STATE OF NEW YORK

3183--A

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the penal law, in relation to abolishing citizen's arrests; and to repeal certain provisions of the criminal procedure law and the family court act relating thereto

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

Section 1. Section 140.45 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

§ 140.45 Arrest without a warrant; dismissal of insufficient local criminal court accusatory instrument.

If a local criminal court accusatory instrument filed with a local criminal court pursuant to section 140.20[~~,~~] or 140.25 [~~or 140.40~~] is not sufficient on its face, as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument which is sufficient on its face, it must dismiss such accusatory instrument and discharge the defendant.

§ 2. Sections 140.30, 140.35 and 140.40 of the criminal procedure law are REPEALED.

§ 3. Subdivision 4 of section 35.30 of the penal law, as added by chapter 73 of the laws of 1968, the opening paragraph and paragraph (a) as amended by chapter 511 of the laws of 2004 and paragraph (b) as amended by chapter 264 of the laws of 2003, is amended to read as follows:

4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to

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

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[~~effect an arrest or to~~] prevent the escape [~~from custody~~] of a person whom he or she reasonably believes to have committed [~~an offense~~] **a felony** and who in fact has committed [~~such offense~~] **a felony and is in immediate flight therefrom**; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to[~~:~~

~~(a) Defend~~] **defend** himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force[~~; or~~

~~(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom~~].

§ 4. Section 305.1 of the family court act is REPEALED.

§ 5. This act shall take effect immediately.