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

4209

2013-2014 Regular Sessions

I N S E N A T E

March 14, 2013

Introduced by Sen. BALL -- 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 authorizing the electronic filing of certain accusatory instruments in local criminal courts; and to repeal subdivision 5 of section 1.20 of such law relating to simplified traffic information

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

Section 1. Subdivision 5 of section 1.20 of the criminal procedure law, as separately amended by chapters 315, 383, 661 and 729 of the laws of 1972, is REPEALED.

S 2. Subdivision 17 of section 1.20 of the criminal procedure law is amended to read as follows:

17. "Commencement of criminal action." A criminal action is commenced by the filing of an accusatory instrument against a defendant in a criminal court, and, if more than one accusatory instrument is filed in the course of the action, it commences when the first of such instruments is filed; PROVIDED, FURTHER, THAT A LOCAL CRIMINAL COURT ACCUSATORY INSTRUMENT OR ANY ACCUSATION OF A VIOLATION OF A LOCAL LAW, CODE OR ORDINANCE MAY BE FILED WITH A LOCAL CRIMINAL COURT BY ELECTRONIC MEANS AS AUTHORIZED BY LAW AND IN ACCORDANCE WITH THE RULES OF THE OFFICE OF COURT ADMINISTRATION.

S 3. Section 100.05 of the criminal procedure law, subdivision 2 as amended by chapter 661 of the laws of 1972, is amended to read as follows:

S 100.05 Commencement of action; in general.

1. A criminal action is commenced by the filing of an accusatory instrument with a criminal court, and if more than one such instrument is filed in the course of the same criminal action, such action commences when the first of such instruments is filed. The only way in which a criminal action can be commenced in a superior court is by the

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

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filing therewith by a grand jury of an indictment against a defendant who has never been held by a local criminal court for the action of such grand jury with respect to any charge contained in such indictment. Otherwise, a criminal action can be commenced only in a local criminal court, by the filing therewith of a local criminal court accusatory instrument, namely:

[1.] (A) An information; or

[2.] (B) A simplified information; or

[3.] (C) A prosecutor's information; or

[4.] (D) A misdemeanor complaint; or

[5.] (E) A felony complaint.

2. THE FILING OF A LOCAL CRIMINAL COURT ACCUSATORY INSTRUMENT BY ELECTRONIC MEANS, AS AUTHORIZED BY LAW AND IN ACCORDANCE WITH THE RULES OF THE OFFICE OF COURT ADMINISTRATION, SHALL NOT AFFECT THE VALIDITY OF THE CRIMINAL ACTION COMMENCED THEREBY.

S 4. The criminal procedure law is amended by adding a new section 100.60 to read as follows:

S 100.60 ELECTRONIC FILING OF ACCUSATORY INSTRUMENT.

IN ANY CRIMINAL ACTION COMMENCED BY THE ELECTRONIC FILING OF A LOCAL CRIMINAL COURT ACCUSATORY INSTRUMENT, AND IN ANY ACTION COMMENCED BY THE FILING OF AN ACCUSATION OF A VIOLATION OF A LOCAL LAW, CODE OR ORDINANCE, AS AUTHORIZED BY LAW AND IN ACCORDANCE WITH THE RULES OF THE OFFICE OF COURT ADMINISTRATION, WHICH RESULTS IN A CONVICTION, THE LOCAL CRIMINAL COURT SHALL IMPOSE AND COLLECT A FEE OF FIVE DOLLARS, WHICH SHALL BE IN ADDITION TO ANY OTHER FINES AND FEES IMPOSED FOR SUCH CONVICTION. REVENUE DERIVED FROM SUCH FEE SHALL BE MAINTAINED IN ACCORDANCE WITH THE RULES OF THE STATE COMPTROLLER AND THE OFFICE OF COURT ADMINISTRATION. SIXTY PERCENT OF THE REVENUE FROM THE FEE IMPOSED PURSUANT TO THIS SECTION SHALL BE DISBURSED TO THE LOCAL CRIMINAL COURT FOR ITS EXPENSES OF ESTABLISHING AND OPERATING AN ELECTRONIC FILING SYSTEM, AND THE REMAINING FORTY PERCENT SHALL BE DISBURSED TO THE LAW ENFORCEMENT AGENCY COMMENCING THE ACTION.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.