

STATE OF NEW YORK

5248--A

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

Introduced by Sens. BRISPORT, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

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

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

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

d. "Disciplinary action" means any action taken by the law enforcement agency as a result of an investigation concerning an alleged infraction. Disciplinary action includes but is not limited to charges and specifi-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 g. the precinct of the subject officer at the time of the alleged
56 encounter;

1 h. whether the subject officer is currently on active duty, retired,
2 or has been terminated;
3 i. demographic information on the subject officer, including race,
4 ethnicity, gender, and age;
5 j. whether an allegation is concerning an improper use of force;
6 racial profiling; biased policing; sexual misconduct; an unlawful stop;
7 an unlawful search; an unlawful arrest; falsifying official statements;
8 unlawful entry; interfering with documenting police activity; tampering
9 with evidence; failure to provide aid or medical attention; interfering
10 with investigations into alleged infractions; an officer's failure to
11 identify themselves; or other;
12 k. the alleged infraction;
13 l. the date of the encounter;
14 m. the date of the alleged infraction;
15 n. the location where the encounter occurred;
16 o. whether the contact was officer-initiated or in response to a
17 dispatch or a request for assistance by a member of the public;
18 p. whether the encounter was a result of a pedestrian stop, car stop,
19 aided request, execution of a warrant, witness interview, police
20 dispatch to respond to a person experiencing a mental health or
21 substance use emergency, or other;
22 q. demographic information of the alleged victim, including race,
23 ethnicity, gender, and age, to the extent that such information is
24 recorded;
25 r. a unique serial case identification number;
26 s. the originating agency;
27 t. the investigating agency;
28 u. the date the investigating agency began its investigation;
29 v. the status of an investigation (open or closed);
30 w. whether witnesses to the alleged encounter or other witnesses were
31 interviewed. If so, the database shall indicate whether the witnesses
32 were officers, civilians, or both;
33 x. whether the investigating agency reviewed video footage, photo-
34 graphic images, or other recordings of the alleged encounter;
35 y. the date of the finding by the investigating agency;
36 z. the finding of the investigating agency, including any disposition
37 category maintained by the agency regardless of the nature of such
38 disposition;
39 aa. the disciplinary action recommended by the investigating agency;
40 bb. any action pending investigation taken by the law enforcement
41 agency;
42 cc. whether the subject officer was subject to an administrative pros-
43 ecution. If so, the database shall also include and be searchable by the
44 following:
45 i. the charges against the subject officer;
46 ii. the finding per charge, including guilty or not guilty; and
47 iii. the disciplinary action recommended by the person presiding over
48 such prosecution;
49 dd. the disciplinary action taken by the law enforcement agency; and
50 ee. the justification for any divergence between the disciplinary
51 action taken by the law enforcement agency and the disciplinary action
52 recommended by the investigating agency.
53 4. Where the name of an officer is unknown at the time of the initial
54 complaint or opening of an investigation, the database shall indicate
55 "officer unknown". If an officer's name is discovered in the course of
56 an investigation, the investigating agency shall provide that informa-

1 tion to the division within thirty days. The division shall update the
2 database with such officer's name within thirty days of receipt of such
3 information.

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

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

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

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

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

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

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