S T A T E O F N E W Y O R K

7698--A

2015-2016 Regular Sessions

I N A S S E M B L Y

May 22, 2015

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the judiciary law, in relation to functions of the chief administrator of the courts; and to amend the executive law, in relation to reporting requirements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 10.40 of the criminal procedure law, as amended by chapter 237 of the laws of 2015, is amended to read as follows:

1. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. SUCH FORMS SHALL INCLUDE, WITHOUT LIMITATION, THE FORMS DESCRIBED IN PARAGRAPH (Z) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

S 2. Subdivision 2 of section 212 of the judiciary law is amended by adding six new paragraphs (u), (v), (w), (x), (y) and (z) to read as follows:

(U) COMPILE AND PUBLISH DATA ON MISDEMEANOR OFFENSES IN ALL COURTS, DISAGGREGATED BY COUNTY, INCLUDING THE FOLLOWING INFORMATION:

(I) THE AGGREGATE NUMBER OF MISDEMEANORS CHARGED, BY INDICTMENT OR THE FILING OF A MISDEMEANOR COMPLAINT OR INFORMATION;

(II) THE OFFENSE CHARGED;

(III) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL CHARGED;

(IV) WHETHER THE INDIVIDUAL WAS ISSUED A SUMMONS OR APPEARANCE TICKET, WAS SUBJECT TO CUSTODIAL ARREST, AND/OR WAS HELD TO ARRAIGNMENT AS A RESULT OF THE ALLEGED MISDEMEANOR;

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

LBD11204-07-6

(V) THE ZIP CODE OR LOCATION WHERE THE ALLEGED MISDEMEANOR OCCURRED;
(VI) THE DISPOSITION, INCLUDING, AS THE CASE MAY BE, DISMISSAL, ACQUITTAL, ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, PLEA, CONVICTION, OR OTHER DISPOSITION;
(VII) IN THE CASE OF DISMISSAL, THE REASONS THEREFOR; AND
(VIII) THE SENTENCE IMPOSED, IF ANY, INCLUDING FINES, FEES, AND SURCHARGES.
(V) COMPILE AND PUBLISH DATA ON VIOLATIONS IN ALL COURTS, DISAGGREGATED BY COUNTY, INCLUDING THE FOLLOWING INFORMATION:
(I) THE AGGREGATE NUMBER OF VIOLATIONS CHARGED BY THE FILING OF AN INFORMATION;
(II) THE VIOLATION CHARGED;
(III) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL CHARGED;
(IV) WHETHER THE INDIVIDUAL WAS ISSUED A SUMMONS OR APPEARANCE TICKET, WAS SUBJECT TO CUSTODIAL ARREST, AND/OR WAS HELD TO ARRAIGNMENT AS A RESULT OF THE ALLEGED VIOLATION;
(V) THE ZIP CODE OR LOCATION WHERE THE ALLEGED VIOLATION OCCURRED;
(VI) THE DISPOSITION, INCLUDING, AS THE CASE MAY BE, DISMISSAL, ACQUITTAL, CONVICTION, OR OTHER DISPOSITION;
(VII) IN THE CASE OF DISMISSAL, THE REASONS THEREFOR; AND
(VIII) THE SENTENCE IMPOSED, IF ANY, INCLUDING FINES, FEES, AND SURCHARGES.
(W) THE CHIEF ADMINISTRATOR SHALL INCLUDE THE INFORMATION REQUIRED BY PARAGRAPHS (U) AND (V) OF THIS SUBDIVISION IN THE ANNUAL REPORT SUBMITTED TO THE LEGISLATURE AND THE GOVERNOR PURSUANT TO PARAGRAPH (J) OF SUBDIVISION ONE OF THIS SECTION. THE CHIEF ADMINISTRATOR SHALL ALSO MAKE THE INFORMATION REQUIRED BY PARAGRAPHS (U) AND (V) OF THIS SUBDIVISION AVAILABLE TO THE PUBLIC BY POSTING IT ON THE WEBSITE OF THE OFFICE OF COURT ADMINISTRATION AND SHALL UPDATE SUCH INFORMATION ON A MONTHLY BASIS. THE INFORMATION SHALL BE POSTED IN ALPHANUMERIC FORM THAT CAN BE DIGITALLY TRANSMITTED OR PROCESSED AND NOT IN PORTABLE DOCUMENT FORMAT OR SCANNED COPIES OF ORIGINAL DOCUMENTS.
(X) NOTHING IN PARAGRAPHS (U) AND (V) OF THIS SUBDIVISION SHALL BE CONSTRUED AS GRANTING AUTHORITY TO THE CHIEF ADMINISTRATOR, A CRIMINAL JUSTICE OR LAW ENFORCEMENT AGENCY, A GOVERNMENTAL ENTITY, OR ANY AGENT OR REPRESENTATIVE OF THE FOREGOING, TO USE, DISSEMINATE, OR PUBLISH ANY INDIVIDUAL'S NAME, DATE OF BIRTH, NYSID, SOCIAL SECURITY NUMBER, DOCKET NUMBER, OR OTHER UNIQUE IDENTIFIER IN VIOLATION OF THE CRIMINAL PROCEDURE LAW, THE GENERAL BUSINESS LAW, OR ANY OTHER LAW.
(Y) NOTHING IN PARAGRAPHS (U) AND (V) OF THIS SUBDIVISION SHALL BE CONSTRUED AS GRANTING AUTHORITY TO THE CHIEF ADMINISTRATOR, A CRIMINAL JUSTICE OR LAW ENFORCEMENT AGENCY, A GOVERNMENTAL ENTITY, A PARTY, A JUDGE, A PROSECUTOR, OR ANY AGENT OR REPRESENTATIVE OF THE FOREGOING TO INTRODUCE, USE, DISSEMINATE, PUBLISH OR CONSIDER ANY RECORDS IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING EXPUNGED OR SEALED UNDER APPLICABLE PROVISIONS OF THE CRIMINAL PROCEDURE LAW, THE FAMILY COURT ACT, OR ANY OTHER LAW.
(Z) IN EXECUTING THE REQUIREMENTS OF PARAGRAPHS (U) AND (V) OF THIS SECTION, THE CHIEF ADMINISTRATOR MAY ADOPT RULES CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPHS (X) AND (Y) OF THIS SUBDIVISION REQUIRING APPROPRIATE LAW ENFORCEMENT OR CRIMINAL JUSTICE AGENCIES TO IDENTIFY ACTIONS AND PROCEEDINGS INVOLVING THESE OFFENSES, AND WITH RESPECT TO SUCH ACTIONS AND PROCEEDINGS, TO REPORT, IN SUCH FORM AND MANNER AS THE CHIEF ADMINISTRATOR SHALL PRESCRIBE, THE INFORMATION SPECIFIED HEREIN. FURTHER, TO FACILITATE THIS PROVISION, THE CHIEF ADMINISTRATOR SHALL ADOPT RULES TO FACILITATE RECORD SHARING, RETENTION AND OTHER NECESSARY

