

3367

2013-2014 Regular Sessions

I N A S S E M B L Y

January 25, 2013

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 160.30 of the criminal procedure law is amended by
2 adding a new subdivision 3 to read as follows:
3 3. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL BE RESPONSIBLE FOR
4 DEVELOPING AN ADEQUATE PROCEDURE TO ENSURE THE ACCURACY OF FINGERPRINT
5 IDENTIFICATIONS IN ORDER TO PREVENT ERRONEOUS IDENTIFICATIONS BASED UPON
6 CLERICAL ERROR. PRIOR TO THE ARREST OF A DEFENDANT BASED UPON FINGER-
7 PRINT IDENTIFICATION EVIDENCE, TWO DIFFERENT EMPLOYEES OF THE DIVISION
8 OF CRIMINAL JUSTICE SERVICES SHALL EACH VERIFY THE ACCURACY OF SUCH
9 FINGERPRINT IDENTIFICATION AND ACCOMPANYING INFORMATION ON RECORD AND
10 SHALL MAINTAIN A WRITTEN RECORD OF SUCH VERIFICATIONS.
11 S 2. The criminal procedure law is amended by adding a new section
12 160.35 to read as follows:
13 S 160.35 FINGERPRINTING; VERIFICATION HEARING.
14 UPON AN ARREST BASED ON FINGERPRINT IDENTIFICATION EVIDENCE, A DEFEND-
15 ANT MAY FILE A MOTION CHALLENGING SUCH IDENTIFICATION WITH A PREPONDER-
16 ANCE OF EVIDENCE AND MAY BE GRANTED AN IMMEDIATE HEARING IN THE LOCAL
17 CRIMINAL COURT FOR THE PURPOSE OF VERIFYING THE ACCURACY OF SUCH FINGER-
18 PRINT IDENTIFICATION AND THE POSSIBILITY OF CLERICAL OR OTHER ERROR IN
19 SUCH IDENTIFICATION.
20 S 3. The division of criminal justice services shall make an annual
21 report to the state legislature and the state attorney general regarding
22 the accuracy and efficiency of the procedure developed pursuant to the
23 amendments made to section 160.30 of the criminal procedure law by
24 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.

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1 such procedure, including but not limited to its efficiency, flaws and
2 the numbers of erroneous identifications.
3 S 4. This act shall take effect on the first of November next
4 succeeding the date on which it shall have become a law.