STATE OF NEW YORK

7981--A

R. R. 208

2019-2020 Regular Sessions

IN ASSEMBLY

May 30, 2019

Introduced by M. of A. WALKER -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the criminal procedure law, in relation to issuance of appearance tickets to adolescent offenders pending appearances before youth parts of superior courts of criminal jurisdiction

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

Section 1. The opening paragraph of subdivision 2, the opening paragraph of subdivision 6 and subdivision 8 of section 140.20 of the criminal procedure law, the opening paragraph of subdivision 2 as amended by chapter 550 of the laws of 1987, the opening paragraph of subdivision 6 as amended by section 20 and subdivision 8 as added by section 19 of part WWW of chapter 59 of the laws of 2017, are amended to read as follows:

If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law **or if, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law**, the arrested person need not be brought before a local criminal court as provided in subdivision one, and the procedure may instead be as follows:

Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained **or**

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

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the place and date an appearance ticket is returnable if the adolescent offender has been given an appearance ticket. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:

8. [~~If~~] **Except as provided in subdivision two of this section, if** the arrest is for a juvenile offender or adolescent offender other than an arrest for a violation or a traffic infraction, such offender shall be brought before the youth part of the superior court. If the youth part is not in session, such offender shall be brought before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part.

§ 2. Paragraph (a) of subdivision 1 and subdivisions 2 and 3 of section 150.20 of the criminal procedure law, paragraph (a) of subdivision 1 as amended by section 1-a of part JJJ of chapter 59 of the laws of 2019 and subdivisions 2 and 3 as amended by chapter 550 of the laws of 1987, are amended to read as follows:

(a) Whenever a police officer is authorized pursuant to section 140.10 of this title to arrest a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law **or if, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law**, he **or she** shall, except as set out in paragraph (b) of this subdivision, subject to the provisions of subdivisions three and four of section 150.40 of this title, instead issue to and serve upon such person an appearance ticket.

2. (a) Whenever a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.10 **of this title**, or **if, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law, or** (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25 **of this title or if, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law**, and has requested a police officer to issue and serve upon such arrested person an appearance ticket pursuant to subdivision four of section 140.27 **of this title**, or (c) whenever a person has been arrested for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law **or if, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law** and has been delivered to the custody of an appropriate police officer pursuant to section 140.40 **of this title**,

such police officer may, instead of bringing such person before a local criminal court and promptly filing or causing the arresting peace officer or arresting person to file a local criminal court accusatory instrument therewith, issue to and serve upon such person an appearance ticket. [~~The issuance and service of an appearance ticket under such circumstances may be conditioned upon a deposit of pre-arraignment bail, as provided in section 150.30.~~]

3. A public servant other than a police officer, who is specially authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue and serve appearance tickets with respect to designated offenses other than class A, B, C or D felonies or violations of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law **or, in the case of an adolescent offender, the arrest is for an offense other than a class A felony or a violent felony offense as defined in subdivision one of section 70.02 of the penal law**, may in such cases issue and serve upon a person an appearance ticket when he **or she** has reasonable cause to believe that such person has committed a crime, or has committed a petty offense in his **or her** presence.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that the amendments to paragraph (a) of subdivision 1 of section 150.20 of the criminal procedure law made by section two of this act shall take effect on the same date and in the same manner as section 1-a of part JJJ of chapter 59 of the laws of 2019, takes effect.