

STATE OF NEW YORK

9475

IN SENATE

March 16, 2026

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to "race-blind charging" guidelines for prosecution agencies

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

1 Section 1. Legislative Intent. In recent years, the increasing avail-
2 ability of data regarding criminal justice has raised legitimate ques-
3 tions regarding racial disparities in how cases are investigated,
4 charged, and prosecuted. Studies suggest that unknowing or "unconscious"
5 bias may affect many decisions within the criminal justice system,
6 despite what may be the best intentions of the actors involved. One
7 method suggested to address this bias is to create institutional proce-
8 dures to prevent bias from influencing important decisions. To increase
9 community confidence in the charging process, and to reduce the poten-
10 tial for unconscious bias, some district attorney offices employ a meth-
11 od whereby reports received from the police are stripped of all data
12 from which the race of the suspect may be determined so that at least
13 the initial charging assessment of the case is done race-blind. In Cali-
14 fornia through a partnership with the Stanford Computational Policy Lab
15 in 2021 created and implemented a race-blind charging system built into
16 its case management system for most cases. This legislation ensures New
17 York does the same and takes the necessary steps to address the bias.

18 § 2. The executive law is amended by adding a new section 296-e to
19 read as follows:

20 § 296-e. Race-blind charging. 1. (a) Beginning January first, two
21 thousand twenty-seven, the department of criminal justice services shall
22 develop, issue, and publish "race-blind charging" guidelines for a proc-
23 ess whereby all prosecution agencies, for purposes of this section
24 defined as agencies, or branches of agencies, that prosecute criminal
25 violations of the law as felonies or misdemeanors, shall implement a
26 process by which an initial review of a case for potential charging is
27 performed based on information, including police reports and criminal

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

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1 histories from the department of justice, from which direct means of
2 identifying the race of the suspect, victim, or witness have been
3 removed or redacted.

4 (b) Following such department's guidelines, prosecution agencies shall
5 independently develop and execute versions of this redaction and review
6 process.

7 2. Beginning January first, two thousand twenty-eight, cases received
8 from law enforcement agencies and suspect criminal history documentation
9 shall be redacted, by the receiving prosecution agency, in order to be
10 used for a race-blind initial charging evaluation, which shall precede
11 the ordinary charging evaluation. Such redaction may occur in a separate
12 version of the documents and may be done mechanically, by hand performed
13 by personnel not associated with the charging of the case, or by auto-
14 mation with the use of computer programming, so long as the method used
15 reasonably ensures correct redaction. The redaction may be applied to
16 the entire report or to only the "narrative" portion of the report so
17 long as the portion submitted for initial review is sufficient to
18 perform that review and the unredacted portions are not part of the
19 initial charging evaluation.

20 3. The initial charging evaluation based on redacted information,
21 including redacted reports, criminal histories, and narratives, shall
22 determine whether the case should be charged or not be charged. Indi-
23 vidual charges shall not be determined at this initial charging evalu-
24 ation stage. Other evidence may be considered as part of this initial
25 charging evaluation so long as the other evidence does not reveal
26 redacted facts. The initial charging evaluation shall be performed by a
27 prosecutor who does not have knowledge of the redacted facts for that
28 case.

29 4. After completion of a race-blind initial charging evaluation, the
30 case shall proceed to a second, complete review for charging using unre-
31 dicted reports and all available evidence in which the most applicable
32 individual charges and enhancements may be considered and charged in a
33 criminal complaint, or the case may be submitted to a grand jury.

34 5. (a) Each of the following circumstances shall be documented as part
35 of the case record:

36 (i) The initial charging evaluation determined that the case not be
37 charged and the second review determined that a charge shall be filed;
38 and

39 (ii) The initial charging evaluation determined that the case shall be
40 charged and the second review determined that no charge be filed.

41 (b) The explanation for the charging decision change shall be docu-
42 mented as part of the case record.

43 (c) The documented change between the result of the initial charging
44 evaluation and the second review, as well as the explanation for the
45 change, shall be disclosed, upon request, after sentencing in the case
46 or dismissal of all charges comprising the case, subject to any other
47 applicable law.

48 (d) If a prosecution agency was unable to put a case through a race-
49 blind initial charging evaluation, the reason for that inability shall
50 be documented and retained by the agency. This documentation shall be
51 made available by the agency upon request.

52 (e) The county shall collect the data resulting from the race-blind
53 initial charging evaluation process and make the data available for
54 research purposes. Each prosecution agency may remove or exclude certain
55 classes of crimes or factual circumstances from a race-blind initial
56 charging evaluation. This list of exclusions and the reasons for exclu-

1 sion shall be available upon request to the department of justice and
2 members of the public. Due to the increased reliance on victim or
3 witness credibility, the availability of additional defenses, the
4 increased reliance on forensics for the charging decision, or the rele-
5 vance of racial animus to the charging decision, each of the following
6 crimes may be excluded from a race-blind initial charging evaluation
7 process:

8 (i) Homicides;

9 (ii) Hate crimes;

10 (iii) Charges arising from a physical confrontation where that
11 confrontation is captured in video as evidence;

12 (iv) Domestic violence and sex crimes;

13 (v) Gang crimes;

14 (vi) Cases alleging either sexual assault or physical abuse or neglect
15 where the charging decision relies upon either a forensic interview of a
16 child or interviews of multiple victims or multiple defendants;

17 (vii) Cases involving financial crimes where the redaction of documen-
18 tation is not practicable or is cost prohibitive due to the volume of
19 redactions, including, but not limited to, other crimes sounding in
20 fraud consisting of voluminous documentation;

21 (viii) Cases involving public integrity, including, but not limited
22 to, conflict of interest crimes; and

23 (ix) Cases in which the prosecution agency itself investigated the
24 alleged crime or participated in the precharging investigation of the
25 crime by law enforcement, including, but not limited to, the review of
26 search warrants or advising law enforcement in the course of the inves-
27 tigation.

28 6. Cases in which the prosecution agency initiated the charging and
29 filing of the case by way of a grand jury indictment or where the charg-
30 es arose from a grand jury investigation, that this section contains
31 costs mandated by the state, reimbursement to local agencies and school
32 districts for those costs shall be made by that state to the local agen-
33 cies and or school district affected.

34 § 3. Severability. If any clause, sentence, paragraph, subdivision,
35 section or part of this act shall be adjudged by any court of competent
36 jurisdiction to be invalid, such judgment shall not affect, impair, or
37 invalidate the remainder thereof, but shall be confined in its operation
38 to the clause, sentence, paragraph, subdivision, section or part thereof
39 directly involved in the controversy in which such judgment shall have
40 been rendered. It is hereby declared to be the intent of the legislature
41 that this act would have been enacted even if such invalid provisions
42 had not been included herein.

43 § 4. This act shall take effect on the one hundred twentieth day after
44 it shall have become a law. Effective immediately, the addition, amend-
45 ment and/or repeal of any rule or regulation necessary for the implemen-
46 tation of this act on its effective date are authorized to be made and
47 completed on or before such effective date.