

7541

I N S E N A T E

April 20, 2010

Introduced by Sen. STAVISKY -- 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 the ability of defendants to call for counsel upon being charged with a crime

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

1 Section 1. Subdivision 8 of section 120.90 of the criminal procedure
2 law, as added by a chapter of the laws of 2010 amending the criminal
3 procedure law relating to providing defendants the ability to call any
4 telephone number located in the United States or Puerto Rico for the
5 purpose of obtaining counsel and informing a relative or friend that
6 they have been charged with a crime, as proposed in legislative bills
7 numbers S.5688-D and A.8530-E, is amended to read as follows:
8 8. Upon arresting a defendant, other than a juvenile offender, for any
9 offense pursuant to a warrant of arrest, a police officer shall, upon
10 the defendant's request, permit the defendant to communicate by tele-
11 phone provided by the law enforcement facility where the defendant is
12 held to a phone number located anywhere in the United States or Puerto
13 Rico, for the purposes of obtaining counsel and informing a relative or
14 friend that he or she has been arrested, unless granting the call will
15 compromise an ongoing investigation or the prosecution of the defendant.
16 [If the officer has seized a cellphone or other digital device from the
17 defendant, the officer shall grant the defendant access to the cellphone
18 or device, for the purpose of locating a telephone number contained
19 therein, unless granting such access will compromise an ongoing investi-
20 gation or the prosecution of the defendant.]
21 S 2. Subdivision 7 of section 140.20 of the criminal procedure law, as
22 added by a chapter of the laws of 2010 amending the criminal procedure
23 law relating to providing defendants the ability to call any telephone
24 number located in the United States or Puerto Rico for the purpose of
25 obtaining counsel and informing a relative or friend that they have been
26 charged with a crime, as proposed in legislative bills numbers S.5688-D
27 and A.8530-E, is amended to read as follows:

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

LBD16935-01-0

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 provided
4 by the law enforcement facility where the defendant is held to a phone
5 number located in the United States or Puerto Rico, for the purposes of
6 obtaining counsel and informing a relative or friend that he or she has
7 been arrested, unless granting the call will compromise an ongoing
8 investigation or the prosecution of the defendant. [If the officer has
9 seized a cellphone or other digital device from the person, the officer
10 shall grant him or her access to the cellphone or device, for the
11 purpose of locating a telephone number contained therein, unless grant-
12 ing such access will compromise an ongoing investigation or the prose-
13 cution of the defendant.]

14 S 3. This act shall take effect on the same date and in the same
15 manner as a chapter of the laws of 2010 amending the criminal procedure
16 law relating to providing defendants the ability to call any telephone
17 number located in the United States or Puerto Rico for the purpose of
18 obtaining counsel and informing a relative or friend that they have been
19 charged with a crime, as proposed in legislative bills numbers S.5688-D
20 and A.8530-E, takes effect.