

STATE OF NEW YORK

5264

2021-2022 Regular Sessions

IN ASSEMBLY

February 12, 2021

Introduced by M. of A. RICHARDSON, DE LA ROSA -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the civil practice law and rules, in relation to detaining persons for longer than twenty-four hours

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

1 Section 1. Section 140.20 of the criminal procedure law is amended by
2 adding a new subdivision 9 to read as follows:

3 9. For purposes of this section, "unnecessary delay" shall mean before
4 twenty-four hours or less have expired, commencing at the time of the
5 person being taken into custody by such police officer, or any person
6 acting on behalf of a police officer, even when no arrest number has
7 been issued. The failure or inability of any government agency to
8 fulfill the requirements of this section shall require the immediate
9 release from custody of any person so held, upon application by the
10 detainee or their counsel.

11 § 2. The criminal procedure law is amended by adding a new article 3
12 to read as follows:

ARTICLE 3

DETAINED PERSONS REGISTRY

15 Section 3.10 Detained persons registry.

16 § 3.10 Detained persons registry.

17 Cities with a population of one million or more shall establish and
18 maintain a searchable online registry, consisting of the names, ages,
19 and locations of persons detained by a police department, which will
20 permit authorized users to locate persons detained for any reason,
21 including but not limited to the investigation of possible warrants or
22 detainers, processing for the possible issuance of a summons or appear-
23 ance ticket, in anticipation of being presented in a local criminal
24 court for arraignment within twenty-four hours pursuant to section

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

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1 140.20 of this chapter or where no arrest number or other identifier has
2 been issued by an agency responsible for issuing one. Upon the issuance
3 of any type of appearance ticket, summons or upon the arraignment of any
4 person entered into this registry, any and all data related thereto
5 shall be removed from the registry, destroyed and rendered unavailable
6 to any entity for any purpose. For the purposes of this section,
7 authorized users shall be limited to defender organizations contracted
8 with cities to represent criminal defendants.

9 § 3. Section 7009 of the civil practice law and rules is amended by
10 adding a new subdivision (f) to read as follows:

11 (f) Persons detained for longer than twenty-four hours. For purposes
12 of this article, when a writ of habeas corpus is heard challenging the
13 pre-arraignment detention of a person detained for more than twenty-four
14 hours, there shall be an evidentiary presumption that such detention is
15 unnecessary, and unlawful as defined in section 140.20 of the criminal
16 procedure law, until and unless such presumption is rebutted by clear
17 and convincing evidence that such a delay was actually necessary for
18 each individual petitioner identified in the writ.

19 § 4. This act shall take effect immediately.