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

550

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the criminal procedure law, in relation to waiving the right to a jury trial in certain instances

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

Section 1. Section 320.10 of the criminal procedure law, subdivision 1 as amended by chapter 367 of the laws of 1974, is amended to read as follows:

S 320.10 Non-jury trial; when authorized.

1. Except where the indictment charges the crime of murder in the first degree, the defendant, subject to the provisions of [subdivision two] THIS SECTION, may at any time before trial waive a jury trial and consent to a trial without a jury in the superior court in which the indictment is pending.

2. THE DEFENDANT AND THE PROSECUTION, SUBJECT TO THE PROVISIONS OF THIS SECTION, MAY AT ANY TIME BEFORE TRIAL WAIVE A JURY TRIAL AND CONSENT TO A TRIAL WITHOUT A JURY IN THE SUPERIOR COURT IN WHICH THE INDICTMENT IS PENDING WHEN SUCH INDICTMENT BROUGHT BEFORE THE SUPERIOR COURT:

(A) INVOLVES A DEFENDANT WHO IS A LAW ENFORCEMENT OFFICER;

(B) ALLEGES A CRIME WHICH IS A VIOLENT FELONY OR AN ALLEGATION OF PUBLIC CORRUPTION; AND

(C) ALLEGES CONDUCT WHICH OCCURRED DURING THE COURSE OF THE DEFENDANT'S EMPLOYMENT AND WITHIN THE SCOPE OF HIS OR HER OFFICIAL DUTIES.

[2. Such] 3. THE waiver AUTHORIZED UNDER THIS SECTION must be in writing and must be signed by the [defendant] PARTY in person in open court in the presence of the court, and with the approval of the court. The court must approve the execution and submission of such waiver unless it determines that it is tendered as a stratagem to procure an otherwise

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

impermissible procedural advantage or that the defendant is not fully aware of the consequences of the choice he OR SHE is making. If the court disapproves the waiver, it must state upon the record its reasons for such disapproval.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.