

NY COM New York State Conference of Mayors & Municipal Officials

- Enacted State Budget
- Stand Alone Legislation
- Passed both Houses
- Remaining Potential Legislation in the 2019 Session

2019 Legislative Update

Albany, New York
Monday, April 29, 2019



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New York State Conference of Mayors & Municipal Officials

Updated Materials

<http://bit.ly/SL2019SpringForumLegUpdate>

New York State Conference of Mayors & Municipal Officials

The 2019 Legislative Session

- **Change in NYS Senate Dynamics**
39 Dem - 1 Dem - 22 Rep
- **NYS Assembly**
106 Dem - 1 Ind - 43 Rep

New York State Conference of Mayors & Municipal Officials

NYS BUDGET

Tax Cap

- Made Permanent
Part NNN of A.2009-C/S.1509-C

Binding Arbitration Extender

- Extends for 5 Year
Part F of A.2005-C/S.1505-C
- 70% Ability to Pay Update
Two Recent Cases Ruled Against Local Governments, *Walker & Read*, 168 A.D.3d 1253 (N.Y. App. Div. 2019)

NYS BUDGET**Internet Sales Tax**

- Implements Internet Sales Tax as a Result of the *Wayfair* Decision

NYS BUDGET**Plastic Bag Ban – Effective March 1, 2020**

- Prohibits Stores That Collect Tangible Property Tax From Distributing Single Use Carry-Out Plastic Bags
- Exempts Bags for**
 - Meat/Fish/Poultry,
 - Fruit/Vegetable/Bulk Items,
 - Newspapers,
 - Trash,
 - Single-Use Personal Bags, &
 - Restaurant Delivery & Pharmacy

NYS BUDGET**Plastic Bag Ban – Effective March 1, 2020**

- **Paper Carryout Reduction Fee**
- Any City & Any County May Impose \$0.05 Per Bag Fee Effective 3/1/20
- The Fee is Paid to the State
- 40% of Fee Remitted to City/County to be Used for a Low-/Fixed-Income Reusable Bag Program
- Remaining 60% of Fee Goes to the EPF

NYS BUDGET**Plastic Bag Ban – Effective March 1, 2020**

- **Paper Carryout Reduction Fee**
- The Law (ECL § 27-2805) Includes Somewhat Confusing Preemption Language

NYS BUDGET

Organics Diversion & Composting

- Food Donation & Food Scraps Recycling
- Title 22 of the Environmental Conservation Law
- Requires Food Scrap Generators (Average Annual Production 2+ Tons of Food Waste Per Year) to Divert & Send Organics to a Recycler

NYS BUDGET

Organics Diversion & Composting

- Effective January 1, 2022
- Must Take Steps to Prevent Odors & Attracting Vectors
- Exempt Generators: Hospitals, Nursing Homes, Adult Care Facilities, & Elementary & Secondary Schools
- Part SS of A.2008-C /S.1508-C

NYS BUDGET

Union Member Privacy Protection

- Part E of A.2005-C/S.1505-C.
- Amends Civil Service Law § 209-a(1), Adding a New Paragraph (h) Which Prohibits Public Employers From Deliberately Disclosing the Home Address, Personal Phone Number, or Email Address Except as Mandated by CSL Article 14.

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - Amends CPL § 150.10 - Allows Arrestees to Provide Contact Information
 - Amends CPL § 150.20 – Police **MUST** Issue Appearance Tickets for Offenses Other Than Class A, B, C, D Felonies or Violations of Penal Law §§ 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56

NYS BUDGET

Criminal Justice Reform

▪ Bail Reform – Part JJJ of A.2009-C

- **May arrest if**
 - a) **Person Has 1 or More Outstanding Local Criminal or Superior Court Warrants;**
 - b) **Person Has Failed to Appear In Court Proceedings In Previous Two Years;**
 - c) **Person Fails to Give Verifiable Identity & Method of Contact (Photo ID NOT Required ID Otherwise Verifiable);**
 - d) **Person Charged w/ Crime Between Family Members/Household (CPL § 530.11);**

