

7209--A

I N S E N A T E

April 6, 2016

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law, the criminal procedure law and the uniform justice court act, in relation to off-hours arraignment parts in counties outside of the city of New York

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

1 Section 1. Subdivision 1 of section 212 of the judiciary law is
2 amended by adding a new paragraph (w) to read as follows:
3 (W) ADOPT, AFTER CONSULTATION WITH THE OFFICE OF INDIGENT LEGAL
4 SERVICES, THE APPROPRIATE LOCAL MAGISTRATES ASSOCIATION, INSTITUTIONAL
5 PROVIDERS OF CRIMINAL DEFENSE SERVICES AND OTHER MEMBERS OF THE CRIMINAL
6 DEFENSE BAR, LOCAL GOVERNMENT OFFICIALS, INCLUDING THE DISTRICT ATTOR-
7 NEY, AND WITH THE APPROVAL OF THE ADMINISTRATIVE BOARD OF THE COURTS, A
8 PLAN FOR THE ESTABLISHMENT, IN ACCORDANCE WITH PARAGRAPH (C) OF THIS
9 SUBDIVISION, OF OFF-HOURS ARRAIGNMENT PARTS IN SELECT LOCAL CRIMINAL
10 COURTS OF A COUNTY TO BE HELD IN SUCH COURTS ON A ROTATING BASIS FOR THE
11 CONDUCT OF ARRAIGNMENTS AND OTHER PRELIMINARY PROCEEDINGS INCIDENTAL
12 THERETO, AND FOR ARREST WARRANT RETURNS IN CRIMINAL CASES, WHERE THE USE
13 OF SUCH PARTS WILL FACILITATE THE AVAILABILITY OF PUBLIC DEFENDERS OR
14 ASSIGNED COUNSEL FOR DEFENDANTS IN NEED OF LEGAL REPRESENTATION AT SUCH
15 PROCEEDINGS. TO THE EXTENT PRACTICABLE, AND NOTWITHSTANDING THAT ANY
16 SUCH PLAN SHALL DESIGNATE OFF-HOURS ARRAIGNMENT PARTS IN FEWER THAN ALL
17 OF THE LOCAL CRIMINAL COURTS OF A COUNTY, EACH PLAN AUTHORIZED BY THIS
18 PARAGRAPH SHALL PROVIDE FOR THE PERIODIC ASSIGNMENT OF ALL OF THE JUDGES
19 AND JUSTICES OF ALL OF THE LOCAL CRIMINAL COURTS IN THE AFFECTED COUNTY
20 TO THE OFF-HOURS ARRAIGNMENT PARTS DESIGNATED THEREIN. THE CHIEF ADMIN-
21 ISTRATOR SHALL GIVE APPROPRIATE PUBLIC NOTICE OF EACH OFF-HOURS ARRAIGN-
22 MENT PART ESTABLISHED HEREUNDER AND EACH JUDICIAL ASSIGNMENT MADE THERE-
23 TO.

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

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1 S 2. Section 100.55 of the criminal procedure law is amended by adding
2 a new subdivision 11 to read as follows:

3 11. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A LOCAL
4 CRIMINAL COURT ACCUSATORY INSTRUMENT MAY BE FILED WITH A LOCAL CRIMINAL
5 COURT WHILE IT IS OPERATING AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN
6 ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED
7 TWELVE OF THE JUDICIARY LAW PROVIDED THAT AN OFFENSE CHARGED THEREIN WAS
8 ALLEGEDLY COMMITTED IN THE COUNTY IN WHICH THE LOCAL CRIMINAL COURT IS
9 LOCATED.

10 S 3. Subdivision 1 of section 120.90 of the criminal procedure law, as
11 amended by chapter 424 of the laws of 1998, is amended to read as
12 follows:

13 1. Upon arresting a defendant for any offense pursuant to a warrant
14 of arrest in the county in which the warrant is returnable or in any
15 adjoining county, or upon so arresting him OR HER for a felony in any
16 other county, a police officer, if he OR SHE be one to whom the warrant
17 is addressed, must without unnecessary delay bring the defendant before
18 the local criminal court in which such warrant is returnable, PROVIDED
19 THAT, WHERE A LOCAL CRIMINAL COURT IN THE COUNTY IN WHICH THE WARRANT IS
20 RETURNABLE HEREUNDER IS OPERATING AN OFF-HOURS ARRAIGNMENT PART DESIG-
21 NATED IN ACCORDANCE WITH PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO
22 HUNDRED TWELVE OF THE JUDICIARY LAW AT THE TIME OF DEFENDANT'S RETURN,
23 SUCH POLICE OFFICER MAY BRING THE DEFENDANT BEFORE SUCH LOCAL CRIMINAL
24 COURT.

