

FROM THE NYS Assembly Codes Committee



Summer 2021

Carl E. Heastie, Speaker • Jeffrey Dinowitz, Chair
Legislative Office Building, Room 831, Albany, NY 12248 • www.nyassembly.gov

Message From The Chair



Dear Friend,

I was deeply honored to be appointed Chair of the Assembly Committee on Codes by Assembly Speaker Carl Heastie at the beginning of the 2021 legislative session. My predecessor, Joe Lentol, left very large shoes to fill. I would like to thank Joe for his many years of dedicated service to the Assembly and his district, as well as applaud his very long list of accomplishments.

2021 came with a unique set of challenges, as every one of the 18 Codes Committee meetings was held remotely via Zoom due to COVID-19 pandemic restrictions. Despite these challenges, much was accomplished. The Committee considered and reported nearly 400 bills, some of which are described herein.

After a busy session, the Committee remains hard at work preparing for the second half of the legislative cycle in 2022, as well as potential hearings set to take place later this year on Codes-related issues that impact New Yorkers.

It is my hope that this newsletter will offer some insight into the workings of the Committee and what we achieved during the 2021 legislative session. Enclosed you will find information on legislation that originated or was re-referenced to the Committee and, at minimum, passed the Assembly in 2021. The bills are organized by the primary law that they amend. Please be sure to note the contact information that may be of use to you.

Lastly, I want to wish you and yours a safe and enjoyable summer.

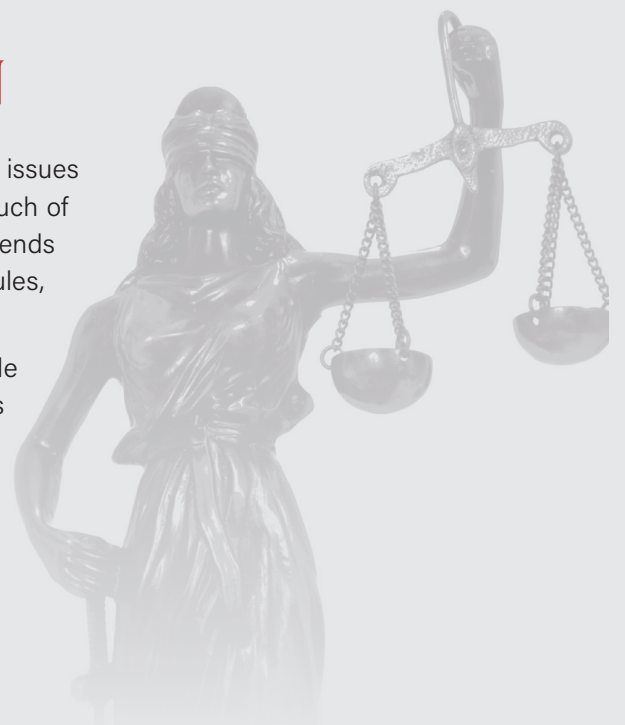
Sincerely,

Jeffrey Dinowitz
Chair, New York State Assembly Codes Committee

COMMITTEE JURISDICTION

The New York State Assembly Standing Committee on Codes considers issues and legislation regarding the state's criminal and civil justice system. Much of the legislation considered by the members of the Codes Committee amends the Criminal Procedure Law, the Penal Law, the Civil Practice Law and Rules, as well as selected articles of the Executive Law.

In addition, the Committee's dual reference authority, pursuant to Rule IV § 6 (i) of the Rules of the Assembly of the State of New York, places within its jurisdiction legislation initiated in any of the other Assembly standing committees which imposes or changes any fine, term of imprisonment, forfeiture of rights or property, or other penal sanction, as well as legislation related to the procedure by which such fine, term of imprisonment, forfeiture, or other penal sanction is imposed or changed.





PENAL LAW

A.324-A (Zebrowski) / S.2986-A (Brouk) - Expands the definition of the offense of coercion in the second degree to include the production or dissemination of nude images

This bill would amend the Penal Law to expand the definition of Coercion in the Third Degree to include instances where an individual compels or induces a person to produce, disseminate, or otherwise display nude images of themselves or images of themselves engaged in sexual conduct.

