STATE OF NEW YORK

1830--C

2019-2020 Regular Sessions

IN SENATE

January 16, 2019

Introduced by Sens. HOYLMAN, BAILEY, BENJAMIN, BIAGGI, BRESLIN, COMRIE, GIANARIS, GOUNARDES, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, MONTGOMERY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, 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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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-1) 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.

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

§ 10.40 Chief administrator to prescribe forms.

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

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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-1) 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.

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

(u-1) 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 prior to arraignment as a result of the alleged misdemeanor;

(v) the precinct 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-1) Compile and publish data on violations, to the greatest extent practicable, 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 prior to arraignment as a result of the alleged violation;

(v) the precinct 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-1) The chief administrator shall include the information required by paragraphs (u-1) and (v-1) 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-1) and (v-1) 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-1) Nothing in paragraphs (u-1) and (v-1) 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-1) Nothing in paragraphs (u-1) and (v-1) 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-1) In executing the requirements of paragraphs (u-1) and (v-1) of this section, the chief administrator may adopt rules consistent with the requirements of paragraphs (x-1) and (y-1) of this subdivision to secure the information specified herein from the office of the state comptroller in such form and manner as the chief administrator shall prescribe. 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.

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

§ 837-v. 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. The data shall include all information the division shall report pursuant to the requirements of subdivision five of this section.

2. The initial report required by this subdivision shall be for the period beginning six months after the effective date of this section and shall be submitted on an annual basis thereafter. Each annual report shall be submitted 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. With respect to the information required by subdivision one of this section, the division shall update such information on a monthly basis and such 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.

4. The division shall promulgate regulations to effectuate the reporting of data from law enforcement departments sufficient to make the reports required by subdivision five of this section.

5. The division shall submit to the governor and the legislature an annual report of arrest-related deaths disaggregated by county. An arrest-related death is a death that occurs while an individual is in law enforcement custody or during an attempt to establish custody including, but not limited to, deaths caused by any use of force. Such report 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.

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