



# NYSACDL

NEW YORK STATE ASSOCIATION  
OF CRIMINAL DEFENSE LAWYERS

## Memorandum in Support of S. 3269 (Hassell-Thompson)

The criminal history of an arrested person is one of the most fundamental pieces of information used by the prosecutor and the courts to make determinations in a criminal case. The information is used to make bail decisions, plea offers and sentencing decisions. This is why it is so surprising that the criminal history or “rap sheet” is not uniformly provided to defense attorneys throughout the state.

In many counties of New York, defense counsel may experience a long and prejudicial delay in receiving his or her client’s criminal history. This bill would provide more immediate access to that history for the public defenders and legal aid society attorneys who represent the vast majority of arrested people in the state.

Currently, public defenders, legal aid societies, and assigned counsel programs cannot access the Division of Criminal Justice Services (DCJS) criminal history database directly. They must wait to obtain that valuable information until it is provided by a judge or prosecutor. Such a system almost inevitably leads to delays in the timely provision of information, and can disadvantage the defense in preparing for bail hearings or plea negotiations.

This bill would allow public defenders, legal aid societies, and assigned counsel programs to contract directly with DCJS for access to their criminal history database. As DCJS requires from the other organizations that have access to the database, use would be limited to appropriate situations and proper security and confidentiality would be maintained by the contracting organizations.

Our criminal justice system is predicated on the importance of providing those accused of a crime with a fair opportunity to defend themselves. This change would put defense attorneys on a more equal footing with prosecutors, and eliminate one of the seemingly small, but in practice time consuming and wasteful procedures that slow down New York’s court systems and leads to inequitable outcomes for low-income New Yorkers. Eliminating an administrative barrier that interferes with the ability of public defenders, legal aid societies, and assigned counsel programs to effectively represent their clients is a cost effective step towards fair trials for all New Yorkers.

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