(Passed both houses – awaiting action by the Governor)

A.613-A (Rosenthal, L) / S.14-A (Hoylman) - Enacts the Jose Webster untraceable firearms act

This bill would amend the Penal Law to prohibit the possession of ghost guns. Ghost guns are unserialized firearms, typically assembled from unserialized parts, including unfinished frames or receivers. The bill would require licensed gunsmiths to serialize and register any unserialized gun, unfinished frame or receiver in their possession. It would create the crimes of Criminal Sale of a Ghost Gun in the First Degree and Second Degree.

(Passed both houses – awaiting action by the Governor)

A.868 (Gottfried) / S.2523 (Rivera) - Decriminalizes the possession and sale of hypodermic needles and syringes

This bill would amend the Penal Law to strengthen and expand syringe access and protect public health by allowing pharmacies and healthcare agencies, registered with the state Expanded Syringe Access Program (ESAP), to provide syringes without a numerical limitation.

(Passed both houses – awaiting action by the Governor)

A.2666-A (Lavine) / S.13-A (Kaplan) - Enacts the "Scott J. Beigel unfinished receiver act" in relation to unfinished frames or receivers

This bill would amend the Penal Law to prohibit the possession of unfinished firearm frames and receivers. Unfinished frames and receivers are incomplete gun components that do not require serial numbers under federal law. Because guns assembled from unfinished frames and receivers do not have serial numbers, they are untraceable and can be built and transported without the normal background checks required when purchasing a gun from a licensed retailer. The bill would create the crimes of Criminal Sale of an Unfinished Frame or Receiver in the First Degree and Second Degree.

(Passed both houses – awaiting action by the Governor)

A.3355 (Paulin) / S.1351 (Hoylman) - Repeals section 240.37 of the penal law, relating to loitering for the purpose of engaging in a prostitution offense

This bill amended the Penal Law to repeal section 240.37 concerning loitering for purposes related to prostitution, and made conforming changes to sections of the Criminal Procedure, Penal and Social

Services Laws, and the Administrative Code of the City of New York to reflect the repeal.

(Signed by the Governor – Chapter 23 of the Laws of 2021)

A.4947 (Bichotte Hermelyn) / S.621 (Sanders) - Enacts Carlos' law; relates to crimes involving the death or injury of a worker

This bill would amend the Penal Law to protect workers from supervisors who negligently fail to comply with safety protocols by creating new offenses and substantially increasing the fines that may be imposed on a corporate defendant convicted of certain crimes.

(Passed the Assembly – awaiting action by the Senate)

A.5830-A (Dinowitz) / S.328-A (Persaud) - Relates to unlawfully installing a gas meter

This bill amended the Penal Law to make it a class B misdemeanor when an unauthorized person installs a gas meter, or is the owner of the premises where the meter is unlawfully installed and knows that such gas meter was unlawfully installed.

(Signed by the Governor – Chapter 274 of the Laws of 2021)

A.6015 (Dinowitz) / S.61 (Persaud) - Relates to impersonating another by using another's electronic signature

This bill would amend the Penal Law to prohibit the impersonation of another person, without such person's permission, by using his or her electronic signature with the intent to obtain a benefit or injure or defraud the other person or another.

(Passed both houses – awaiting action by the Governor)

A.6198-B (Paulin) / S.5000-B (Kavanagh) - Relates to the purchase of firearms, rifles and shotguns

This bill amended the Penal Law to prohibit the purchase or disposal of a firearm, rifle or shotgun by or for a person who is known to be the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense.

(Signed by the Governor – Chapter 236 of the Laws of 2021)

A.6319 (Cruz) / S.1075 (Hoylman) - Relates to the offenses of rape in the first, second and third degrees

This bill would amend the Penal Law to remove the requirement of penetration from the rape statutes, redefine rape to include oral and anal sexual conduct, and make conforming changes throughout various areas of law.

