



Legislation Text

File #: Int 1392-2019, Version: A

Int. No. 1392-A

By The Speaker (Council Member Johnson) and Council Members Levine, Rosenthal and Rose

A Local Law to amend the administrative code of the city of New York, in relation to requiring district attorneys to report on criminal prosecutions

Be it enacted by the Council as follows:

Section 1. Title 9 of the administrative code of the city of New York is amended by adding a new chapter 4 to read as follows:

CHAPTER 4
DISTRICT ATTORNEYS

§ 9-401 Definitions. As used in this chapter, the following terms have the following meanings:

Charge severity. The term “charge severity” means whether a top charge is a felony, misdemeanor, violation, or traffic infraction.

Conviction severity. The term “conviction severity” means whether a charge of conviction is a felony, misdemeanor, violation, or traffic infraction.

Disposition. The term “disposition” means any instance in which a prosecution results in a dismissal, adjournment in contemplation of dismissal, or judgment of conviction.

Incarcerated. The term “incarcerated” means a defendant who is detained by the department of correction, the police department, the administration for children’s services, or the new york state department of corrections and community supervision pursuant to article 510 of the criminal procedure law, but who has not been deemed an incapacitated person under article 730 of the criminal procedure law.

Office. The term “office” means the office of any district attorney in the city of New York.

Program. The term “program” means any pretrial diversion, treatment, alternative to incarceration, or other intervention that a defendant enters into outside the custody of the department of correction.

Prosecute. The term “prosecute” means to file an accusatory instrument.

Supervised release or release under supervision. The term “supervised release” means any instance in which a criminal defendant is released from custody during the pendency of a prosecution under the condition that such defendant maintain contact with an entity or individual that provides monitoring or supervision or otherwise mandatory programming during such release.

Top charge. The term “top charge” refers to the charge that carries the longest potential period of incarceration filed in an accusatory instrument, or, if an accusatory instrument is not filed, the term “top charge” means the charge that carries the longest potential period of incarceration referred for prosecution.

§ 9-402 Reporting.

a. Each office shall submit an annual report to the council and the office of criminal justice, and post such report on such office’s website. Such reports shall be submitted within 60 days of January 1 each year, starting in 2024, and shall include the following information for criminal prosecutions during the previous calendar year:

1. The number of cases prosecuted in total and disaggregated by:

(a) charge severity, and felony charges shall be further disaggregated by whether such charges are for a violent felony;

(b) top charge;

(c) the race, gender, and age of the person prosecuted and

(d) police precinct.

2. The number of cases resulting in a conviction, in total and disaggregated by:

(a) conviction severity; and felony charges shall be further disaggregated by whether such conviction was for a violent felony;

(b) charge or charges of conviction;

(c) the race, gender, and age of the person prosecuted;

(d) method through which the conviction was obtained, in the following categories: plea bargain, trial by judge, or trial by jury; and

(e) police precinct.

3. The number and percentage of cases referred for prosecution for which the office does not prosecute, in total and disaggregated by top charge and charge severity, and also disaggregated by the race, gender, and age of the person that is not prosecuted. The information reported in this paragraph shall not include cases referred for prosecution for which the office does not prosecute because the individual referred for prosecution participated in a program in lieu of prosecution.

4. The number and percentage of cases referred for prosecution for which the office does not prosecute because the individual referred for prosecution participated in a program in lieu of prosecution, in total, and by type of program, and disaggregated by top charge and charge severity, and also disaggregated by the race, gender, and age of the person that is not prosecuted. This information should include the number of cases in which a defendant was recommended to participate in a program in lieu of prosecution but then failed to successfully complete such program.

5. The number of and percentage of prosecutions eligible for bail or remand in which the office requests bail or remand at a criminal court arraignment and the requested amount, and, the number and percentage of such prosecutions in which bail or remand is so imposed and the amount imposed, not including any prosecution in which nominal bail is requested by the defense pursuant to subdivision 5 of section 530.40 of the criminal procedure law or any successor statute, in total and disaggregated by the race, gender, and age of the person prosecuted, and the amount of bail requested by the prosecution and the amount imposed.

6. The number and percentage of prosecutions in which the district attorney office recommended supervised release or release under supervision at a criminal court arraignment, and the number and percentage

of such cases in which supervised release or release under supervision is so imposed, in total and disaggregated by whether such prosecutions were eligible for electronic monitoring, bail or remand, and also disaggregated by the race, gender, and age of the person prosecuted.

