

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

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I N S E N A T E

February 11, 2009

Introduced by Sens. HUNTLEY, ADAMS, DIAZ, ESPADA -- 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 creating an infant defensive bureau

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

1 Section 1. The criminal procedure law is amended by adding a new arti-
2 cle 735 to read as follows:
3 ARTICLE 735 - INFANT DEFENSIVE BUREAU
4 SECTION 735.10 CREATION OF INFANT DEFENSIVE BUREAU.
5 735.15 EMPLOYEES OF BUREAU.
6 735.20 REPRESENTATION BY BUREAU.
7 735.25 NOTIFICATION OF PROCEEDINGS.
8 735.30 CONFLICT WITH YOUTHFUL OFFENDER PROCEDURE.
9 735.35 RIGHT TO JURY TRIAL.
10 735.40 SEALING OF RECORDS.
11 735.45 RESTORATION OF CIVIL RIGHTS.
12 S 735.10 CREATION OF INFANT DEFENSIVE BUREAU.
13 THERE IS HEREBY CREATED IN EACH COUNTY OF THE STATE AN INFANT DEFEN-
14 SIVE BUREAU FOR PERSONS AT LEAST SIXTEEN YEARS OLD AND LESS THAN TWEN-
15 TY-ONE YEARS OLD CHARGED WITH A FELONY CRIME.
16 S 735.15 EMPLOYEES OF BUREAU.
17 THE COUNTY EXECUTIVE OF EACH COUNTY SHALL APPOINT AN EXECUTIVE DIREC-
18 TOR OF THE BUREAU WHO MAY EMPLOY AND AT PLEASURE REMOVE SUCH PERSONNEL
19 AS HE OR SHE DEEMS NECESSARY FOR THE PERFORMANCE OF THE BUREAU'S FUNC-
20 TIONS AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE
21 THEREFOR. THE PERSONNEL SHALL INCLUDE BUT NOT BE LIMITED TO ATTORNEYS
22 WITH AT LEAST FIVE YEARS OF CRIMINAL LAW EXPERIENCE AND APPROVED BY THE
23 CHIEF JUDGE OF THE COURT OF APPEALS AT A SALARY OF NOT LESS THAN FIFTY
24 THOUSAND DOLLARS, PROBATION OFFICERS, PSYCHOLOGISTS, AND PSYCHIATRISTS.

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

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1 THE EMPLOYEES OF THE BUREAU SHALL BE REPRESENTATIVE OF THE ETHNIC DIVER-
2 SITY OF THE RESPECTIVE COUNTY IN WHICH THE BUREAU IS LOCATED.
3 S 735.20 REPRESENTATION BY BUREAU.
4 ANY PERSON SET FORTH IN SECTION 735.10 OF THIS ARTICLE SHALL BE TURNED
5 OVER TO THE BUREAU FOR ARRAIGNMENT WITHIN SIX HOURS OF HIS OR HER ARREST
6 AND DURING SAID ARRAIGNMENT SHALL BE KEPT SEPARATE FROM ANY INMATES
7 INCARCERATED IN THE ARRAIGNING LOCATION. AN ATTORNEY EMPLOYED BY THE
8 BUREAU SHALL BE APPOINTED AT THE TIME OF ARRAIGNMENT TO REPRESENT THE
9 DEFENDANT.
10 S 735.25 NOTIFICATION OF PROCEEDINGS.
11 PERSONAL NOTIFICATION OF AN ARREST AND ARRAIGNMENT UNDER THIS ARTICLE
12 SHALL BE GIVEN AS SOON AS PRACTICABLE TO THE DEFENDANT'S PARENTS OR LOCI
13 PARENTIS BY SERVICE OF AN APPEARANCE SUBPOENA UNLESS THE COURT DEEMS
14 SUCH NOTIFICATION IMPOSSIBLE.
15 S 735.30 CONFLICT WITH YOUTHFUL OFFENDER PROCEDURE.
16 THE PROVISIONS OF THIS ARTICLE SHALL SUPERSEDE ANY CONFLICTING
17 PROVISIONS OF THE YOUTHFUL OFFENDER PROCEDURE SET FORTH IN ARTICLE SEVEN
18 HUNDRED TWENTY OF THIS TITLE. THIS ARTICLE SHALL BE STRICTLY CONSTRUED
19 AS IN OTHER CRIMINAL LAW STATUTES.
20 S 735.35 RIGHT TO JURY TRIAL.
21 ANY TRIAL UNDER THIS ARTICLE SHALL BE BY JURY, UNLESS WAIVED, AS
22 OTHERWISE PROVIDED BY LAW.
23 S 735.40 SEALING OF RECORDS.
24 ANY RECORDS OF A PROCEEDING AGAINST THE DEFENDANT INCLUDING THE ACCU-
25 SATORY INSTRUMENT, SHALL BE FILED AS A SEALED INSTRUMENT AND SHALL BE
26 RELEASED ONLY UPON ORDER OF A SUPERIOR COURT UPON COMPLIANCE WITH THE
27 APPLICABLE PROVISIONS OF THE YOUTHFUL OFFENDER PROCEDURE.
28 S 735.45 RESTORATION OF CIVIL RIGHTS.
29 AFTER A PERIOD OF TEN YEARS FOLLOWING A DEFENDANT'S CONFINEMENT AND
30 COMPLETION OF PAROLE, IF ANY, THE DEFENDANT MAY APPLY TO THE BUREAU AND
31 UPON DEMONSTRATING GOOD CITIZENSHIP AND WORKING HABITS AND UPON PROPER
32 PROOF, TO REQUEST THE GOVERNOR TO ISSUE A CERTIFICATE OF ACTIVATION OF
33 HIS OR HER CIVIL RIGHTS INCLUDING BUT NOT LIMITED TO RIGHT TO VOTE AND
34 CIVIL SERVICE RIGHTS.
35 S 2. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law.