(Passed the Assembly – awaiting action by the Senate)

A.6522 (Stern) / S.7152 (Brooks) - Amends the definition of disguised gun to include certain guns that are designed and intended to appear to be a toy gun

This bill would amend the Penal Law to include in the definition of "disguised gun" any rifle, pistol, shotgun or machine-gun designed and intended to appear to be a toy gun. An exception is provided for any rifle or shotgun displaying a camouflage color or pattern that is intended for hunting.

(Passed both houses – awaiting action by the Governor)

CRIMINAL PROCEDURE LAW

A.2354 (Dinowitz) / S.911 (Sanders) - Relates to the possession of opioid antagonists

This bill would amend the Criminal Procedure Law to prohibit the receipt into evidence the possession of opioid antagonists, such as naloxone, in a criminal or civil case charging alleged illegal possession of controlled substances. The goal of this legislation is to remove any deterrent from a person carrying this potentially-life-saving overdose treatment product.

(Passed both houses – awaiting action by the Governor)

A.4319 (Dinowitz) / S.689 (Hoylman) - Relates to the right of a defendant who has entered a plea of not guilty to an information which charges a misdemeanor to a jury trial

This bill would amend the Criminal Procedure Law to ensure the right to a jury trial for persons in New York City charged with a class B misdemeanor. Currently the right to a jury trial for a class B misdemeanor is afforded by law outside New York City, but not to those charged in New York City.

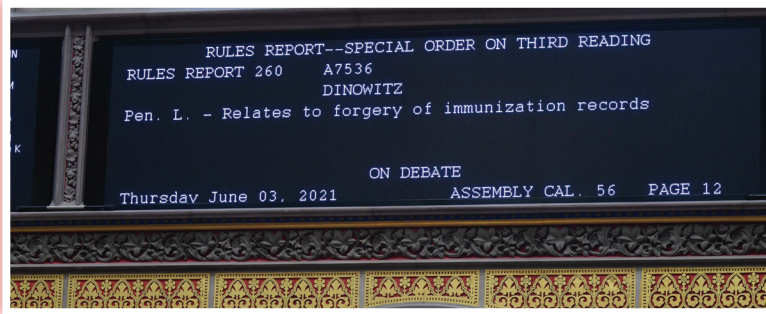
(Passed both houses – awaiting action by the Governor)

LEGISLATIVE HIGHLIGHT

A.7536-B (Dinowitz) / S.4516-C (Kaplan) - Makes the falsification of COVID-19 vaccination records a crime

After multiple media reports on the escalating trend of counterfeit or otherwise fraudulent vaccination cards in New York and around the nation, this bill was drafted to make the falsification of COVID-19 vaccination records a crime.

The reports detailed schemes of individuals selling or distributing forged COVID-19 vaccination cards that are normally provided upon immunization and bear a CDC insignia. These falsified cards are concerning because of the deleterious impact on our public health and the public's trust when participating in activities or attending venues that require proof of vaccination. This bill would make clear that people who engage in the production and distribution of fraudulent COVID-19 cards are captured by New York's forgery statutes.



The bill amends the definition of "written instrument" within the forgery statute to include "a card provided to a person by a vaccine provider indicating the date a person received a vaccination against COVID-19 ... and bearing a government logo or other indication that it is created by a governmental instrumentality." This was done so that the existing "Forgery in the Second Degree" crime (a class D felony), which includes a falsified "written instrument officially issued by a ... governmental instrumentality," captures forged COVID-19 vaccination cards.

Finally, the bill adds language to the crime of "Computer Tampering in the Third Degree" to capture individuals who intentionally alter "computer material indicating that a person did or did not receive a vaccination against COVID-19." A violation of this section is a class E felony.

