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

5083

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to forensic DNA testing

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

Section 1. Paragraph (a) of subdivision 1-a of section 440.30 of the criminal procedure law, as amended by chapter 138 of the laws of 2004, is amended to read as follows:

(a) Where the defendant's motion requests the performance of a forensic DNA test on specified evidence, and upon the court's determination that any evidence containing deoxyribonucleic acid ("DNA") was secured in connection with the INVESTIGATION OR trial resulting in the judgment, the court shall grant the application for forensic DNA testing of such evidence upon its determination that if a DNA test had been conducted on such evidence, and if the results had been AVAILABLE TO THE DEFENDANT, OR THE RESULTS HAD BEEN admitted in the trial resulting in the judgment, there exists a reasonable probability that the DISPOSITION OR verdict would have been more favorable to the defendant.

S 2. 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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