

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

8530--C

2009-2010 Regular Sessions

I N A S S E M B L Y

May 27, 2009

Introduced by M. of A. DenDEKKER, LANCMAN, CAMARA, ABBATE, MAISEL, CHRISTENSEN, ORTIZ, WRIGHT, HEVESI, BOYLAND, AUBRY, ESPAILLAT, MENG, KELLNER, POWELL, PHEFFER, SKARTADOS, GABRYSZAK, JEFFRIES, MAYERSOHN, PERALTA, BROOK-KRASNY, PRETLOW, O'DONNELL, LENTOL, WEISENBERG, BARRON, HEASTIE, MARKEY, RAIA, MILLMAN, SPANO, KOON, COLTON, BENJAMIN, SCARBOROUGH, PEOPLES-STOKES, FIELDS, McDONOUGH, CASTRO, COOK, PERRY, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BACALLES, BRENNAN, CALHOUN, GALEF, GLICK, GOTTFRIED, LATIMER, LAVINE, MCENENY, NOLAN, O'MARA, QUINN, SALADINO, SCHIMEL, SWEENEY, TITONE -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to providing defendants the ability to call any telephone number located in the United States, or other location included in a domestic United States calling plan for the purpose of obtaining counsel and informing a relative or friend that they have been charged with a crime

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

1 Section 1. Section 120.90 of the criminal procedure law is amended by
2 adding a new subdivision 8 to read as follows:

3 8. UPON ARRESTING A DEFENDANT, OTHER THAN A JUVENILE OFFENDER, FOR ANY
4 OFFENSE PURSUANT TO A WARRANT OF ARREST, A POLICE OFFICER SHALL, UPON
5 THE DEFENDANT'S REQUEST, PERMIT THE DEFENDANT TO COMMUNICATE BY TELE-
6 PHONE TO A PHONE NUMBER LOCATED ANYWHERE IN THE UNITED STATES OR OTHER
7 LOCATION INCLUDED IN A DOMESTIC UNITED STATES CALLING PLAN, FOR THE
8 PURPOSES OF INFORMING A RELATIVE OR FRIEND THAT HE OR SHE HAS BEEN
9 ARRESTED, UNLESS GRANTING THE CALL WILL COMPROMISE AN ONGOING INVESTI-

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

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1 GATION OR THE PROSECUTION OF THE DEFENDANT. IF THE OFFICER HAS SEIZED A
2 CELLPHONE OR OTHER DIGITAL DEVICE FROM THE DEFENDANT, THE OFFICER SHALL
3 GRANT THE DEFENDANT ACCESS TO THE CELLPHONE OR DEVICE, FOR THE PURPOSE
4 OF LOCATING A TELEPHONE NUMBER CONTAINED THEREIN, UNLESS GRANTING SUCH
5 ACCESS WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSECUTION OF
6 THE DEFENDANT.

7 S 2. Section 140.20 of the criminal procedure law is amended by adding
8 a new subdivision 7 to read as follows:

9 7. UPON ARRESTING A PERSON, OTHER THAN A JUVENILE OFFENDER, FOR ANY
10 OFFENSE WITHOUT A WARRANT, A POLICE OFFICER SHALL, UPON THE ARRESTED
11 PERSON'S REQUEST, PERMIT HIM OR HER TO COMMUNICATE BY TELEPHONE TO A
12 PHONE NUMBER LOCATED ANYWHERE IN THE UNITED STATES OR OTHER LOCATION
13 INCLUDED IN A DOMESTIC UNITED STATES CALLING PLAN, FOR THE PURPOSES OF
14 INFORMING A RELATIVE OR FRIEND THAT HE OR SHE HAS BEEN ARRESTED, UNLESS
15 GRANTING THE CALL WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSE-
16 CUTION OF THE DEFENDANT. IF THE OFFICER HAS SEIZED A CELLPHONE OR OTHER
17 DIGITAL DEVICE FROM THE PERSON, THE OFFICER SHALL GRANT HIM OR HER
18 ACCESS TO THE CELLPHONE OR DEVICE, FOR THE PURPOSE OF LOCATING A TELE-
19 PHONE NUMBER CONTAINED THEREIN, UNLESS GRANTING SUCH ACCESS WILL COMPRO-
20 MISE AN ONGOING INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT.

21 S 3. Paragraph (b) of subdivision 3 of section 170.10 of the criminal
22 procedure law is amended to read as follows:

23 (b) To communicate, free of charge, by letter or by telephone TO A
24 PHONE NUMBER LOCATED IN THE UNITED STATES, OR OTHER LOCATION INCLUDED IN
25 A DOMESTIC UNITED STATES CALLING PLAN, for the purposes of obtaining
26 counsel and informing a relative or friend that he has been charged
27 with an offense; and

28 S 4. Paragraph (b) of subdivision 3 of section 180.10 of the criminal
29 procedure law is amended to read as follows:

30 (b) To communicate, free of charge, by letter or by telephone TO A
31 PHONE NUMBER LOCATED IN THE UNITED STATES, OR OTHER LOCATION INCLUDED IN
32 A DOMESTIC UNITED STATES CALLING PLAN, for the purpose of obtaining
33 counsel and informing a relative or friend that he has been charged with
34 an offense; and

35 S 5. Paragraph (b) of subdivision 2 of section 210.15 of the criminal
36 procedure law is amended to read as follows:

37 (b) To communicate, free of charge, by letter or by telephone TO A
38 PHONE NUMBER LOCATED IN THE UNITED STATES, OR OTHER LOCATION INCLUDED IN
39 A DOMESTIC UNITED STATES CALLING PLAN, for the purposes of obtaining
40 counsel and informing a relative or friend that he has been charged with
41 an offense; and

42 S 6. This act shall take effect immediately.