(Passed both houses - awaiting action by the Governor)

OTHER LAWS

A.1248-A (Peoples-Stokes) / S.854-A (Krueger) - Enacts the "marihuana regulation and taxation act"

Public Health Law

The marihuana regulation and taxation act (MRTA) enacted a new chapter of law, the Cannabis Law, and created a new Office of Cannabis Management (OCM) for the oversight and licensure of cultivation, processing, distribution and sale of cannabis and the use of cannabis products by persons 21 years of age and older. The MRTA also made changes and expanded the medical cannabis program and the industrial hemp program. The legislation repealed certain Penal Law crimes related to marijuana and created a new Penal Law article to establish new, less harsh penalties related to prohibited sale and prohibited large-scale possession of cannabis, ranging from a fine of up to \$125 to a class C felony. Persons under the age of 21 who possess cannabis will not be charged under the Penal Law - such offenses will be handled in a manner similar to alcohol offenses: a civil infraction including a fine of \$50 and information provided on the dangers of underage cannabis use and cannabis use disorder. The MRTA also expanded the limited marijuana conviction expungement and vacatur provisions in the Criminal Procedure Law first established by law in 2019, and expanded resentencing options for those currently incarcerated. The legislation will provide for the home cultivation of cannabis plants, both for medical and adult personal use. Adults 21 years and older will eventually be authorized to cultivate 3 mature plants and 3 immature plants, with up to 6 mature plants and 6 immature plants maximum per household. Implementation of home cultivation would be regulated by OCM. Cannabis is still defined as a "drug" under the Vehicle and Traffic Law, and such DWAI offenses will continue to be charged as a misdemeanor. If the motorist under arrest refuses such a chemical test, that refusal - as under current law - can result in revocation of the driver's license for one year. Cities, towns and villages may opt out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses by passing a local law by December 31, 2021. Localities that choose to opt out will not receive tax revenue from cannabis sales. There are also provisions in the MRTA related to taxation and state finances and how such taxes on cannabis and cannabis products will be collected.

(Signed by the Governor - Chapter 92 of the Laws of 2021)

A.6762-B (Fahy) / S.7196 (Myrie) - Relates to the dangers to the safety and health of the public caused by the sale, manufacturing, importing and marketing of firearms

General Business Law

This bill amended the General Business Law to prohibit gun industry members from acting in a manner that is either unlawful or unreasonable under the circumstances and that knowingly or recklessly creates, maintains, or contributes to conditions in New York State that endanger the safety or health of the public through the sale, manufacturing, importing, or marketing of a qualified product. [e.g. firearm]. This bill would also require gun industry members (active in New York) to establish and utilize reasonable controls and procedures to prevent qualified products from being possessed, used, marketed or sold unlawfully in New York state.

This bill was drafted to comply with the Protection of Lawful Commerce in Arms Act (PLCAA) as construed by the federal Second Circuit Court of Appeals. A violation of the article's prohibited activities, that results in harm to the public, shall be declared a "public nuisance." The acts or omissions of a gun industry member shall constitute a "proximate cause" of the public nuisance if the harm to the public was a "reasonable foreseeable effect of such acts or omissions, notwithstanding any intervening actions, including but not limited to criminal actions by third parties."

(Signed by the Governor - Chapter 237 of the Laws of 2021)

A.7706 (Davila) / S.7171 (Brisport) - Relates to juvenile delinquency charges of violations in the family court

Family Court Act

This bill amends the Family Court Act and Criminal Procedure Law to provide that 16 and 17-year olds may not be securely detained, placed on probation or placed outside of their homes as a disposition when the youth's highest conviction is for a violation.

(Passed both houses - awaiting action by the Governor)

A.7874-A (Hunter) / S.7053-A (Kennedy) - Relates to the suspension of a license to drive a motor vehicle or motorcycle

Vehicle and Traffic Law

This bill would amend the Vehicle and Traffic Law to ensure that an individual who has had his or her driver license suspended for failure to appear in relation to a traffic infraction may have their license reinstated by entering into an installment payment plan to pay the penalty.