NYS BUDGET

Criminal Justice Reform

▪ Bail Reform – Part JJJ of A.2009-C

- **May arrest if**
 - e) **Person Is Charged w/ a Penal Law Art 130 Crime (Sex Offenses);**
 - f) **Reasonably Appears Person Should Be Brought Before a Court for Consideration of an Order of Protection (CPL § 530.13);**
 - g) **Person Is Charged w/ Crime Which Court May Suspend/Revoke Driver License;**

NYS BUDGET

Criminal Justice Reform

▪ Bail Reform – Part JJJ of A.2009-C

- **May arrest if**
 - h) **Reasonably Appears, Based on Observed Behavior, That Person Would Face Harm Without Immediate Medical or Mental Health Care (Officer Must Make All Reasonable Efforts to Assist Person In Securing Appropriate Services).**

NYS BUDGET

Criminal Justice Reform

▪ Bail Reform – Part JJJ of A.2009-C

- **CPL § 150.30 (Appearance ticket) is REPEALED**
- **A New CPL § 150.80 (Court appearance reminders) is Added, Requiring Local Criminal Courts to Issue Appearance Reminders, No Reminder is Required if 72 Appearance is Required or No Contact Information is Provided**

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 500.10 (Recognizance/Bail) is Amended Adding Paragraph 3-a, “Release Under Non-Monetary Conditions”
 - Authorizes Person to be Released at Liberty During Pendency Criminal Action
 - Must Be Least Restrictive Conditions that Will Reasonably Assure Principal's Return to Court

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 500.10 (Recognizance/Bail) is Amended Adding Paragraph 3-a, “Release Under Non-Monetary Conditions”
 - Conditions May Include
 - a) Principal Must Be In Contact w/ Pretrial Services Agency;
 - b) Principal Must Abide by Reasonable, Specified Travel Restrictions Reasonably Related to **Actual** Risk of Flight;
 - c) Principal Refrain from Possessing Weapon;

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 500.10 (Recognizance/Bail) is Amended Adding Paragraph 3-a, “Release Under Non-Monetary Conditions”
 - Conditions May Include
 - d) When, Pursuant CPL § 510.45(4), No Realistic Monetary Condition or Non-Monetary Conditions Will Reasonably Assure Person's Return to Court, Placed In Reasonable Pretrial Supervision;

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 500.10 (Recognizance/Bail) is Amended Adding Paragraph 3-a, “Release Under Non-Monetary Conditions”
 - Conditions May Include
 - e) When, Pursuant CPL § 510.40(4)(a), No Other Realistic Non-Monetary Conditions Will Reasonably Assure Return to Court, Principal's Location May Be Monitored w/ Approved Electronic Monitoring Device

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 510.10 (Securing Order) is Amended
 - Mandates Courts Make Individualized Determination that Principal Poses a Flight Risk to Avoid Prosecution Before Imposing the Least Restrictive Alternative and Conditions that Will Reasonably Assure the Principal's Return to Court
 - Court Must Explain Its Choice of Release, Release w/ Conditions, Bail or Remand on Record or in Writing

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 510.50 (Enforcement of Securing Order)
 - Simply Failing to Appear at Subsequent Court Date, Courts Must Give Principle 48 Hours Notice

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 530.20 (Local Criminal Court Securing Order)
 - Local Criminal Courts MUST Release Under Non-Monetary Conditions, Selecting Least Restrictive Alternative Conditions that Will Reasonably Assure Principal's Return UNLESS . . .

