

# STATE OF NEW YORK

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1830--B

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

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Introduced by Sens. HOYLMAN, BAILEY, BENJAMIN, BIAGGI, JACKSON, MONTGOMERY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO, THOMAS -- 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 -- reported favorably from said committee and committed to the Committee on Finance -- 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:

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

4 1. The chief administrator of the courts shall have the power to  
5 adopt, amend and rescind forms for the efficient and just administration  
6 of this chapter. Such forms shall include, without limitation, the  
7 forms described in paragraph (z-1) of subdivision two of section two  
8 hundred twelve of the judiciary law. A failure by any party to submit  
9 papers in compliance with forms authorized by this section shall not be  
10 grounds for that reason alone for denial or granting of any motion.

11 § 1-a. Section 10.40 of the criminal procedure law, as added by chap-  
12 ter 47 of the laws of 1984, is amended to read as follows:

13 § 10.40 Chief administrator to prescribe forms.

14 The chief administrator of the courts shall have the power to adopt,  
15 amend and rescind forms for the efficient and just administration of  
16 this chapter. Such forms shall include, without limitation, the forms  
17 described in paragraph (z-1) of subdivision two of section two hundred  
18 twelve of the judiciary law. A failure by any party to submit papers in

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

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1 compliance with forms authorized by this section shall not be grounds  
2 for that reason alone for denial or granting of any motion.

3 § 2. Subdivision 2 of section 212 of the judiciary law is amended by  
4 adding six new paragraphs (u-1), (v-1), (w-1), (x-1), (y-1) and (z-1) to  
5 read as follows:

6 (u-1) Compile and publish data on misdemeanor offenses in all courts,  
7 disaggregated by county, including the following information:

8 (i) the aggregate number of misdemeanors charged, by indictment or the  
9 filing of a misdemeanor complaint or information;

10 (ii) the offense charged;

11 (iii) the race, ethnicity, age, and sex of the individual charged;

12 (iv) whether the individual was issued a summons or appearance ticket,  
13 was subject to custodial arrest, and/or was held to arraignment as a  
14 result of the alleged misdemeanor;

15 (v) the zip code or location where the alleged misdemeanor occurred;

16 (vi) the disposition, including, as the case may be, dismissal,  
17 acquittal, adjournment in contemplation of dismissal, plea, conviction,  
18 or other disposition;

19 (vii) in the case of dismissal, the reasons therefor; and

20 (viii) the sentence imposed, if any, including fines, fees, and  
21 surcharges.

22 (v-1) Compile and publish data on violations in all courts, disaggre-  
23 gated by county, including the following information:

24 (i) the aggregate number of violations charged by the filing of an  
25 information;

26 (ii) the violation charged;

27 (iii) the race, ethnicity, age, and sex of the individual charged;

28 (iv) whether the individual was issued a summons or appearance ticket,  
29 was subject to custodial arrest, and/or was held to arraignment as a  
30 result of the alleged violation;

31 (v) the zip code or location where the alleged violation occurred;

32 (vi) the disposition, including, as the case may be, dismissal,  
33 acquittal, conviction, or other disposition;

34 (vii) in the case of dismissal, the reasons therefor; and

35 (viii) the sentence imposed, if any, including fines, fees, and  
36 surcharges.

37 (w-1) The chief administrator shall include the information required  
38 by paragraphs (u-1) and (v-1) of this subdivision in the annual report  
39 submitted to the legislature and the governor pursuant to paragraph (j)  
40 of subdivision one of this section. The chief administrator shall also  
41 make the information required by paragraphs (u-1) and (v-1) of this  
42 subdivision available to the public by posting it on the website of the  
43 office of court administration and shall update such information on a  
44 monthly basis. The information shall be posted in alphanumeric form that  
45 can be digitally transmitted or processed and not in portable document  
46 format or scanned copies of original documents.

47 (x-1) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall  
48 be construed as granting authority to the chief administrator, a crimi-  
49 nal justice or law enforcement agency, a governmental entity, or any  
50 agent or representative of the foregoing, to use, disseminate, or  
51 publish any individual's name, date of birth, NYSID, social security  
52 number, docket number, or other unique identifier in violation of the  
53 criminal procedure law, the general business law, or any other law.

54 (y-1) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall  
55 be construed as granting authority to the chief administrator, a crimi-  
56 nal justice or law enforcement agency, a governmental entity, a party, a

1 judge, a prosecutor, or any agent or representative of the foregoing to  
2 introduce, use, disseminate, publish or consider any records in any  
3 judicial or administrative proceeding expunged or sealed under applica-  
4 ble provisions of the criminal procedure law, the family court act, or  
5 any other law.

6 (z-1) In executing the requirements of paragraphs (u-1) and (v-1) of  
7 this section, the chief administrator may adopt rules consistent with  
8 the requirements of paragraphs (x-1) and (y-1) of this subdivision  
9 requiring appropriate law enforcement or criminal justice agencies to  
10 identify actions and proceedings involving these offenses, and with  
11 respect to such actions and proceedings, to report, in such form and  
12 manner as the chief administrator shall prescribe, the information spec-  
13 ified herein. Further, to facilitate this provision, the chief adminis-  
14 trator shall adopt rules to facilitate record sharing, retention and  
15 other necessary communication among the criminal courts and law enforce-  
16 ment agencies, subject to applicable provisions of the criminal proce-  
17 dure law, the family court act, and any other law pertaining to the  
18 confidentiality, expungement and sealing of records.

19 § 3. The executive law is amended by adding a new section 837-u to  
20 read as follows:

21 § 837-u. Reporting duties of law enforcement departments with respect  
22 to arrest-related deaths. 1. The chief of every police department, each  
23 county sheriff, and the superintendent of state police shall promptly  
24 report to the division any arrest-related death, disaggregated by coun-  
25 ty. An arrest-related death is a death that occurs during law enforce-  
26 ment custody or an attempt to establish custody including, but not  
27 limited to, deaths caused by any use of force. The data shall include  
28 the following information:

29 (a) the number of arrest-related deaths;  
30 (b) the race, ethnicity, age, and sex of the individual;  
31 (c) the zip code or location where the death occurred; and  
32 (d) a brief description of the circumstances surrounding the arrest-  
33 related death.

34 2. The division shall submit to the governor and the legislature an  
35 annual report containing the information required by subdivision one of  
36 this section. The initial report required by this subdivision shall be  
37 for the period beginning July first, two thousand twenty and ending  
38 December thirty-first, two thousand twenty and shall be submitted no  
39 later than February first, two thousand twenty-one. Thereafter, each  
40 annual report shall be submitted no later than February first.

41 3. The division shall make the information required by subdivision one  
42 of this section available to the public by posting it on the website of  
43 the division. With respect to the information required by subdivision  
44 one of this section, the division shall update such information on a  
45 monthly basis and such information shall be posted in alphanumeric form  
46 that can be digitally transmitted or processed and not in portable docu-  
47 ment format or scanned copies of original documents.

48 § 4. This act shall take effect on the one hundred eightieth day after  
49 it shall have become a law; provided that the amendment to subdivision 1  
50 of section 10.40 of the criminal procedure law, made by section one of  
51 this act, shall be subject to the expiration and reversion of such  
52 section as provided in section 11 of chapter 237 of the laws of 2015, as  
53 amended, when upon such date the provisions of section one-a of this act  
54 shall take effect.