

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 8 of section 120.90 of the criminal procedure
2 law, as amended by chapter 96 of the laws of 2010, is amended to read as
3 follows:
4 8. (A) Upon arresting a defendant, other than a juvenile offender, for
5 any offense pursuant to a warrant of arrest, a police officer shall,
6 upon the defendant's request, permit the defendant to communicate by
7 telephone provided by the law enforcement facility where the defendant
8 is held to a phone number located anywhere in the United States or Puer-
9 to Rico, for the purposes of obtaining counsel and informing a relative
10 or friend that he or she has been arrested, unless granting the call
11 will compromise an ongoing investigation or the prosecution of the
12 defendant.
13 (B) EXCEPT WHERE PHYSICALLY IMPOSSIBLE, NO LATER THAN THREE HOURS
14 AFTER ARREST, THE ARRESTING OR BOOKING OFFICER SHALL INQUIRE AS TO
15 WHETHER THE ARRESTED PERSON IS A CUSTODIAL PARENT WITH RESPONSIBILITY
16 FOR A MINOR CHILD. THE ARRESTING OR BOOKING OFFICER SHALL NOTIFY THE
17 ARRESTED PERSON WHO IS A CUSTODIAL PARENT WITH RESPONSIBILITY FOR A
18 MINOR CHILD THAT HE OR SHE IS ENTITLED TO, AND MAY REQUEST TO MAKE, TWO
19 ADDITIONAL TELEPHONE CALLS AT NO EXPENSE IF THE TELEPHONE CALLS ARE
20 COMPLETED TO TELEPHONE NUMBERS WITHIN THE LOCAL CALLING AREA, OR AT HIS
21 OR HER OWN EXPENSE IF OUTSIDE THE LOCAL CALLING AREA, TO A RELATIVE OR
22 OTHER PERSON FOR THE PURPOSE OF ARRANGING FOR THE CARE OF THE MINOR
23 CHILD OR CHILDREN IN THE PARENT'S ABSENCE. SUCH TELEPHONE CALLS SHALL BE
24 GIVEN IMMEDIATELY UPON REQUEST, OR AS SOON AS PRACTICABLE. THE NOTICE
25 REQUIRED BY THIS PARAGRAPH SHALL BE CONDUCTED IN THE ARRESTEE'S PRIMARY
26 LANGUAGE AND CAN BE CONDUCTED EITHER BY THE ARRESTING OFFICER OR OTHER
27 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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1 TELEPHONE SERVICE THAT THE ARRESTING AGENCY BELIEVES IS COMPETENT TO
2 PROVIDE THESE SERVICES.

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

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

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

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

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

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

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

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

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

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8 FOR IMMIGRATION REASONS, AN ARRESTEE OR DETAINEE SHALL BE INFORMED OF
9 THE RIGHT TO, AND MAY REQUEST TO MAKE, AT LEAST TWO TELEPHONE CALLS TO
10 NOTIFY A CHILD CAREGIVER OR FAMILY MEMBER OF THE RELEASE, TRANSFER, OR
11 HOLD AND THE LOCATION TO WHICH HE OR SHE WILL BE TRANSFERRED OR THE
12 LOCATION OF RELEASE.

13 S 3. This act shall take effect immediately.