

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

5688--B

2009-2010 Regular Sessions

I N S E N A T E

May 27, 2009

Introduced by Sens. STAVISKY, ADAMS, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONSERRATE, ONORATO, SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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-
10 GATION OR THE PROSECUTION OF THE DEFENDANT. IF THE OFFICER HAS SEIZED A
11 CELLPHONE OR OTHER DIGITAL DEVICE FROM THE DEFENDANT, THE OFFICER SHALL
12 GRANT THE DEFENDANT ACCESS TO THE CELLPHONE OR DEVICE, FOR THE PURPOSE
13 OF LOCATING A TELEPHONE NUMBER CONTAINED THEREIN, UNLESS GRANTING SUCH
14 ACCESS WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSECUTION OF
15 THE DEFENDANT.
16 S 2. Section 140.20 of the criminal procedure law is amended by adding
17 a new subdivision 7 to read as follows:

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

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

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

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

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

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

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

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

34 S 6. This act shall take effect immediately.