NYS BUDGET

Criminal Justice Reform

- **Bail Reform – Part JJJ of A.2009-C**
 - CPL § 530.20 (Local Criminal Court Securing Order)
 - Local Criminal Courts Have Discretion on Release Regarding Numerous Serious Alleged Crimes Enumerated in Section 530.20(1)(b)
 - CPL § 530.40 (Superior Court Securing Order)
 - Effective January 1, 2020

NYS BUDGET

Criminal Justice Reform

- **Speedy Trial – Part KKK of A.2009-C**
 - Amends CPL § 30.30
 - Court Must Inquire as to People’s “Actual Readiness”
 - Prosecution’s Statement of Readiness Must Have a “Certification of Good Faith Compliance”
 - Accusatory Instruments Must Have Certification that it Meets CPL §§ 100.15 & 100.40 Requirements
 - Effective January 1, 2020

NYS BUDGET

Criminal Justice Reform

- **Discovery – Part LLL of A.2009-C**
 - Adds a New CPL Article 240
 - Establishes Timing of Discovery, Including Requiring Initial Prosecution Disclosure Not More than 15 Days After Arraignment & Supplemental Prosecution Disclosure Not Less than 15 Days Prior to Trial (CPL § 245.10)

NYS BUDGET

Criminal Justice Reform

- **Discovery – Part LLL of A.2009-C**
 - Adds a New CPL Article 240
 - Enumerates the Evidence Which Must Be Disclosed (CPL § 245.20)
 - Mandates Disclosure of Evidence Prior to Certain Guilty Pleas (CPL § 245.25)
 - Effective January 1, 2020

NYS BUDGET

Model Law Enforcement Use of Force Policy

- NYS Municipal Police Training Council
- Must Create a Model Policy Addressing Standard Use of Force, Reporting, Training, Medical Treatment, Conflict Prevention
- Part ZZ of A.2005-C/S.1505-C

NYS BUDGET

NYC Congestion Pricing

- Part ZZZ of A.2009-C
- MTA Reform & Traffic Mobility Act
- New Vehicle & Traffic Law Art 44-C
Central Business District Tolling Program
- Manhattan:
60th St • FDR • West Side Highway
- Triborough Bridge & Tunnel Authority w/ an MOU from the NYC DOT

NYS BUDGET

NYC Congestion Pricing

- Empowered to Establish Variable Tolls & Fees for Entering the Central Business District
- Funds from CBD Tolls to Fund MTA Capital Program
- Not Earlier than December 31, 2020

NYS BUDGET

NYS Civil Asset Forfeiture

- Part PP of A.2005-C
- New General Municipal Law § 6-v
Mandates Local Governments to Create Asset Forfeiture Escrow Fund
- Timbs v. Indiana, 139 S. Ct. 682 (2019)

NYS BUDGET

Leave Time for Voting

- Amend Election Law § 3-110
- Allows up to Three (3) Hours Off of Work
- Removes Restrictions Regarding Sufficient Time to Vote Before/After Work
- Effective April 12, 2019
- Part YY of A.2005-C.S.1505-C

NYS BUDGET

Primary Election Voting Hours

- Amends NYS Election Law § 8-100 to Require All Primary Elections Polling Places Be Open 6:00 a.m. - 9:00 p.m.
- Effective For All Elections Held 120 Days After January 1, 2020
- Part BBB of A.2005-C/S.1505-C

NYS BUDGET

Voter Enfranchisement Modernization Act of 2019

- Adds A New Title VIII To The NYS Election Law Requiring The State Board Of Elections To Establish And Maintain An Electronic Voter Registration Transmittal System, Allowing For Online Voter Registration.
- Part CCC Of A.2005-C/S.1505-C

STAND ALONE LEGISLATION

Election/Voting Reforms

- Voter Pre-Registration. Chapter 2 of the Laws of 2019
- Voter Registration Transfer. Requires State Board of Elections to Promulgate Regulations for Automatically Transferring Voters from County to County
- Effective March 25, 2019

STAND ALONE LEGISLATION

Consolidation of Primary Days

- Consolidates Federal, State, & Local Elections to 4th Tuesday in June
- Chapter 5 of the Laws of 2019
- Effective January 24, 2019

STAND ALONE LEGISLATION

Early Voting

- New Title 6 Early Voting is Added to Election Law Article 8
- Provides for Voting 10 Days Prior to Primaries and General Elections
- Boards of Elections Designate Polling Places for Early Voting
- 1 Polling Place for Every 50K
- Counties Not Required to Have More than 7
- Voters May Vote at Any Polling Place

STAND ALONE LEGISLATION

Early Voting

- Effective General Election November 2019
- Chapter 6 of the Laws of 2019

STAND ALONE LEGISLATION

Gender Identity Discrimination

- Prohibits Discrimination Based On Gender Identity or Expression
- Includes Offenses Regarding Gender Identity or Expression Under New York's Hate Crimes Statute
- Effective February 24, 2019
- Chapter 8 of the Laws of 2019.