7. The number and percentage of all prosecutions, prosecutions in which felony complaints are filed, prosecutions disposed in supreme court, and prosecutions in which misdemeanor complaints are filed, that were disposed in the following categories: dismissal on the motion of the district attorney, dismissal on speedy trial grounds, acquittal at trial, dismissal on other grounds, adjournment in contemplation of dismissal, conviction for a violation, conviction for a traffic infraction, conviction for a misdemeanor, conviction for a felony, and any other outcome in total and disaggregated by:

- (a) whether bail was requested;
- (b) whether bail or remand was imposed, and for bail in what amount and what forms;
- (c) whether conviction was secured through a plea bargain;
- (d) whether the person was incarcerated at the time of disposition;
- (e) the precinct of arrest; and
- (f) race, gender, and age of the person prosecuted.

8. The number and percentage of prosecutions, in total and disaggregated by both charge severity and conviction severity, disposed at the following times: criminal court arraignment, supreme court arraignment, between criminal court arraignment and before pretrial evidentiary hearings, between supreme court arraignment and before pretrial evidentiary hearings, after pretrial evidentiary hearings were commenced and before trial, and after trial.

9. The average time between initial arraignment and disposition, in total and disaggregated by charge severity and conviction severity, and also disaggregated by:

- (a) Charge severity, with felony charges further disaggregated by whether such charges are violent felonies as defined in article 70 of the penal law;

(b) Whether the defendant was incarcerated at any time during the pendency of the case, disaggregated by whether such person was released from such incarceration at any point during the pendency of the case; and

(c) Whether the defendant participated in a program during such period.

10. The number of cases in which there was a failure to turn over evidence prior to a plea offer and the number of instances in which sanctions were imposed as a result.

11. Sentences imposed, in total and disaggregated by charge severity, conviction severity, age, race, gender, and method by which conviction was obtained, in the following categories: determinate period of imprisonment, indeterminate period of imprisonment, definite period of imprisonment, conditional discharge, probation, fine, and time served. In any case in which a fine is imposed in addition to another sentence, the report shall include only such other sentence. Sentences of conditional discharges shall be listed in total and disaggregated by type of condition imposed in the following categories: program attendance, community service, or other type of condition.

12. The number of prosecutions that result in trials, disaggregated by bench trials and jury trials, top charge, and race, age and gender.

b. All terms used in this section that are not defined in section 9-401 have the same meanings as they have in the penal law or criminal procedure law, where applicable. All reporting requiring disaggregation by age shall be reported in the following categories: 17 and below; 18-24, 25-29, 30-39, 40-49, 50-59, 60-69, and 70 years old and up. All reporting requiring disaggregation by race shall be reported in the following categories: Asian, Black, Hispanic, Other, and White.

c. Reports required pursuant to subdivision a of this section shall be stored permanently and accessible from each office's website, and shall be provided in a format that permits automated processing.

d. Notwithstanding any inconsistent provision of this section:

1. If any office is unable to comply with some or all of the provisions of this section, such office shall comply with the provisions with which such office is capable of complying. In any such instance of an inability

to comply, such office shall provide written notice of such inability to the mayor and speaker of the council within 60 days of the date the reports required pursuant to subdivision a of this section are required to be submitted. Such notice shall contain a description of the provisions with which such office is unable to comply, why such office is unable to comply with each such provision, and what specific efforts are being taken to bring such office into compliance for future reports. Such notice may also contain recommendations for amendment of any provision of this section if such office anticipates that the inability to comply is likely to continue for the report to be submitted in 2025 regarding calendar year 2024, together with specific reasons for such anticipated continued inability.

2. Full compliance with the provisions of subdivisions a, b, and c of this section shall be required for the report to be submitted in 2025 regarding calendar year 2024.

§ 2. Title 9 of the administrative code of the city of New York is amended by adding a new section 9-309 to read as follows:

§ 9-309 District attorney reporting. No later than 90 days from January 1 of each year, starting in 2024, the office shall provide to the council and publish on its website an annual report on district attorneys. This report shall consist of the information required pursuant to section 9-402 aggregated for all district attorneys, to the extent that such information is provided to the office as enumerated in subdivision d of such section, and published in a manner that permits the comparison of such information for such district attorneys.

§ 3. This local law takes effect immediately.