

5221

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. O'DONNELL, JAFFEE, NOLAN, LANCMAN, CASTRO, McDONOUGH, ZEBROWSKI, MILLMAN, LAVINE, TITONE, KAVANAGH -- Multi-Sponsored by -- M. of A. BENEDETTO, BING, BOYLAND, GIBSON, GLICK, GOTTFRIED, LIFTON, PERRY, REILLY, WEISENBERG -- read once and referred to the Committee on Judiciary

AN ACT to amend the uniform justice court act, in relation to the right of defendants in misdemeanor or felony cases to have such matter appear before a judge or justice admitted to practice law in New York

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

1 Section 1. The uniform justice court act is amended by adding a new
2 section 105-a to read as follows:
3 S 105-A. ELECTION TO PROCEED IN CERTAIN CRIMINAL ACTIONS. A. A DEFEND-
4 ANT APPEARING IN A JUSTICE COURT PURSUANT TO AN ACCUSATORY INSTRUMENT
5 THAT CHARGES A MISDEMEANOR OR FELONY MAY ELECT TO PROCEED IN SUCH MATTER
6 ONLY BEFORE A JUSTICE OR JUDGE ADMITTED TO PRACTICE LAW IN THIS STATE.
7 SUCH ELECTION SHALL BE BY WRITTEN INSTRUMENT IN A FORM PRESCRIBED BY THE
8 CHIEF ADMINISTRATOR OF THE COURTS AND SHALL BE FILED WITH SUCH COURT NOT
9 LATER THAN THE COMPLETION OF THE FIRST APPEARANCE AT WHICH EITHER THE
10 DEFENDANT MAKES A MOTION OR SUCH COURT DECIDES A MOTION MADE BY THE
11 PROSECUTOR, OTHER THAN A MOTION IN RELATION TO ANY MATTER SPECIFIED IN
12 SUBDIVISION B OF THIS SECTION.
13 B. NOTWITHSTANDING AN ELECTION PURSUANT TO SUBDIVISION A OF THIS
14 SECTION, A JUSTICE OR JUDGE NOT ADMITTED TO PRACTICE LAW IN THIS STATE
15 MAY ARRAIGN THE DEFENDANT, ENTER A PLEA, VACATE A PLEA ENTERED BY SUCH
16 JUSTICE OR JUDGE, ISSUE OR MODIFY A SECURING ORDER, FIX OR MODIFY BAIL,
17 ASSIGN COUNSEL, CONDUCT A PROCEEDING PURSUANT TO ARTICLE ONE HUNDRED
18 SEVENTY OR ONE HUNDRED EIGHTY OF THE CRIMINAL PROCEDURE LAW, ISSUE A
19 TEMPORARY ORDER OF PROTECTION, OR SUSPEND A LICENSE OR REGISTRATION
20 PURSUANT TO ARTICLE TWENTY OF THE VEHICLE AND TRAFFIC LAW.

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

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1 C. THE CHIEF ADMINISTRATOR SHALL PROMULGATE RULES TO EFFECTUATE THE
2 PROVISIONS OF THIS SECTION. SUCH RULES SHALL ENSURE THAT DEFENDANTS ARE
3 TIMELY ADVISED OF THE RIGHT OF ELECTION ESTABLISHED IN THIS SECTION AND
4 THAT EACH CASE IN WHICH A DEFENDANT MAKES SUCH AN ELECTION IS ASSIGNED
5 TO A JUSTICE OR JUDGE ADMITTED TO PRACTICE LAW IN THIS STATE WITH MINI-
6 MUM PRACTICABLE DELAY AND BURDEN TO THE PARTIES.
7 S 2. This act shall take effect on the one hundred twentieth day after
8 it shall have become a law. Effective immediately, the addition, amend-
9 ment and/or repeal of any rule or regulation necessary for the implemen-
10 tation of this act on its effective date is authorized and directed to
11 be made and completed on or before such date.