STATE OF NEW YORK

7623

2021-2022 Regular Sessions

IN ASSEMBLY

May 19, 2021

Introduced by M. of A. CUSICK -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to defendant's right to a supporting deposition

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

Section 1. Subdivision 2 of section 100.25 of the criminal procedure law, as amended by chapter 67 of the laws of 1996, is amended to read as follows:

2. [~~A~~] **Unless delivered to the defendant with the simplified information, a** defendant charged by a simplified information is, upon a timely request, entitled as a matter of right to have filed with the court and served upon him **or her**, or if he **or she** is represented by an attorney, upon his **or her** attorney, a supporting deposition of the complainant police officer or public servant, containing allegations of fact, based either upon personal knowledge or upon information and belief, providing reasonable cause to believe that the defendant committed the offense or offenses charged. To be timely, such a request must, except as otherwise provided herein and in subdivision three of this section, be made before entry of a plea of guilty to the charge specified and before commencement of a trial thereon, but not later than thirty days after the date the defendant is directed to appear in court as such date appears upon the simplified information and upon the appearance ticket issued pursuant thereto. If the defendant's request is mailed to the court, the request must be mailed within such thirty day period. [~~Upon~~] **Unless a supporting deposition was delivered to the defendant with the simplified information and thereafter filed with the court, upon** such a request, the court must order the complainant police officer or public servant to serve a copy of such supporting deposition upon the defendant or his **or her** attorney, within thirty days of the date such request is received by the court, or at least five days before trial, whichever is earlier, and

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

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to file such supporting deposition with the court together with proof of service thereof. **The filing of a simplified information indicating that a supporting deposition was provided with the simplified information shall be prima facie proof that the supporting deposition was served upon the defendant with the simplified information.** Notwithstanding any provision to the contrary, where a defendant is issued an appearance ticket in conjunction with the offense charged in the simplified information and the appearance ticket fails to conform with the requirements of subdivision two of section 150.10, a request is timely when made not later than thirty days after (a) entry of the defendant's plea of not guilty when he or she has been arraigned in person, or (b) written notice to the defendant of his or her right to receive a supporting deposition when a plea of not guilty has been submitted by mail.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law and shall apply to all simplified informations issued on or after such effective date.