

STATE OF NEW YORK

449

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. GIANARIS -- 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:

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 inabili-
8 ty 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

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

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1 registry from detention, any and all data related thereto shall be imme-
2 diately removed from the registry, destroyed and rendered unavailable to
3 any entity for any purpose.

4 3. For the purposes of this section, authorized users shall be limit-
5 ed to defender organizations contracted with cities to represent crimi-
6 nal defendants. The agency administering the registry shall be charged
7 with ensuring that authorized users are employed by such defender organ-
8 izations and shall require login credentials available only to employees
9 of such organizations. The administering agency shall conduct an audit
10 at least annually to purge any users who are no longer employed by such
11 organizations.

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

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

26 § 3. Section 7009 of the civil practice law and rules is amended by
27 adding a new subdivision (f) to read as follows:

28 (f) Persons detained for longer than twenty-four hours. For purposes
29 of this article, when a writ of habeas corpus is heard challenging the
30 pre-arraignment detention of a person detained for more than twenty-four
31 hours, there shall be an evidentiary presumption that such detention,
32 without arraignment, was avoidable, unnecessary and unlawful as defined
33 in section 140.20 of the criminal procedure law, until and unless such
34 presumption is rebutted by clear and convincing evidence of compelling
35 facts and circumstance demonstrating that such delay was unavoidable and
36 actually necessary for each individual petitioner identified in the
37 writ.

38 § 4. This act shall take effect immediately.