

5596

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. OAKS, FINCH, KOLB, WALKER -- Multi-Sponsored by
-- M. of A. ALFANO, BARRA, CALHOUN, CROUCH, ERRIGO, JORDAN, McDONOUGH,
TOWNSEND -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to corrective
remedies

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

1 Section 1. The criminal procedure law is amended by adding a new
2 section 240.46 to read as follows:
3 S 240.46 CORRECTIVE REMEDIES.
4 A VIOLATION OF SECTION 240.44 OR SECTION 240.45 WILL ENTITLE A PARTY
5 TO A CORRECTIVE REMEDY UNDER SUBDIVISION ONE OF SECTION 240.70 ONLY IF
6 THE PARTY'S SUBSTANTIAL RIGHTS ARE AFFECTED, AND ONLY TO THE EXTENT
7 REQUIRED TO CURE THE PREJUDICE TO THOSE RIGHTS. A COURT SHALL NOT SET
8 ASIDE A CONVICTION, OR REVERSE OR MODIFY A JUDGMENT, ON ACCOUNT OF A
9 VIOLATION OF SECTION 240.45 UNLESS THE DEFENDANT DEMONSTRATES THAT HIS
10 OR HER SUBSTANTIAL RIGHTS ARE AFFECTED.
11 S 2. This act shall take effect on the first of November next succeed-
12 ing the date on which it shall have become a law.

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

LBD06387-01-9