

STATE OF NEW YORK

4563--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. EPSTEIN, SEAWRIGHT, GOTTFRIED, SIMON, MEEKS, FERNANDEZ -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation establishing reporting duties of law enforcement agencies with respect to police misconduct allegations and outcomes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 837-x
2 to read as follows:

3 § 837-x. Reporting duties of law enforcement agencies with respect to
4 police misconduct allegations and outcomes. 1. Definitions. For the
5 purposes of this section:

6 a. "Action pending investigation" means an action taken by a law
7 enforcement agency in response to the opening of an investigation into
8 an alleged infraction, including but not limited to placing an officer
9 on modified duty, unpaid suspension, or paid suspension.

10 b. "Encounter" means the contact between the subject officer and an
11 individual that resulted in either a police misconduct complaint or an
12 alleged infraction.

13 c. "Alleged infraction" means any alleged violation of agency rules or
14 policies or violations of law by an officer. An alleged infraction
15 includes any rule violation regardless of whether it is associated with
16 a police misconduct complaint. The term alleged infraction does not
17 include technical infractions as defined in section eighty-six of the
18 public officers law.

19 d. "Disciplinary action" means any action taken by the law enforcement
20 agency as a result of an investigation concerning an alleged infraction.

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

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1 Disciplinary action includes but is not limited to charges and specifi-
2 cations, termination, forced separation, probation, suspension, loss of
3 vacation days, training, instructions, mandated drug screenings,
4 mandated counseling, divestiture of interest, command discipline, or any
5 other such category of discipline maintained by the law enforcement
6 agency. The term "disciplinary action" also includes a recommendation or
7 decision not to impose any penalty.

8 e. "Investigating agency" means the agency responsible for investigat-
9 ing the alleged infraction.

10 f. "Law enforcement agency" means a police agency or department of the
11 state or any political subdivision thereof, including authorities or
12 agencies maintaining police forces of individuals defined as police
13 officers in section 1.20 of the criminal procedure law, or a sheriff's
14 department.

15 g. "Officer" means a police officer, as defined in subdivision thir-
16 ty-four of section 1.20 of the criminal procedure law, or a peace offi-
17 cer as defined in section 2.10 of the criminal procedure law.

18 h. "Originating agency" means the agency that first identified an
19 alleged infraction or that received a police misconduct complaint.

20 i. "Police misconduct complaint" means any complaint of misconduct
21 alleged by a member of the public or an employee of a law enforcement
22 agency where the subject of such a complaint is an officer. Police
23 misconduct complaint includes any complaint made to the law enforcement
24 agency or any other agency authorized to investigate misconduct by an
25 officer. Police misconduct complaints may be brought against one or more
26 officers and may contain one or more alleged infractions.

27 j. "Subject officer" means an officer who is alleged to have committed
28 an alleged infraction. There may be multiple subject officers involved
29 in a single police misconduct complaint.

30 k. "Unique, permanent, and stable identifying number" means a number
31 that is assigned to each officer by the employing agency, municipality,
32 or the division that is unique, permanently associated with the officer
33 and which does not change during the officer's lifetime. Such number
34 shall be the tax identification number assigned to the officer by the
35 agency where such number is issued.

36 2. The division shall establish and maintain on its official website a
37 public, searchable database of alleged infractions and police misconduct
38 complaints. Such database shall consist of the information described in
39 subdivision three of this section. Such database shall include all
40 records described in subdivision three of this section regardless of
41 when those records were produced or created, and regardless of the
42 disposition of any investigation into an alleged infraction or police
43 misconduct complaint.