STAND ALONE LEGISLATION

Actions for Sexual Offenses Against Children - Statute of Limitations

- Amends CPL to Extend the SOL for Criminal Proceedings by 5 Years to 23 Years of Age
- Amends CPLR to Extend the SOL for Civil Actions Until the Victim Reaches 55 Years of Age
- Effective Immediately
- Chapter 11 of the Laws of 2019

STAND ALONE LEGISLATION

Firearm Purchase Extreme Risk Protection Order

- Amends CPLR Adding a New Article 63-A
- Establishes Extreme Risk Protection Orders: Court-Issued Order of Protection Prohibiting a Person From Purchasing, Possessing or Attempting to Purchase or Possess a Firearm, Rifle or Shotgun

STAND ALONE LEGISLATION

Firearm Purchase Extreme Risk Protection Order

- Also Allows for a Temporary Extreme Risk Protection Order
- Effective August 24, 2019
- Chapter 19 of the Laws of 2019

STAND ALONE LEGISLATION

State Commission on Prosecutorial Conduct

- Amends the Provisions Relating to the Appointment of Commissioners And Clarifies the Procedures of the Commission On Prosecutorial Conduct.
- Chapter 23 of the Laws of 2019

LEGISLATION PASSED BOTH HOUSES NOT YET DELIVERED TO GOVERNOR

Gun Control

- **Firearm Background Check**
Would Amend Penal Law & General Business Law, Establishing An Extension of Up to the 30 Days of National Instant Background Checks
A.2690/S.2374
Assembly: Passed/Senate: Passed

LEGISLATION PASSED BOTH HOUSES NOT YET DELIVERED TO GOVERNOR

Gun Control

- **Firearm Safe Storage**
Would Amend Penal Law to Require Safe Storage of Firearms Where Resident Under 16 Years of Age & When Firearm Owner/Custodian Has Reason to Know a Person Under 16 Is Likely to Gain Access to Firearm
A.2686-A/S.2450-A
Assembly: Passed/Senate: Passed

LEGISLATION PASSED BOTH HOUSES NOT YET DELIVERED TO GOVERNOR

Gun Control

- **Municipal Gun Buyback Program**
Would Add Executive Law § 233, Which Would Authorize a Municipal Gun Buyback Program & Establish a Municipal Gun Buyback Program Fund
A.2685/S.2449
Assembly: Passed/Senate: Passed

LEGISLATION PASSED BOTH HOUSES NOT YET DELIVERED TO GOVERNOR

Gun Control

- **Bump Stock Ban**
Would Amend the NYS Penal Law to Prohibit the Possession of Bump Stock Devices
A.2684/S.2448
Assembly: Passed/Senate: Passed

PROPOSED CONSTITUTIONAL AMENDMENTS

Elimination of the 10-Day Voter Registration Cut-Off

- Constitutional Amendment
Eliminating Requirement that Voters Register 10 Days Before the Election
- A.777/S.1048
- Passed Assembly & Senate
- Effective After State Legislature 2021-2022 Passes & Then Approved At Statewide Referendum

PROPOSED CONSTITUTIONAL AMENDMENTS

Authorizes Ballot by Mail/Expands Absentee Voting

- **Constitutional Amendment Allowing
No-Excuse Absentee Voting & Voting
by Mail for Any Reason**
- **A.778/S.1049**
- **Passed Assembly & Senate**
- **Effective After State Legislature
2021-2022 Passes & Then Approved
At Statewide Referendum**

MAJOR ISSUES STILL LIKELY TO BE ADDRESSED IN 2019 SESSION

Adult-Use Cannabis

e-bikes & e-scooters

Expansion of Prevailing Wage