25 S 4. Paragraph (d) of subdivision 1 of section 140.20 of the criminal
26 procedure law, as amended by chapter 549 of the laws of 1987, is amended
27 and a new paragraph (e) is added to read as follows:

28 (d) If the arrest is for a traffic infraction or for a misdemeanor
29 relating to traffic, the police officer may, instead of bringing the
30 arrested person before the local criminal court of the political subdi-
31 vision or locality in which the offense was allegedly committed, bring
32 him OR HER before the local criminal court of the same county nearest
33 available by highway travel to the point of arrest[.]; AND

34 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WHERE A LOCAL
35 CRIMINAL COURT IN THE COUNTY IN WHICH THE DEFENDANT IS ARRESTED IS OPER-
36 ATING AN OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARA-
37 GRAPH (W) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDI-
38 CIARY LAW AT THE TIME OF DEFENDANT'S ARREST, THE ARRESTED PERSON MAY BE
39 BROUGHT BEFORE SUCH LOCAL CRIMINAL COURT.

40 S 5. Section 170.10 of the criminal procedure law is amended by adding
41 a new subdivision 10 to read as follows:

42 10. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, WHEN AN
43 OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W)
44 OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW IS
45 IN OPERATION IN THE COUNTY IN WHICH THE COURT IS LOCATED, THE COURT MUST
46 ADJOURN THE PROCEEDINGS BEFORE IT, AND DIRECT THAT THE PROCEEDINGS BE
47 CONTINUED IN SUCH OFF-HOURS PART WHEN THE DEFENDANT HAS APPEARED BEFORE
48 THE COURT WITHOUT COUNSEL AND NO COUNSEL IS OTHERWISE AVAILABLE AT THE
49 TIME OF SUCH APPEARANCE TO AID THE DEFENDANT, UNLESS THE DEFENDANT
50 DESIRES TO PROCEED WITHOUT THE AID OF COUNSEL AND THE COURT IS SATIS-
51 FIED, PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THAT THE DEFENDANT
52 MADE SUCH DECISION WITH KNOWLEDGE OF THE SIGNIFICANCE THEREOF.

53 S 6. Section 180.10 of the criminal procedure law is amended by adding
54 a new subdivision 7 to read as follows:

55 7. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, WHEN AN
56 OFF-HOURS ARRAIGNMENT PART DESIGNATED IN ACCORDANCE WITH PARAGRAPH (W)

1 OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW IS
2 IN OPERATION IN THE COUNTY IN WHICH THE COURT IS LOCATED, THE COURT MUST
3 ADJOURN THE PROCEEDINGS BEFORE IT, AND DIRECT THAT THE PROCEEDINGS BE
4 CONTINUED IN SUCH OFF-HOURS PART WHEN THE DEFENDANT HAS APPEARED BEFORE
5 THE COURT WITHOUT COUNSEL AND NO COUNSEL IS OTHERWISE AVAILABLE AT THE
6 TIME OF SUCH APPEARANCE TO AID THE DEFENDANT.

7 S 7. Subdivision 2 of section 106 of the uniform justice court act, as
8 added by chapter 321 of the laws of 2007, is amended to read as follows:

9 2. The chief administrator of the courts may temporarily assign any
10 justice of another town or village court, or a judge of a city court, to
11 a town or village court within the county of such judge's or justice's
12 residence or an adjoining county. While temporarily assigned hereunder,
13 any such judge or justice shall have the powers, duties and jurisdiction
14 of a justice of the court to which the assignment is made, INCLUDING THE
15 POWER TO PRESIDE OVER AN OFF-HOURS ARRAIGNMENT PART ESTABLISHED IN SUCH
16 COURT PURSUANT TO PARAGRAPH (W) OF SUBDIVISION ONE OF SECTION TWO
17 HUNDRED TWELVE OF THE JUDICIARY LAW. After the expiration of any tempo-
18 rary assignment hereunder, the judge or justice assigned shall have all
19 the powers, duties and jurisdiction of a judge or justice of the court
20 to which the assignment was made with respect to all matters pending
21 during the term of such temporary assignment. Such judge or justice
22 shall be entitled to such compensation and travel expenses as the chief
23 administrator shall prescribe by rule, payable out of funds appropriated
24 to the state judiciary for such purpose.

25 S 8. This act shall take effect on the ninetieth day after it shall
26 have become a law.