44 3. The database described in subdivision two of this section shall
45 include the following:

46 a. the name of the subject officer for each alleged infraction;

47 b. the law enforcement agency that employs the subject officer;

48 c. the shield number of the subject officer at the time of the alleged
49 encounter;

50 d. the unique, permanent, and stable identifying number of the subject
51 officer;

52 e. the rank of the subject officer at the time of the alleged encount-
53 er;

54 f. the command of the subject officer at the time of the alleged
55 encounter;

1 g. the precinct of the subject officer at the time of the alleged
2 encounter;

3 h. whether the subject officer is currently on active duty, retired,
4 or has been terminated;

5 i. demographic information on the subject officer, including race,
6 ethnicity, gender, and age;

7 j. whether an allegation is concerning an improper use of force;
8 racial profiling; biased policing; sexual misconduct; an unlawful stop;
9 an unlawful search; an unlawful arrest; falsifying official statements;
10 unlawful entry; interfering with documenting police activity; tampering
11 with evidence; failure to provide aid or medical attention; interfering
12 with investigations into alleged infractions; an officer's failure to
13 identify themselves; or other;

14 k. the alleged infraction;

15 l. the date of the encounter;

16 m. the date of the alleged infraction;

17 n. the location where the encounter occurred;

18 o. whether the contact was officer-initiated or in response to a
19 dispatch or a request for assistance by a member of the public;

20 p. whether the encounter was a result of a pedestrian stop, car stop,
21 aided request, execution of a warrant, witness interview, police
22 dispatch to respond to a person experiencing a mental health or
23 substance use emergency, or other;

24 q. demographic information of the alleged victim, including race,
25 ethnicity, gender, and age, to the extent that such information is
26 recorded;

27 r. a unique serial case identification number;

28 s. the originating agency;

29 t. the investigating agency;

30 u. the date the investigating agency began its investigation;

31 v. the status of an investigation (open or closed);

32 w. whether witnesses to the alleged encounter or other witnesses were
33 interviewed. If so, the database shall indicate whether the witnesses
34 were officers, civilians, or both;

35 x. whether the investigating agency reviewed video footage, photo-
36 graphic images, or other recordings of the alleged encounter;

37 y. the date of the finding by the investigating agency;

38 z. the finding of the investigating agency, including any disposition
39 category maintained by the agency regardless of the nature of such
40 disposition;

41 aa. the disciplinary action recommended by the investigating agency;

42 bb. any action pending investigation taken by the law enforcement
43 agency;

44 cc. whether the subject officer was subject to an administrative pros-
45 ecution. If so, the database shall also include and be searchable by the
46 following:

47 i. the charges against the subject officer;

48 ii. the finding per charge, including guilty or not guilty; and

49 iii. the disciplinary action recommended by the person presiding over
50 such prosecution;

51 dd. the disciplinary action taken by the law enforcement agency; and

52 ee. the justification for any divergence between the disciplinary
53 action taken by the law enforcement agency and the disciplinary action
54 recommended by the investigating agency.

55 4. Where the name of an officer is unknown at the time of the initial
56 complaint or opening of an investigation, the database shall indicate

1 "officer unknown". If an officer's name is discovered in the course of
2 an investigation, the investigating agency shall provide that informa-
3 tion to the division within thirty days. The division shall update the
4 database with such officer's name within thirty days of receipt of such
5 information.

6 5. The information in the database required by subdivision two of this
7 section shall be updated monthly.

8 6. The database described in subdivision two of this section shall not
9 include the name of or any other individually identifying information
10 for any person other than the subject officer.

11 7. The information included in the database required by subdivision
12 two of this section shall be available in a format that permits auto-
13 mated processing and shall be available without any registration
14 requirement, license requirement or restrictions on their use, provided
15 that the division may require a third party providing the public any
16 data from such database, or any application utilizing such data, to
17 explicitly identify the source and version of the data, and a
18 description of any modifications made to such data.

19 8. The chief of every police department, each county sheriff, and the
20 superintendent of state police shall report to the division on a monthly
21 basis all information described in subdivision three of this section.

22 9. For records in existence prior to the effective date of this
23 section, the chief of every police department, each county sheriff, and
24 the superintendent of the state police shall provide all information
25 described in subdivision three of this section to the extent such infor-
26 mation exists.

27 10. The division shall promulgate regulations to effectuate the
28 reporting of information from law enforcement agencies sufficient to
29 establish the database described in subdivision two of this section.

30 § 2. This act shall take effect on the ninetieth day after it shall
31 have become a law.