COMMUNICATION AMONG THE CRIMINAL COURTS AND LAW ENFORCEMENT AGENCIES, SUBJECT TO APPLICABLE PROVISIONS OF THE CRIMINAL PROCEDURE LAW, THE FAMILY COURT ACT, AND ANY OTHER LAW PERTAINING TO THE CONFIDENTIALITY, EXPUNGEMENT AND SEALING OF RECORDS.

S 3. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. REPORTING DUTIES OF LAW ENFORCEMENT DEPARTMENTS WITH RESPECT TO ARREST-RELATED DEATHS. 1. THE CHIEF OF EVERY POLICE DEPARTMENT, EACH COUNTY SHERIFF, AND THE SUPERINTENDENT OF STATE POLICE SHALL PROMPTLY REPORT TO THE DIVISION ANY ARREST-RELATED DEATH, DISAGGREGATED BY COUNTY. AN ARREST-RELATED DEATH IS A DEATH THAT OCCURS DURING LAW ENFORCEMENT CUSTODY OR AN ATTEMPT TO ESTABLISH CUSTODY INCLUDING, BUT NOT LIMITED TO, DEATHS CAUSED BY ANY USE OF FORCE. THE DATA SHALL INCLUDE THE FOLLOWING INFORMATION:

(A) THE NUMBER OF ARREST-RELATED DEATHS;

(B) THE RACE, ETHNICITY, AGE, AND SEX OF THE INDIVIDUAL;

(C) THE ZIP CODE OR LOCATION WHERE THE DEATH OCCURRED; AND

(D) A BRIEF DESCRIPTION OF THE CIRCUMSTANCES SURROUNDING THE ARREST-RELATED DEATH.

2. THE DIVISION SHALL PRESENT TO THE GOVERNOR AND THE LEGISLATURE AN ANNUAL REPORT CONTAINING THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS SECTION. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL BE FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND SIXTEEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN AND SHALL BE PRESENTED NO LATER THAN FEBRUARY FIRST, TWO THOUSAND SEVENTEEN. THEREAFTER, EACH ANNUAL REPORT SHALL BE PRESENTED NO LATER THAN FEBRUARY FIRST.

3. THE DIVISION SHALL MAKE THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS SECTION AVAILABLE TO THE PUBLIC BY POSTING IT ON THE WEBSITE OF THE DIVISION AND SHALL UPDATE SUCH INFORMATION ON A MONTHLY BASIS. THE INFORMATION SHALL BE POSTED IN ALPHANUMERIC FORM THAT CAN BE DIGITALLY TRANSMITTED OR PROCESSED AND NOT IN PORTABLE DOCUMENT FORMAT OR SCANNED COPIES OF ORIGINAL DOCUMENTS.

S 4. This act shall take effect immediately; provided that the amendment to subdivision 1 of section 10.40 of the criminal procedure law, made by a section one of this act, shall survive the expiration and reversion of such section as provided in section 11 of chapter 237 of the laws of 2015, as amended.