STATE OF NEW YORK

8707--A

IN SENATE

July 9, 2020

Introduced by Sens. GIANARIS, BAILEY, CARLUCCI, HOYLMAN, JACKSON, KRUEGER, LIU, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged and said bill committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

ARTICLE 3

DETAINED PERSONS REGISTRY

Section 3.10 Detained persons registry.

§ 3.10 Detained persons registry.

Cities with a population of one million or more shall establish and maintain a searchable online registry, consisting of the names, ages, and locations of persons detained by a police department, which will permit authorized users to locate persons detained for any reason, including but not limited to the investigation of possible warrants or detainers, processing for the possible issuance of a summons or appearance ticket, in anticipation of being presented in a local criminal

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

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

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

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

§ 4. This act shall take effect immediately.