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

10488

I N A S S E M B L Y

May 29, 2012

Introduced by M. of A. CLARK -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to permitting two additional phone calls for an arrested person who is a custodial parent of a minor

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

Section 1. Subdivision 8 of section 120.90 of the criminal procedure law, as amended by chapter 96 of the laws of 2010, is amended to read as follows:

8. (A) Upon arresting a defendant, other than a juvenile offender, for any offense pursuant to a warrant of arrest, a police officer shall, upon the defendant's request, permit the defendant to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located anywhere in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant.

(B) EXCEPT WHERE PHYSICALLY IMPOSSIBLE, NO LATER THAN THREE HOURS AFTER ARREST, THE ARRESTING OR BOOKING OFFICER SHALL INQUIRE AS TO WHETHER THE ARRESTED PERSON IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD. THE ARRESTING OR BOOKING OFFICER SHALL NOTIFY THE ARRESTED PERSON WHO IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD THAT HE OR SHE IS ENTITLED TO, AND MAY REQUEST TO MAKE, TWO ADDITIONAL TELEPHONE CALLS AT NO EXPENSE IF THE TELEPHONE CALLS ARE COMPLETED TO TELEPHONE NUMBERS WITHIN THE LOCAL CALLING AREA, OR AT HIS OR HER OWN EXPENSE IF OUTSIDE THE LOCAL CALLING AREA, TO A RELATIVE OR OTHER PERSON FOR THE PURPOSE OF ARRANGING FOR THE CARE OF THE MINOR CHILD OR CHILDREN IN THE PARENT'S ABSENCE. SUCH TELEPHONE CALLS SHALL BE GIVEN IMMEDIATELY UPON REQUEST, OR AS SOON AS PRACTICABLE. THE NOTICE REQUIRED BY THIS PARAGRAPH SHALL BE CONDUCTED IN THE ARRESTEE'S PRIMARY LANGUAGE AND CAN BE CONDUCTED EITHER BY THE ARRESTING OFFICER OR OTHER REPRESENTATIVE OF THE ARRESTING AGENCY OR THROUGH AN ORAL INTERPRETATION

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

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TELEPHONE SERVICE THAT THE ARRESTING AGENCY BELIEVES IS COMPETENT TO PROVIDE THESE SERVICES.

(C) AT ANY POLICE FACILITY OR PLACE WHERE AN ARRESTEE IS DETAINED, A SIGN CONTAINING THE FOLLOWING INFORMATION IN BOLD BLOCK TYPE SHALL BE POSTED IN A CONSPICUOUS PLACE: THAT THE ARRESTEE, IF HE OR SHE IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD, HAS THE RIGHT TO TWO ADDITIONAL TELEPHONE CALLS WITHIN THE LOCAL DIALING AREA, OR AT HIS OR HER OWN EXPENSE IF OUTSIDE THE LOCAL AREA, FOR THE PURPOSE OF ARRANGING FOR THE CARE OF THE MINOR CHILD OR CHILDREN IN THE PARENT'S ABSENCE. THE SIGNS POSTED PURSUANT TO THIS PARAGRAPH SHALL MAKE THE SPECIFIED NOTIFICATIONS IN ANY NON-ENGLISH LANGUAGE SPOKEN BY A SUBSTANTIAL NUMBER OF THE PUBLIC WHO ARE SERVED BY THE POLICE FACILITY OR PLACE OF DETAINMENT.

(D) THE RIGHTS AND DUTIES SET FORTH IN THIS SUBDIVISION SHALL BE ENFORCED REGARDLESS OF THE ARRESTEE'S IMMIGRATION STATUS.

(E) UPON BEING RELEASED OR TRANSFERRED FOR ANY REASON, OR BEING HELD FOR IMMIGRATION REASONS, AN ARRESTEE OR DETAINEE SHALL BE INFORMED OF THE RIGHT TO, AND MAY REQUEST TO MAKE, AT LEAST TWO TELEPHONE CALLS TO NOTIFY A CHILD CAREGIVER OR FAMILY MEMBER OF THE RELEASE, TRANSFER, OR HOLD AND THE LOCATION TO WHICH HE OR SHE WILL BE TRANSFERRED OR THE LOCATION OF RELEASE.

