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

3000

2011-2012 Regular Sessions

I N  A S S E M B L Y

January 21, 2011

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

AN ACT to amend the criminal procedure law, in relation to ensuring accurate fingerprint identifications and providing for a verification hearing upon arrest

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

Section 1. Section 160.30 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL BE RESPONSIBLE FOR DEVELOPING AN ADEQUATE PROCEDURE TO ENSURE THE ACCURACY OF FINGERPRINT IDENTIFICATIONS IN ORDER TO PREVENT ERRONEOUS IDENTIFICATIONS BASED UPON CLERICAL ERROR. PRIOR TO THE ARREST OF A DEFENDANT BASED UPON FINGERPRINT IDENTIFICATION EVIDENCE, TWO DIFFERENT EMPLOYEES OF THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL EACH VERIFY THE ACCURACY OF SUCH FINGERPRINT IDENTIFICATION AND ACCOMPANYING INFORMATION ON RECORD AND SHALL MAINTAIN A WRITTEN RECORD OF SUCH VERIFICATIONS.

S 2. The criminal procedure law is amended by adding a new section 160.35 to read as follows:

S 160.35 FINGERPRINTING; VERIFICATION HEARING.

UPON AN ARREST BASED ON FINGERPRINT IDENTIFICATION EVIDENCE, A DEFENDANT MAY FILE A MOTION CHALLENGING SUCH IDENTIFICATION WITH A PREPONDERANCE OF EVIDENCE AND MAY BE GRANTED AN IMMEDIATE HEARING IN THE LOCAL CRIMINAL COURT FOR THE PURPOSE OF VERIFYING THE ACCURACY OF SUCH FINGERPRINT IDENTIFICATION AND THE POSSIBILITY OF CLERICAL OR OTHER ERROR IN SUCH IDENTIFICATION.

S 3. The division of criminal justice services shall make an annual report to the state legislature and the state attorney general regarding the accuracy and efficiency of the procedure developed pursuant to the amendments made to section 160.30 of the criminal procedure law by section one of this act. The report shall include a critical review of

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

LBD02555-01-1

such procedure, including but not limited to its efficiency, flaws and the numbers of erroneous identifications.

S 4. This act shall take effect on the first of November next succeeding the date upon which it shall have become a law.