

# 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:

1 Section 1. Section 340.40 of the criminal procedure law, as amended by  
2 chapter 815 of the laws of 1971 and subdivision 7 as added by chapter  
3 981 of the laws of 1971, is amended to read as follows:

4 § [~~340.00~~] 340.40 Modes of trial.

5 1. Except as otherwise provided in this section, a trial of an infor-  
6 mation in a local criminal court must be a single judge trial.

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

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

22 [~~7-~~] 4. Notwithstanding any other provision of law, in any local crim-  
23 inal court the trial of a person who is an eligible youth within the  
24 meaning of the youthful offender procedure set forth in article seven  
25 hundred twenty of this chapter and who has not prior to commencement of  
26 the trial been convicted of a crime or adjudicated a youthful offender  
27 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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1 § 2. This act shall take effect on the first of July next succeeding  
2 the date upon which it shall have become a law. Effective immediately  
3 the addition, amendment and/or repeal of any rule or regulation neces-  
4 sary for the implementation of this act on its effective date are  
5 authorized to be made on or before such date.