

8530--E

Cal. No. 604

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 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

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 Puerto Rico 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-

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

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1 PHONE PROVIDED BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS
2 HELD TO A PHONE NUMBER LOCATED ANYWHERE IN THE UNITED STATES OR PUERTO
3 RICO, FOR THE PURPOSES OF OBTAINING COUNSEL AND INFORMING A RELATIVE OR
4 FRIEND THAT HE OR SHE HAS BEEN ARRESTED, UNLESS GRANTING THE CALL WILL
5 COMPROMISE AN ONGOING INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT.
6 IF THE OFFICER HAS SEIZED A CELLPHONE OR OTHER DIGITAL DEVICE FROM THE
7 DEFENDANT, THE OFFICER SHALL GRANT THE DEFENDANT ACCESS TO THE CELLPHONE
8 OR DEVICE, FOR THE PURPOSE OF LOCATING A TELEPHONE NUMBER CONTAINED
9 THEREIN, UNLESS GRANTING SUCH ACCESS WILL COMPROMISE AN ONGOING INVESTI-
10 GATION OR THE PROSECUTION OF THE DEFENDANT.

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

13 7. UPON ARRESTING A PERSON, OTHER THAN A JUVENILE OFFENDER, FOR ANY
14 OFFENSE WITHOUT A WARRANT, A POLICE OFFICER SHALL, UPON THE ARRESTED
15 PERSON'S REQUEST, PERMIT HIM OR HER TO COMMUNICATE BY TELEPHONE PROVIDED
16 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
17 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, FOR THE PURPOSES OF
18 OBTAINING COUNSEL AND INFORMING A RELATIVE OR FRIEND THAT HE OR SHE HAS
19 BEEN ARRESTED, UNLESS GRANTING THE CALL WILL COMPROMISE AN ONGOING
20 INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT. IF THE OFFICER HAS
21 SEIZED A CELLPHONE OR OTHER DIGITAL DEVICE FROM THE PERSON, THE OFFICER
22 SHALL GRANT HIM OR HER ACCESS TO THE CELLPHONE OR DEVICE, FOR THE
23 PURPOSE OF LOCATING A TELEPHONE NUMBER CONTAINED THEREIN, UNLESS GRANT-
24 ING SUCH ACCESS WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSE-
25 CUTION OF THE DEFENDANT.

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

28 (b) To communicate, free of charge, by letter or by telephone PROVIDED
29 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
30 NUMBER LOCATED IN THE UNITED STATES, OR PUERTO RICO, for the purposes of
31 obtaining counsel and informing a relative or friend that he OR SHE has
32 been charged with an offense; and

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

35 (b) To communicate, free of charge, by letter or by telephone PROVIDED
36 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
37 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, for the purpose of
38 obtaining counsel and informing a relative or friend that he OR SHE has
39 been charged with an offense; and

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

42 (b) To communicate, free of charge, by letter or by telephone PROVIDED
43 BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS HELD TO A PHONE
44 NUMBER LOCATED IN THE UNITED STATES OR PUERTO RICO, for the purposes of
45 obtaining counsel and informing a relative or friend that he OR SHE has
46 been charged with an offense; and

47 S 6. This act shall take effect on the sixtieth day after it shall
48 have become a law.