

2511

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. CLARK, STEVENSON, JAFFEE, SCARBOROUGH, BARRON,
ROBINSON, WEPRIN -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN,
BROOK-KRASNY, GOTTFRIED, MONTESANO, MOYA -- 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

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

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1 CHILD OR CHILDREN IN THE PARENT'S ABSENCE. SUCH TELEPHONE CALLS SHALL BE
2 GIVEN IMMEDIATELY UPON REQUEST, OR AS SOON AS PRACTICABLE. THE NOTICE
3 REQUIRED BY THIS PARAGRAPH SHALL BE CONDUCTED IN THE ARRESTEE'S PRIMARY
4 LANGUAGE AND CAN BE CONDUCTED EITHER BY THE ARRESTING OFFICER OR OTHER
5 REPRESENTATIVE OF THE ARRESTING AGENCY OR THROUGH AN ORAL INTERPRETATION
6 TELEPHONE SERVICE THAT THE ARRESTING AGENCY BELIEVES IS COMPETENT TO
7 PROVIDE THESE SERVICES.

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

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

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

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

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

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

55 (C) AT ANY POLICE FACILITY OR PLACE WHERE AN ARRESTEE IS DETAINED, A
56 SIGN CONTAINING THE FOLLOWING INFORMATION IN BOLD BLOCK TYPE SHALL BE

1 POSTED IN A CONSPICUOUS PLACE: THAT THE ARRESTEE, IF HE OR SHE IS A
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3 TWO ADDITIONAL TELEPHONE CALLS WITHIN THE LOCAL DIALING AREA, OR AT HIS
4 OR HER OWN EXPENSE IF OUTSIDE THE LOCAL AREA, FOR THE PURPOSE OF ARRANG-
5 ING FOR THE CARE OF THE MINOR CHILD OR CHILDREN IN THE PARENT'S ABSENCE.
6 THE SIGNS POSTED PURSUANT TO THIS PARAGRAPH SHALL MAKE THE SPECIFIED
7 NOTIFICATIONS IN ANY NON-ENGLISH LANGUAGE SPOKEN BY A SUBSTANTIAL NUMBER
8 OF THE PUBLIC WHO ARE SERVED BY THE POLICE FACILITY OR PLACE OF DETAIN-
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14 THE RIGHT TO, AND MAY REQUEST TO MAKE, AT LEAST TWO TELEPHONE CALLS TO
15 NOTIFY A CHILD CAREGIVER OR FAMILY MEMBER OF THE RELEASE, TRANSFER, OR
16 HOLD AND THE LOCATION TO WHICH HE OR SHE WILL BE TRANSFERRED OR THE
17 LOCATION OF RELEASE.

18 S 3. This act shall take effect immediately.