STATE OF NEW YORK

1184

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BAILEY, BIAGGI, HOYLMAN, JACKSON, KRUEGER, LIU, SALAZAR, SERRANO -- 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 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, as determined by the court after application made by the detainee or their counsel, shall require the immediate release from custody of any person so held.

§ 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.

1. 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 taken into custody by a police department for any reason, which will permit authorized users to locate such persons.

2. Such information shall be entered into the registry at the moment a person is taken into custody, and upon the issuance of any type of appearance ticket, summons or upon the arraignment of any person entered

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

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into this registry, or upon the release of any person entered into this registry from detention, any and all data related thereto shall be immediately removed from the registry, destroyed and rendered unavailable to any entity for any purpose.

3. For the purposes of this section, authorized users shall be limited to defender organizations contracted with cities to represent criminal defendants. The agency administering the registry shall be charged with ensuring that authorized users are employed by such defender organizations and shall require login credentials available only to employees of such organizations. The administering agency shall conduct an audit at least annually to purge any users who are no longer employed by such organizations.

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

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

§ 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.