

# 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 inability  
8 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

14 Section 3.10 Detained persons registry.

15 § 3.10 Detained persons registry.

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

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

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

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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.