR A PERIOD OF AT LEAST FORTY-FIVE DAYS FROM THE DATE OF THE DEFENDANT'S ARRAIGNMENT THEREON; PROVIDED, HOWEVER, THAT THE COURT MAY DENY SUCH APPLICATION WHERE THE PEOPLE SHOW GOOD CAUSE WHY BAIL SHOULD NOT BE EXONERATED.

S 3. This act shall take effect immediately.

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

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