

# STATE OF NEW YORK

1830

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

Introduced by Sens. HOYLMAN, BAILEY, BENJAMIN, PARKER, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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) 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) of subdivision two of section two hundred  
18 twelve of the judiciary law. A failure by any party to submit papers in  
19 compliance with forms authorized by this section shall not be grounds  
20 for that reason alone for denial or granting of any motion.

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

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

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

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

5 (ii) the offense charged;

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

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

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

11 (vi) the disposition, including, as the case may be, dismissal,  
12 acquittal, adjournment in contemplation of dismissal, plea, conviction,  
13 or other disposition;

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

15 (viii) the sentence imposed, if any, including fines, fees, and  
16 surcharges.

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

19 (i) the aggregate number of violations charged by the filing of an  
20 information;

21 (ii) the violation charged;

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

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

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

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

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

30 (viii) the sentence imposed, if any, including fines, fees, and  
31 surcharges.

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

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

49 (y) Nothing in paragraphs (u-1) and (v-1) of this subdivision shall be  
50 construed as granting authority to the chief administrator, a criminal  
51 justice or law enforcement agency, a governmental entity, a party, a  
52 judge, a prosecutor, or any agent or representative of the foregoing to  
53 introduce, use, disseminate, publish or consider any records in any  
54 judicial or administrative proceeding expunged or sealed under applica-  
55 ble provisions of the criminal procedure law, the family court act, or  
56 any other law.

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

14 § 3. The executive law is amended by adding a new section 837-t to  
15 read as follows:

16 § 837-t. Reporting duties of law enforcement departments with respect  
17 to arrest-related deaths. 1. The chief of every police department, each  
18 county sheriff, and the superintendent of state police shall promptly  
19 report to the division any arrest-related death, disaggregated by coun-  
20 ty. An arrest-related death is a death that occurs during law enforce-  
21 ment custody or an attempt to establish custody including, but not  
22 limited to, deaths caused by any use of force. The data shall include  
23 the following information:

24 (a) the number of arrest-related deaths;  
25 (b) the race, ethnicity, age, and sex of the individual;  
26 (c) the zip code or location where the death occurred; and  
27 (d) a brief description of the circumstances surrounding the arrest-  
28 related death.

29 2. The division shall present to the governor and the legislature an  
30 annual report containing the information required by subdivision one of  
31 this section. The initial report required by this subdivision shall be  
32 for the period beginning July first, two thousand twenty and ending  
33 December thirty-first, two thousand twenty and shall be presented no  
34 later than February first, two thousand twenty-one. Thereafter, each  
35 annual report shall be presented no later than February first.

36 3. The division shall make the information required by subdivision one  
37 of this section available to the public by posting it on the website of  
38 the division and shall update such information on a monthly basis. The  
39 information shall be posted in alphanumeric form that can be digitally  
40 transmitted or processed and not in portable document format or scanned  
41 copies of original documents.

42 § 4. This act shall take effect immediately; provided that the amend-  
43 ment to subdivision 1 of section 10.40 of the criminal procedure law,  
44 made by section one of this act, shall be subject to the expiration and  
45 reversion of such section as provided in section 11 of chapter 237 of  
46 the laws of 2015, as amended, when upon such date the provisions of  
47 section one-a of this act shall take effect.