S 2. Subdivision 7 of section 140.20 of the criminal procedure law, as amended by chapter 96 of the laws of 2010, is amended to read as follows:

7. (A) Upon arresting a person, other than a juvenile offender, for any offense without a warrant, a police officer shall, upon the arrested person's request, permit him or her to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant.

(B) EXCEPT WHERE PHYSICALLY IMPOSSIBLE, NO LATER THAN THREE HOURS AFTER ARREST, THE ARRESTING OR BOOKING OFFICER SHALL INQUIRE AS TO WHETHER THE ARRESTED PERSON IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD. THE ARRESTING OR BOOKING OFFICER SHALL NOTIFY THE ARRESTED PERSON WHO IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD THAT HE OR SHE IS ENTITLED TO, AND MAY REQUEST TO MAKE, TWO ADDITIONAL TELEPHONE CALLS AT NO EXPENSE IF THE TELEPHONE CALLS ARE COMPLETED TO TELEPHONE NUMBERS WITHIN THE LOCAL CALLING AREA, OR AT HIS OR HER OWN EXPENSE IF OUTSIDE THE LOCAL CALLING AREA, TO A RELATIVE OR OTHER PERSON FOR THE PURPOSE OF ARRANGING FOR THE CARE OF THE MINOR CHILD OR CHILDREN IN THE PARENT'S ABSENCE. SUCH TELEPHONE CALLS SHALL BE GIVEN IMMEDIATELY UPON REQUEST, OR AS SOON AS PRACTICABLE. THE NOTICE REQUIRED BY THIS PARAGRAPH SHALL BE CONDUCTED IN THE ARRESTEE'S PRIMARY LANGUAGE AND CAN BE CONDUCTED EITHER BY THE ARRESTING OFFICER OR OTHER REPRESENTATIVE OF THE ARRESTING AGENCY OR THROUGH AN ORAL INTERPRETATION TELEPHONE SERVICE THAT THE ARRESTING AGENCY BELIEVES IS COMPETENT TO PROVIDE THESE SERVICES.

(C) AT ANY POLICE FACILITY OR PLACE WHERE AN ARRESTEE IS DETAINED, A SIGN CONTAINING THE FOLLOWING INFORMATION IN BOLD BLOCK TYPE SHALL BE POSTED IN A CONSPICUOUS PLACE: THAT THE ARRESTEE, IF HE OR SHE IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A MINOR CHILD, HAS THE RIGHT TO TWO ADDITIONAL TELEPHONE CALLS WITHIN THE LOCAL DIALING AREA, OR AT HIS OR HER OWN EXPENSE IF OUTSIDE THE LOCAL AREA, FOR THE PURPOSE OF ARRANGING FOR THE CARE OF THE MINOR CHILD OR CHILDREN IN THE PARENT'S ABSENCE.

THE SIGNS POSTED PURSUANT TO THIS PARAGRAPH SHALL MAKE THE SPECIFIED NOTIFICATIONS IN ANY NON-ENGLISH LANGUAGE SPOKEN BY A SUBSTANTIAL NUMBER OF THE PUBLIC WHO ARE SERVED BY THE POLICE FACILITY OR PLACE OF DETAINMENT.

(D) THE RIGHTS AND DUTIES SET FORTH IN THIS SUBDIVISION SHALL BE ENFORCED REGARDLESS OF THE ARRESTEE'S IMMIGRATION STATUS.

(E) UPON BEING RELEASED OR TRANSFERRED FOR ANY REASON, OR BEING HELD FOR IMMIGRATION REASONS, AN ARRESTEE OR DETAINEE SHALL BE INFORMED OF THE RIGHT TO, AND MAY REQUEST TO MAKE, AT LEAST TWO TELEPHONE CALLS TO NOTIFY A CHILD CAREGIVER OR FAMILY MEMBER OF THE RELEASE, TRANSFER, OR HOLD AND THE LOCATION TO WHICH HE OR SHE WILL BE TRANSFERRED OR THE LOCATION OF RELEASE.

S 3. This act shall take effect immediately.