STATE OF NEW YORK

9198

IN SENATE

December 7, 2018

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law, in relation to the right of a defendant who has entered a plea of not guilty to an information which charges a misdemeanor to a jury trial

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

Section 1. Section 340.40 of the criminal procedure law, as amended by chapter 815 of the laws of 1971 and subdivision 7 as added by chapter 981 of the laws of 1971, is amended to read as follows:

§ [~~340.00~~] **340.40** Modes of trial.

1. Except as otherwise provided in this section, a trial of an information in a local criminal court must be a single judge trial.

2. In any local criminal court a defendant who has entered a plea of not guilty to an information which charges a misdemeanor must be accorded a jury trial, conducted pursuant to article three hundred sixty[~~, except that in the New York city criminal court the trial of an information which charges a misdemeanor for which the authorized term of imprisonment is not more than six months must be a single judge trial~~]. The defendant may at any time before trial waive a jury trial in the manner prescribed in subdivision two of section 320.10 **of this chapter**, and consent to a single judge trial.

3. A defendant entitled to a jury trial pursuant to subdivision two **of this section**, shall be so entitled even though the information also charges an offense for which he is otherwise not entitled to a jury trial. In such case, the defendant is not entitled both to a jury trial and a separate single judge trial and the court may not order separate trials.

[~~7.~~] **4.** Notwithstanding any other provision of law, in any local criminal court the trial of a person who is an eligible youth within the meaning of the youthful offender procedure set forth in article seven hundred twenty **of this chapter** and who has not prior to commencement of the trial been convicted of a crime or adjudicated a youthful offender must be a single judge trial.

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 first of July next succeeding the date upon which 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 are authorized to be made on or before such date.