

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

5688--C

2009-2010 Regular Sessions

I N S E N A T E

May 27, 2009

Introduced by Sens. STAVISKY, ADAMS, ESPADA, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONSERRATE, MONTGOMERY, 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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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 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-
6 PHONE PROVIDED BY THE LAW ENFORCEMENT FACILITY WHERE THE DEFENDANT IS
7 HELD TO A PHONE NUMBER LOCATED ANYWHERE IN THE UNITED STATES OR PUERTO
8 RICO, FOR THE PURPOSES OF INFORMING A RELATIVE OR FRIEND THAT HE OR SHE
9 HAS BEEN ARRESTED, UNLESS GRANTING THE CALL WILL COMPROMISE AN ONGOING
10 INVESTIGATION OR THE PROSECUTION OF THE DEFENDANT. IF THE OFFICER HAS
11 SEIZED A CELLPHONE OR OTHER DIGITAL DEVICE FROM THE DEFENDANT, THE OFFI-
12 CER SHALL GRANT THE DEFENDANT ACCESS TO THE CELLPHONE OR DEVICE, FOR THE
13 PURPOSE OF LOCATING A TELEPHONE NUMBER CONTAINED THEREIN, UNLESS GRANT-
14 ING SUCH ACCESS WILL COMPROMISE AN ONGOING INVESTIGATION OR THE PROSE-
15 CUTION OF THE DEFENDANT.

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

LBD14089-07-0

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

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

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

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

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

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

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

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

36 S 6. This act shall take effect immediately.