STATE OF NEW YORK

4087

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to prohibiting the issuance of an appearance ticket upon arrest for any family offense

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

Section 1. Paragraphs (a) and (b) of subdivision 1 of section 150.20 of the criminal procedure law, paragraph (a) as amended and paragraph (b) as added by section 1-a of part JJJ of chapter 59 of the laws of 2019, subparagraph (viii) of paragraph (b) as amended and subparagraphs (ix), (x) and (xi) of paragraph (b) as added by section one of subpart B of part UU of chapter 56 of the laws of 2022, 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 an arrest made pursuant to subdivision four of section 140.10 of this title,** he 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.

(b) An officer is not required to issue an appearance ticket if:

(i) the person has one or more outstanding local criminal court or superior court warrants;

(ii) the person has failed to appear in court proceedings in the last two years;

(iii) the person has been given a reasonable opportunity to make their verifiable identity and a method of contact known, and has been unable or unwilling to do so, so that a custodial arrest is necessary to

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

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subject the individual to the jurisdiction of the court. For the purposes of this section, an officer may rely on various factors to determine a person's identity, including but not limited to personal knowledge of such person, such person's self-identification, or photographic identification. There is no requirement that a person present photographic identification in order to be issued an appearance ticket in lieu of arrest where the person's identity is otherwise verifiable; however, if offered by such person, an officer shall accept as evidence of identity the following: a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government or municipal government within the United States or a provincial government of the dominion of Canada; a valid passport issued by the United States government or any other country; an identification card issued by the armed forces of the United States; a public benefit card, as defined in paragraph (a) of subdivision one of section 158.00 of the penal law;

(iv) [~~the person is charged with a crime between members of the same family or household, as defined in subdivision one of section 530.11 of this chapter;~~

~~(v)~~] the person is charged with a crime defined in article 130 of the penal law;

[~~(vi)~~] **(v)** it reasonably appears the person should be brought before the court for consideration of issuance of an order of protection, pursuant to section 530.13 of this chapter, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred;

[~~(vii)~~] **(vi)** the person is charged with a crime for which the court may suspend or revoke his or her driver license;

[~~(viii)~~] **(vii)** it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding the person's condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, that bringing the person before the court would be in such person's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services;

[~~(ix)~~] **(viii)** the person is eighteen years of age or older and charged with criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

[~~(x)~~] **(ix)** the person is eighteen years of age or older and charged with a hate crime as defined in section 485.05 of the penal law; or

[~~(xi)~~] **(x)** the offense is a qualifying offense pursuant to paragraph (t) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (t) of subdivision four of section 530.40 of this chapter.

§ 2. Subdivisions 2 and 3 of section 150.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, are amended to read as follows:

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 **or an arrest made** pursuant to **subdivision four of** section 140.10 **of this title**, 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 **or an arrest made pursuant to subdivision four of section 140.10 of this title** pursuant to section 140.25 **of this title**, 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 an arrest made pursuant to subdivision four of section 140.10 of this title** 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 an arrest made pursuant to subdivision four of section 140.10 of this title,** may in such cases issue and serve upon a person an appearance ticket when he has reasonable cause to believe that such person has committed a crime, or has committed a petty offense in his presence.

§ 3. Subdivision 2 of section 140.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

2. 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 an arrest made pursuant to subdivision four of section 140.10 of this article,** 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:

(a) A police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20 **of this title**; or

(b) The desk officer in charge at a police station, county jail or police headquarters, or any of his superior officers, may, in such place fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody[~~**, as prescribed in section 150.30**~~].

§ 4. This act shall take effect immediately.