STATE OF NEW YORK

9598

IN ASSEMBLY

January 25, 2018

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Judiciary

AN ACT to amend the uniform justice court act, in relation to the right of defendants in misdemeanor or felony cases to have such matter appear before a judge or justice admitted to practice law in New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The uniform justice court act is amended by adding a new section 105-a to read as follows:

§ 105-a. Election to proceed in certain criminal actions.

a. A defendant appearing in a justice court pursuant to an accusatory instrument that charges a misdemeanor or felony may elect to proceed in such matter only before a justice or judge admitted to practice law in this state. Such election shall be by written instrument in a form prescribed by the chief administrator of the courts and shall be filed with such court not later than the completion of the first appearance at which either the defendant makes a motion or such court decides a motion made by the prosecutor, other than a motion in relation to any matter specified in subdivision b of this section.

b. Notwithstanding an election pursuant to subdivision a of this section, a justice or judge not admitted to practice law in this state may arraign the defendant, enter a plea, vacate a plea entered by such justice or judge, issue or modify a securing order, fix or modify bail, assign counsel, conduct a proceeding pursuant to article one hundred seventy or one hundred eighty of the criminal procedure law, issue a temporary order of protection, or suspend a license or registration pursuant to article twenty of the vehicle and traffic law.

c. The chief administrator shall promulgate rules to effectuate the provisions of this section. Such rules shall ensure that defendants are timely advised of the right of election established in this section and that each case in which a defendant makes such an election is assigned to a justice or judge admitted to practice law in this state with minimum practicable delay and burden to the parties.

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

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§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such date.