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

2618

2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sen. SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to prosecution by superior court information following dismissal of an indictment or count thereof

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

Section 1. Paragraph (a) of subdivision 1 of section 195.10 of the criminal procedure law, as amended by chapter 401 of the laws of 2008, is amended to read as follows:

(a) a local criminal court, OR A SUPERIOR COURT ACTING PURSUANT TO SUBDIVISION FOUR OF SECTION 210.20, has held the defendant for the action of a grand jury; and

S 2. Subdivision 4 of section 210.20 of the criminal procedure law, as amended by chapter 467 of the laws of 1974, is amended to read as follows:

4. Upon dismissing an indictment or a count thereof upon any of the grounds specified in paragraphs (a), (b), (c) and (i) of subdivision one, or, upon dismissing a superior court information or a count thereof upon any of the grounds specified in [paragraphs] PARAGRAPH (a) or (i) of subdivision one, the court may, upon application of the people, in its discretion authorize the people to submit the charge or charges to the same or another grand jury. SUCH AUTHORIZATION SHALL, FOR PURPOSES OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 195.10, BE DEEMED TO CONSTITUTE AN ORDER HOLDING THE DEFENDANT FOR THE ACTION OF A GRAND JURY WITH RESPECT TO SUCH CHARGE OR CHARGES. When the dismissal is based upon some other ground, such authorization may not be granted. In the absence of authorization to submit or resubmit, the order of dismissal constitutes a bar to any further prosecution of such charge or charges, by indictment or otherwise, in any criminal court within the county.

S 3. This act shall take effect immediately.

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

LBD09567-01-9