

STATE OF NEW YORK

9734

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. GONZALEZ-ROJAS -- read once and referred to the Committee on Codes

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:

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

3 9. For purposes of this section, "without unnecessary delay" shall
4 mean promptly, and in any event before twenty-four hours or less have
5 expired, commencing at the time of the person being taken into custody
6 by such police officer, or any person acting on behalf of a police offi-
7 cer, even when no arrest number has been issued. The failure or inabili-
8 ty of any government agency to fulfill the requirements of this section,
9 shall require the immediate release from custody of any person so held.

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

ARTICLE 3

DETAINED PERSONS REGISTRY

12 Section 3.10 Detained persons registry.

13 § 3.10 Detained persons registry.

14 1. Cities with a population of one million or more shall establish and
15 maintain a searchable online registry, consisting of the names, ages,
16 and locations of persons taken into custody by a police department for
17 any reason, which will permit authorized users to locate such persons.

18 2. Such information shall be entered into the registry at the moment a
19 person is taken into custody, and upon the issuance of any type of
20 appearance ticket, summons or upon the arraignment of any person entered
21 into this registry, or upon the release of any person entered into this
22 registry from detention, any and all data related thereto shall be imme-
23 diately removed from the registry, destroyed and rendered unavailable to
24 any entity for any purpose.

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

LBD03244-05-2

1 3. For the purposes of this section, authorized users shall be limit-
2 ed to defender organizations contracted with cities to represent crimi-
3 nal defendants. The agency administering the registry shall be charged
4 with ensuring that authorized users are employed by such defender organ-
5 izations and shall require login credentials available only to employees
6 of such organizations. The administering agency shall conduct an audit
7 at least annually to purge any users who are no longer employed by such
8 organizations.

9 4. The searchable online registry described in this section shall be
10 administered and operated solely by the city of New York police depart-
11 ment. No non-local law enforcement agency, officer, or employee, nor any
12 non-local government employee, nor any private individual or officer of
13 the court who is not an authorized user, shall be given access to this
14 registry or participate in the administration or operation of this
15 registry.

16 5. No authorized user or other person who obtains access to the regis-
17 try described in this section shall disclose any information obtained or
18 learned of from such registry to any non-local law enforcement agency,
19 officer, or employee, or to any non-local government employee, or to any
20 private individual or officer of the court who is not an authorized user
21 except by the defender organization to individuals in furtherance of
22 client or potential client representation.

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

25 (f) Persons detained for longer than twenty-four hours. For purposes
26 of this article, when a writ of habeas corpus is heard challenging the
27 pre-arraignment detention of a person detained for more than twenty-four
28 hours, there shall be an evidentiary presumption that such detention,
29 without arraignment, was avoidable, unnecessary and unlawful as defined
30 in section 140.20 of the criminal procedure law, until and unless such
31 presumption is rebutted by clear and convincing evidence of compelling
32 facts and circumstance demonstrating that such delay was unavoidable and
33 actually necessary for each individual petitioner identified in the
34 writ.

35 § 4. This act shall take effect immediately.