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

7568

2015-2016 Regular Sessions

I N A S S E M B L Y

May 19, 2015

Introduced by M. of A. KAMINSKY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to rules of evidence at grand jury hearings

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

Section 1. Subdivision 2-a and subparagraph (ii) of paragraph (a) of subdivision 8 of section 190.30 of the criminal procedure law, subdivision 2-a as amended by chapter 453 of the laws of 1999 and subparagraph (ii) of paragraph (a) of subdivision 8 as added by chapter 279 of the laws of 2008, are amended to read as follows:

2-a. When the electronic transmission of a certified report, or certified copy thereof, of the kind described in subdivision two or three-a of this section or a sworn statement or copy thereof, of the kind described in subdivision three of this section, OR A BUSINESS RECORD AS IN RULE FORTY-FIVE HUNDRED EIGHTEEN OF THE CIVIL PRACTICE LAW AND RULES, results in a written document, such written document may be received in such grand jury proceeding provided that: (a) a transmittal memorandum completed by the person sending the report contains a certification that the report has not been altered and a description of the report specifying the number of pages; and (b) the person who receives the electronically transmitted document certifies that such document and transmittal memorandum were so received; and (c) a certified report or a certified copy or sworn statement or sworn copy thereof is filed with the court within twenty days following arraignment upon the indictment; and (d) where such written document is a sworn statement or sworn copy thereof of the kind described in subdivision three of this section, such sworn statement or sworn copy thereof is also provided to the defendant or his counsel within twenty days following arraignment upon the indictment.

(ii) financial transactions, and a person's ownership or possessory interest in any account, at a bank, insurance company, brokerage,

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

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exchange or banking organization as defined in section two of the bank-ing law. ALL RECORDS AS DEFINED IN RULE FORTY-FIVE HUNDRED EIGHTEEN OF THE CIVIL PRACTICE LAW AND RULES MAY BE RECEIVED IN SUCH GRAND JURY PROCEEDINGS AS EVIDENCE OF THE FACTS STATED OR CONTAINED THEREIN.

S 2. Paragraph (g) of subdivision 3 of section 190.30 of the criminal procedure law, as added by chapter 690 of the laws of 2005, is amended and two new paragraphs (h) and (i) are added to read as follows:

(g) that person's ownership of, or possessory right in, a credit card account number or debit card account number, and the defendant's lack of superior or equal right to use or possession thereof[.];

(H) THAT PERSON'S POSSESSORY RIGHT IN "PERSONAL IDENTIFYING INFORMA-TION" OR A "PERSONAL IDENTIFICATION NUMBER," AS DEFINED IN SECTION 190.77 OF THE PENAL LAW, AND THE DEFENDANT'S LACK OF SUPERIOR OR EQUAL RIGHT TO USE OR POSSESSION THEREOF;

(I) THAT PERSON'S QUALIFICATIONS AS A CUSTODIAN OF RECORDS AND DATA STORED AND MAINTAINED BY AN ELECTRONIC COMMUNICATIONS SERVICE OR REMOTE COMPUTING SERVICE, AND SPECIFIED RECORDS AND DATA BEFORE THE GRAND JURY ARE TRUE AND ACCURATE COPIES OF THE RECORDS AND DATA MAINTAINED BY THE CUSTODIAN.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.