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

5651

2013-2014 Regular Sessions

I N S E N A T E

May 31, 2013

Introduced by COMMITTEE ON RULES -- (at request of the Office of Court Administration) -- 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 motions for a defendant to be tried separately

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

Section 1. The closing paragraph of subdivision 1 of section 200.40 of the criminal procedure law, as amended by chapter 516 of the laws of 1986, is amended to read as follows:

Even in such case, the court, UPON ITS OWN MOTION OR upon motion of a defendant or the people made within the period provided by section 255.20, may for good cause shown order in its discretion that any defendant be tried separately from the other or from one or more or all of the others. Good cause shall include, but not be limited to, a finding that a defendant or the people will be unduly prejudiced by a joint trial or, in the case of a prosecution involving a charge of enterprise corruption, a finding that proof of one or more criminal acts alleged to have been committed by one defendant but not one or more of the others creates a likelihood that the jury may not be able to consider separately the proof as it relates to each defendant, or in such a case, given the scope of the pattern of criminal activity charged against all the defendants, a particular defendant's comparatively minor role in it creates a likelihood of prejudice to him OR HER. Upon such a finding of prejudice, the court may order counts to be tried separately, grant a severance of defendants or provide whatever other relief justice requires.

S 2. This act shall take effect immediately and shall apply to all criminal actions and proceedings commenced on or after such effective date.

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

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