



MEMO OF SUPPORT

[A10394 \(Wallace\)](#) / [S9674 \(Gianaris\)](#)

Enacts the Criminal Court Opinion Transparency Act

June 4, 2024

TITLE OF BILL

An act to amend the judiciary law, relating to the publication of opinions rendered in criminal causes.

SUMMARY OF PROVISIONS

Section 1 provides the title, the Criminal Court Opinion Transparency Act.

Section 2 amends subdivision 1 of section 212 of the judiciary law to require publishing of open data regarding judges' court assignments, and for criminal cases resulting in published opinions, demographics of the defendant, name of the judge, and other data.

Section 3 amends section 212 of the judiciary law adding a new subparagraph (vii) to authorize the chief administrative judge to set up a system where e-filed opinions are automatically sent to the law reporting bureau (the State Reporter). It also shifts the duty from judges to clerks' offices for transmission of opinions that are not e-filed. All opinions must be transmitted in machine-readable format.

Section 4 amends section 432 of the judiciary law defines "machine-readable" and requires the chief administrative judge to transmit e-filed opinions to the law reporting bureau (the State Reporter) All opinions must be transmitted in machine-readable format. It would also require that certain orally-delivered criminal court decisions be excerpted from the transcript and sent to the State Reporter, as enumerated in Section 5.

Section 5 introduces a new Section 443-b to the judiciary law, mandating the publication of all criminal court opinions, both written and oral, addressing the following legal issues:

- Motion to suppress evidence or to controvert a search warrant;
- Motion to dismiss individual charges, or the entirety of an accusatory instrument;
- Omnibus motion;
- Motion to exclude expert testimony;
- Motion to challenge to the validity of a certificate of compliance; and
- Motion to sever.

Section 6 adds a new section 443-c to the judiciary law providing stringent privacy protections, including that defendants and witnesses be referred to by initials, and personal identifying information be redacted in public opinions. The State Reporter may not redact names of police or peace officers serving as witnesses in their professional capacity.

Section 7 adds a new subparagraph iv to paragraph (d) of subdivision 2 of section 10.40 of the criminal procedure law, stating that nothing in that section shall be construed as limiting or qualifying the delivery of opinions to the law reporting bureau, or their publishing.

Section 7 provides gender-neutral language for sections 434, 436, 437, and 438 of the judiciary law regarding the State Reporter.

Section 8 provides that the act shall take effect in 180 days.

STATEMENT OF SUPPORT

Our groups strongly support this bill because public access to judges' decisions is essential to ensuring integrity and accountability in New York's criminal legal system. This is especially important because these decisions interpret the federal and state constitutions, influencing precedent and New Yorkers' treatment under the law.

In 2024, decisions made by the government – including criminal courts – should be published online, and easily accessible. Unfortunately, New York's criminal court judges rarely opt to publish their decisions. According to Scrutinize and Reinvent Albany's report, [*Open Criminal Courts \(Nov 2023\)*](#), only 6% of criminal court decisions are made publicly available every year, leaving thousands of decisions out of reach for most New Yorkers. Publishing more criminal court decisions will benefit a broad group of stakeholders, including voters, journalists, legal professionals, the state Legislature, and appointing authorities.

Releasing these decisions will improve:

1. **Judicial Assessment:** Access to decisions is vital for evaluating a judge's performance and qualifications during reappointment, re-election, or promotion. In New York, judges are not tenured for life but instead are reappointed or re-elected. Public access to decisions made by judges is crucial to guaranteeing meaningful, merit-based assessment of judicial candidates.
2. **Legislative Oversight:** Publicly available decisions provide a window for the Legislature to monitor the implementation of criminal law reforms. In recent years, major changes have been made to laws relating to bail, discovery, and other areas, and legislative access to judicial decisions will help ensure robust oversight of the new laws.
3. **Legal Insight:** Decisions offer valuable insights for appellate courts and attorneys into legal interpretations and trends. Moreover, criminal court decisions play a crucial role in shaping attorneys' legal strategies and arguments. The absence of public access to these decisions can lead to uneven application of laws and impedes the ability of defense attorneys to adequately prepare defenses. Access to decisions also aids appellate courts and administrative bodies in understanding legal trends and finding inconsistencies.

This bill passed the Senate on June 3, 2024. We urge the Assembly to pass the bill, and the Governor to sign it.