

STATE OF NEW YORK

420

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the executive law, in relation to disclosure of arrest and prosecution records of applicants for employment by police departments and other law enforcement agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (d) of subdivision 1 of section 160.50 of the
2 criminal procedure law, as amended by chapter 449 of the laws of 2015,
3 is amended to read as follows:
4 (d) such records shall be made available to the person accused or to
5 such person's designated agent, and shall be made available to (i) a
6 prosecutor in any proceeding in which the accused has moved for an order
7 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
8 enforcement agency upon ex parte motion in any superior court, or in any
9 district court, city court or the criminal court of the city of New York
10 provided that such court sealed the record, if such agency demonstrates
11 to the satisfaction of the court that justice requires that such records
12 be made available to it, or (iii) any state or local officer or agency
13 with responsibility for the issuance of licenses to possess guns, when
14 the accused has made application for such a license, or (iv) the New
15 York state department of corrections and community supervision when the
16 accused is on parole supervision as a result of conditional release or a
17 parole release granted by the New York state board of parole, and the
18 arrest which is the subject of the inquiry is one which occurred while
19 the accused was under such supervision, or (v) any prospective employer
20 of a police officer or peace officer as those terms are defined in
21 subdivisions thirty-three and thirty-four of section 1.20 of this chap-
22 ter, in relation to an application for employment as a police officer or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 peace officer; provided, however, that every person who is an applicant
2 for the position of police officer or peace officer shall be furnished
3 with a copy of all records obtained under this paragraph and afforded an
4 opportunity to make an explanation thereto, or (vi) a police department
5 or other law enforcement agency, in relation to an application by the
6 person accused for employment by such agency or department; provided,
7 however, that every such person shall be furnished with a copy of all
8 records obtained under this paragraph and afforded an opportunity to
9 make an explanation thereto, or (vii) the probation department responsi-
10 ble for supervision of the accused when the arrest which is the subject
11 of the inquiry is one which occurred while the accused was under such
12 supervision; and

13 § 2. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
14 procedure law, as amended by chapter 449 of the laws of 2015, is amended
15 to read as follows:

16 (d) the records referred to in paragraph (c) of this subdivision shall
17 be made available to the person accused or to such person's designated
18 agent, and shall be made available to (i) a prosecutor in any proceeding
19 in which the accused has moved for an order pursuant to section 170.56
20 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex
21 parte motion in any superior court, or in any district court, city court
22 or the criminal court of the city of New York provided that such court
23 sealed the record, if such agency demonstrates to the satisfaction of
24 the court that justice requires that such records be made available to
25 it, or (iii) any state or local officer or agency with responsibility
26 for the issuance of licenses to possess guns, when the accused has made
27 application for such a license, or (iv) the New York state department of
28 corrections and community supervision when the accused is under parole
29 supervision as a result of conditional release or parole release granted
30 by the New York state board of parole and the arrest which is the
31 subject of the inquiry is one which occurred while the accused was under
32 such supervision, or (v) the probation department responsible for super-
33 vision of the accused when the arrest which is the subject of the
34 inquiry is one which occurred while the accused was under such super-
35 vision, or (vi) a police agency, probation department, sheriff's office,
36 district attorney's office, department of correction of any municipality
37 and parole department, for law enforcement purposes, upon arrest in
38 instances in which the individual stands convicted of harassment in the
39 second degree, as defined in section 240.26 of the penal law, committed
40 against a member of the same family or household as the defendant, as
41 defined in subdivision one of section 530.11 of this chapter, and deter-
42 mined pursuant to subdivision eight-a of section 170.10 of this title;
43 or (vii) a police department or other law enforcement agency, in
44 relation to an application by the person accused for employment by such
45 agency or department; provided, however, that every such person shall be
46 furnished with a copy of all records obtained under this paragraph and
47 afforded an opportunity to make an explanation thereto; and

48 § 3. Paragraphs (c) and (d) of subdivision 6 of section 160.58 of the
49 criminal procedure law, as added by section 3 of part AAA of chapter 56
50 of the laws of 2009, are amended and a new paragraph (e) is added to
51 read as follows:

52 (c) any state or local officer or agency with responsibility for the
53 issuance of licenses to possess guns, when the person has made applica-
54 tion for such a license; ~~or~~

55 (d) any prospective employer of a police officer or peace officer as
56 those terms are defined in subdivisions thirty-three and thirty-four of

1 section 1.20 of this chapter, in relation to an application for employ-
2 ment as a police officer or peace officer; provided, however, that every
3 person who is an applicant for the position of police officer or peace
4 officer shall be furnished with a copy of all records obtained under
5 this paragraph and afforded an opportunity to make an explanation there-
6 to~~[-]~~ ; or

7 (e) any police department or law enforcement agency, in relation to an
8 application for employment by such police department or law enforcement
9 agency; provided, however, that every applicant shall be furnished with
10 a copy of all records obtained under this paragraph and afforded an
11 opportunity to make an explanation thereto.

12 § 4. Subdivision 16 of section 296 of the executive law, as separately
13 amended by section 3 of part N and section 14 of part AAA of chapter 56
14 of the laws of 2009, is amended to read as follows:

15 16. It shall be an unlawful discriminatory practice, unless specif-
16 ically required or permitted by statute, for any person, agency, bureau,
17 corporation or association, including the state and any political subdi-
18 vision thereof, to make any inquiry about, whether in any form of appli-
19 cation or otherwise, or to act upon adversely to the individual
20 involved, any arrest or criminal accusation of such individual not then
21 pending against that individual which was followed by a termination of
22 that criminal action or proceeding in favor of such individual, as
23 defined in subdivision two of section 160.50 of the criminal procedure
24 law, or by a youthful offender adjudication, as defined in subdivision
25 one of section 720.35 of the criminal procedure law, or by a conviction
26 for a violation sealed pursuant to section 160.55 of the criminal proce-
27 dure law or by a conviction which is sealed pursuant to section 160.58
28 of the criminal procedure law, in connection with the licensing, employ-
29 ment or providing of credit or insurance to such individual; provided,
30 further, that no person shall be required to divulge information
31 pertaining to any arrest or criminal accusation of such individual not
32 then pending against that individual which was followed by a termination
33 of that criminal action or proceeding in favor of such individual, as
34 defined in subdivision two of section 160.50 of the criminal procedure
35 law, or by a youthful offender adjudication, as defined in subdivision
36 one of section 720.35 of the criminal procedure law, or by a conviction
37 for a violation sealed pursuant to section 160.55 of the criminal proce-
38 dure law, or by a conviction which is sealed pursuant to section 160.58
39 of the criminal procedure law. The provisions of this subdivision shall
40 not apply to the licensing activities of governmental bodies in relation
41 to the regulation of guns, firearms and other deadly weapons or in
42 relation to an application for employment as a police officer or peace
43 officer as those terms are defined in subdivisions thirty-three and
44 thirty-four of section 1.20 of the criminal procedure law or in relation
45 to an application for employment for any position in a police depart-
46 ment or other law enforcement agency; provided further that the
47 provisions of this subdivision shall not apply to an application for
48 employment or membership in any law enforcement agency with respect to
49 any arrest or criminal accusation which was followed by a youthful
50 offender adjudication, as defined in subdivision one of section 720.35
51 of the criminal procedure law, or by a conviction for a violation sealed
52 pursuant to section 160.55 of the criminal procedure law, or by a
53 conviction which is sealed pursuant to section 160.58 of the criminal
54 procedure law.

55 § 5. This act shall take effect on the ninetieth day after it shall
56 have become a law.