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:

Section 1. Legislative Intent. In recent years, the increasing availability of data regarding criminal justice has raised legitimate questions regarding racial disparities in how cases are investigated, charged, and prosecuted. Studies suggest that unknowing or "unconscious" bias may affect many decisions within the criminal justice system, despite what may be the best intentions of the actors involved. One method suggested to address this bias is to create institutional procedures to prevent bias from influencing important decisions. To increase community confidence in the charging process, and to reduce the potential for unconscious bias, some district attorney offices employ a method whereby reports received from the police are stripped of all data from which the race of the suspect may be determined so that at least the initial charging assessment of the case is done race-blind. In California through a partnership with the Stanford Computational Policy Lab in 2021 created and implemented a race-blind charging system built into its case management system for most cases. This legislation ensures New York does the same and takes the necessary steps to address the bias.

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

§ 296-e. Race-blind charging. 1. (a) Beginning January first, two thousand twenty-seven, the department of criminal justice services shall develop, issue, and publish "race-blind charging" guidelines for a process whereby all prosecution agencies, for purposes of this section defined as agencies, or branches of agencies, that prosecute criminal violations of the law as felonies or misdemeanors, shall implement a process by which an initial review of a case for potential charging is 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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histories from the department of justice, from which direct means of identifying the race of the suspect, victim, or witness have been removed or redacted.

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

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

3. The initial charging evaluation based on redacted information, including redacted reports, criminal histories, and narratives, shall determine whether the case should be charged or not be charged. Individual charges shall not be determined at this initial charging evaluation stage. Other evidence may be considered as part of this initial charging evaluation so long as the other evidence does not reveal redacted facts. The initial charging evaluation shall be performed by a prosecutor who does not have knowledge of the redacted facts for that case.

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

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

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

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

(b) The explanation for the charging decision change shall be documented as part of the case record.

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

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

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

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

(i) Homicides;

(ii) Hate crimes;

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

(iv) Domestic violence and sex crimes;

(v) Gang crimes;

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

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

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

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

6. Cases in which the prosecution agency initiated the charging and filing of the case by way of a grand jury indictment or where the charges arose from a grand jury investigation, that this section contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made by that state to the local agencies and or school district affected.

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

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.