(Passed both houses - awaiting action by the Governor)

A.7957 (Richardson) / No Same As - Authorizes the court to order the search and seizure of firearms in connection with an order of protection

Domestic Relations Law

This bill would amend the Domestic Relations Law to authorize the Supreme Court to issue search and seizure orders relating to firearms possessed in violation of orders of protection issued in matrimonial proceedings.

(Passed the Assembly - awaiting action by the Senate)

A.8022 (Davila) / S.7229 (Bailey) - Relates to the role of the department of corrections and community supervision in planning and facilitating the discharge or release of incarcerated persons to the community

Correction Law

This bill would amend the Correction Law to require the Department of Corrections and Community Supervision to provide comprehensive discharge planning to individuals being released from custody. Such plans should address housing, mental health, medical and employment needs, as well as any recommended substance use disorder services, in order to coordinate with reentry providers in providing these services.

(Passed the Assembly - awaiting action by the Senate)

EXECUTIVE LAW

A.2230-A (Reyes) / S.70-A (Hoylman) - Relates to enacting the "hate crimes analysis and review act"

This bill would amend the Executive Law to require the Division of Criminal Justice Services, in conjunction with the Office of Court Administration, to collect and make public (without identifying information) the demographic data of the victim or victims of hate crimes as well as the persons arrested for such crimes including, but not limited to the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, and sexual orientation of such person or persons.

(Passed both houses - awaiting action by the Governor)

A.5576-A (Forrest) / S.1144-A (Benjamin) - Relates to revocation of community supervision

This bill would amend the Executive Law to allow individuals under parole supervision to receive earned time credits for good behavior; provide individuals the opportunity to see a judge before a determination of extended detention; cap the length of re-incarceration for certain technical violations; and reduce the time frame for adjudicatory hearings.

(Passed both houses - awaiting action by the Governor)

A.6283 (Vanel) / S.4053 (Bailey) - Directs the superintendent of state police to develop and institute child-sensitive arrest policies and procedures

This bill would amend the Executive Law to direct the Superintendent of State Police to develop and institute child-sensitive arrest policies and procedures for instances where police are arresting an individual who is a parent, guardian or other person legally charged with the care or custody of a

child, to ensure reasonable efforts are made to prioritize the safety of minors.

(Passed the Assembly - awaiting action by the Senate)



New York State Assembly, Albany, New York 12248

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NEWS

From the
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Codes
Committee**



Summer 2021

IMPORTANT CONTACTS

■ New York State Unified Court System

Office of Court Administration
Albany: 4 ESP, Suite 2001, Empire State Plaza
Albany, NY 12223-1450 518-453-8650
New York City: 25 Beaver Street
Room 852, New York, NY 10004
212-428-2700 • <http://www.nycourts.gov/>

■ New York State Attorney General

The Capitol, Albany, New York 12224
1-800-771-7755 • www.ag.ny.gov

■ New York State Division of Criminal Justice Services (DCJS)

Alfred E. Smith State Office Building
80 South Swan Street, Albany, New York 12210
518-457-5837 or 800-262-3257
www.criminaljustice.ny.gov

■ New York State Department of Corrections and Community Supervision (DOCCS)

Building Two 1220 Washington Avenue
Albany, New York 12226-2050
518-457-8126

■ New York State Commission of Correction

Alfred E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, New York 12210
518-485-2346
<https://scoc.ny.gov/contact.htm>

■ New York State Division of State Police

1220 Washington Avenue, Bldg. 22
Albany, New York 12226
www.troopers.ny.gov

■ New York State Office of Victim Services

Albany: Alfred E. Smith State Office Building
80 S. Swan Street, 2nd Floor, Albany, NY 12210
518-457-8727 or 1-800-247-8035
Brooklyn: 55 Hanson Place, 10th Floor
Brooklyn, New York 11217
718-923-4325 or 1-800-247-8035
www.ovs.ny.gov

■ New York State Office for the Prevention of Domestic Violence

Alfred E. Smith State Office Building
80 South Swan Street, 11th Floor, Rm. Number 1157
Albany, New York 12210
518-457-5800
www.opdv.ny.gov