

# STATE OF NEW YORK

743

2023-2024 Regular Sessions

## IN SENATE

January 6, 2023

Introduced by Sens. SEPULVEDA, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the executive law, in relation to requiring police officers to report the misconduct of a police officer and requiring the division of criminal justice to establish a protocol to be followed by police agencies when handling and recording mandatory reports of misconduct by a police officer; and to amend the penal law, in relation to establishing the crime of failure to report misconduct by a police officer

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

1 Section 1. Section 837 of the executive law is amended by adding a new  
2 subdivision 24 to read as follows:

3 24. Promulgate a standardized and detailed written protocol to be  
4 followed by police agencies for the handling and recording of mandatory  
5 reports of misconduct by a police officer as required pursuant to  
6 section eight hundred thirty-seven-x of this article. The protocol shall  
7 include provisions protecting police officers who are mandated to report  
8 misconduct from retaliation against such officer as a result of filing  
9 such report. The division shall also promulgate a standardized "officer  
10 misconduct incident report form" for use by police agencies in the  
11 reporting, recording and investigation of all alleged incidents of offi-  
12 cer misconduct, regardless of whether an arrest is made as a result of  
13 such investigation. Such form shall be prepared in multiple parts, one  
14 of which shall be immediately forwarded to the division, and shall  
15 include designated spaces for: the recordation of the results of the  
16 investigation by the police agency and the basis for any action taken;  
17 the recordation of the reporting officer's allegations of misconduct;  
18 and immediately thereunder a space on which the reporting officer shall  
19 sign and verify his or her allegations. Such protocol shall include  
20 provisions regarding the failure to report misconduct which, notwith-

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

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1 standing any provision of a labor contract to the contrary, shall  
2 authorize the police agency to terminate from employment and/or bring  
3 criminal charges against the officer who failed to report the miscon-  
4 duct.

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

7 § 837-x. Mandatory reporting of misconduct. Every police officer shall  
8 be required to report in accordance with this section when he or she has  
9 reasonable cause to suspect that a police officer, acting in his or her  
10 professional or official capacity, has used excessive force or otherwise  
11 acted with misconduct in relation to the use of excessive force. When-  
12 ever such officer is required to report under this section, he or she  
13 shall immediately notify his or her police agency, which then shall be  
14 responsible to forward such report to the division and to follow the  
15 protocol established by the division pursuant to subdivision twenty-four  
16 of section eight hundred thirty-seven of this article. A police officer  
17 who fails to comply with the requirements of this section shall be  
18 charged with failure to report misconduct by a police officer pursuant  
19 to section 195.01 of the penal law.

20 § 3. The penal law is amended by adding a new section 195.01 to read  
21 as follows:

22 § 195.01 Failure to report misconduct by a police officer.

23 A police officer is guilty of failure to report misconduct by a police  
24 officer when he or she:

25 1. has reasonable cause to suspect that a police officer, acting in  
26 his or her professional or official capacity, has used excessive force  
27 or otherwise acted with misconduct in relation to the use of excessive  
28 force; and

29 2. fails to report such misconduct as required pursuant to section  
30 eight hundred thirty-seven-x of the executive law.

31 Failure to report misconduct by a police officer is a class D felony.

32 § 4. This act shall take effect immediately.