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

5627

2013-2014 Regular Sessions

I N S E N A T E

May 30, 2013

Introduced by Sen. NOZZOLIO -- 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 statements of defendants suspected of committing, facilitating or participating in any crime related to an act of terrorism

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

Section 1. Section 60.45 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. ANY DEFENDANT, WHO IS A CITIZEN OF THE UNITED STATES, WHO IS SUSPECTED OF COMMITTING, FACILITATING OR PARTICIPATING IN ANY CRIME RELATED TO AN ACT OF TERRORISM AS DEFINED IN SECTION 490.05 OF THE PENAL LAW, SHALL NOT BE REQUIRED TO BE CHARGED, BE GIVEN MIRANDA WARNINGS, OR BE ALLOWED ACCESS TO COUNSEL, FOR NOT LESS THAN FORTY-EIGHT HOURS AFTER BEING TAKEN INTO CUSTODY. ANY STATEMENT BY SUCH A DEFENDANT, WITHIN SUCH FORTY-EIGHT HOUR PERIOD, SHALL NOT BE USED AS EVIDENCE IN THE TRIAL OF SUCH DEFENDANT WITHOUT HIS OR HER CONSENT PROVIDED AFTER HAVING AN OPPORTUNITY TO CONSULT WITH COUNSEL. ANY EVIDENCE OBTAINED AS A RESULT OF, OR DERIVED FROM, A STATEMENT BY SUCH DEFENDANT, WITHIN SUCH FORTY-EIGHT HOUR PERIOD, MAY BE USED AS EVIDENCE IN THE TRIAL OF SUCH DEFENDANT, IF IT CAN BE DEMONSTRATED THAT SUCH EVIDENCE SO OBTAINED OR DERIVED, COULD HAVE REASONABLY BEEN DISCOVERED WITHOUT SUCH STATEMENT. ANY DEFENDANT, WHO IS NOT A CITIZEN OF THE UNITED STATES, WHO IS SUSPECTED OF COMMITTING, FACILITATING OR PARTICIPATING IN ANY CRIME RELATED TO AN ACT OF TERRORISM AS DEFINED IN SECTION 490.05 OF THE PENAL LAW, SHALL BE DEEMED A FOREIGN ENEMY COMBATANT, AND SHALL NOT BE REQUIRED TO BE CHARGED, BE GIVEN MIRANDA WARNINGS, OR BE ALLOWED ACCESS TO COUNSEL. A FOREIGN ENEMY COMBATANT SHALL BE DELIVERED TO THE CUSTODY OF FEDERAL AUTHORITIES, OR SHALL BE REQUIRED TO BE CHARGED, BE GIVEN MIRANDA WARNINGS, OR BE ALLOWED ACCESS TO COUNSEL, WITHIN FORTY-EIGHT HOURS OF BEING TAKEN INTO CUSTODY. ANY STATEMENT BY SUCH A FOREIGN ENEMY

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

LBD11295-01-3

COMBATANT WHO IS NOT DELIVERED TO THE CUSTODY OF FEDERAL AUTHORITIES, WITHIN SUCH FORTY-EIGHT HOUR PERIOD, SHALL NOT BE USED AS EVIDENCE IN THE TRIAL OF SUCH FOREIGN ENEMY COMBATANT WITHOUT HIS OR HER CONSENT PROVIDED AFTER HAVING AN OPPORTUNITY TO CONSULT WITH COUNSEL. ANY EVIDENCE OBTAINED AS A RESULT OF, OR DERIVED FROM, A STATEMENT BY SUCH FOREIGN ENEMY COMBATANT, WITHIN SUCH FORTY-EIGHT HOUR PERIOD, MAY BE USED AS EVIDENCE IN THE TRIAL OF SUCH FOREIGN ENEMY COMBATANT, IF IT CAN BE DEMONSTRATED THAT SUCH EVIDENCE SO OBTAINED OR DERIVED, COULD HAVE REASONABLY BEEN DISCOVERED WITHOUT SUCH STATEMENT.

S 2. This act shall take effect immediately.