

STATE OF NEW YORK

7670

2019-2020 Regular Sessions

IN ASSEMBLY

May 14, 2019

Introduced by M. of A. PRETLOW, LENTOL -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the sealing of law enforcement records

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

1 Section 1. Subdivisions 4 and 5 of section 160.58 of the criminal
2 procedure law, as added by section 3 of part AAA of chapter 56 of the
3 laws of 2009, are amended to read as follows:

4 4. When a court orders sealing pursuant to this section, all official
5 records and papers, including judgments and orders of a court but not
6 including published court decisions or opinions or records and briefs on
7 appeal, relating to the arrests, prosecutions, and convictions, includ-
8 ing all duplicates and copies thereof, on file with the division of
9 criminal justice services or any court, police agency, or prosecutor's
10 office, shall be sealed and not made available to any person or public
11 or private agency; provided, however, the division shall retain any
12 fingerprints, palmprints and photographs, or digital images of the same.

13 5. When the court orders sealing pursuant to this section, the clerk
14 of such court shall immediately notify the commissioner of the division
15 of criminal justice services, the heads of all appropriate police
16 departments and other law enforcement agencies, and any court that
17 sentenced the defendant for an offense which has been conditionally
18 sealed, regarding the records that shall be sealed pursuant to this
19 section.

20 § 2. Subdivision 8 of section 160.59 of the criminal procedure law, as
21 added by section 48 of part WWW of chapter 59 of the laws of 2017, is
22 amended to read as follows:

23 8. When a sentencing judge or county or supreme court orders sealing
24 pursuant to this section, all official records and papers, including

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

LBD09346-01-9

1 judgments and orders of a court but not including published court deci-
2 sions or opinions or records and briefs on appeal, relating to the
3 arrests, prosecutions, and convictions, including all duplicates and
4 copies thereof, on file with the division of criminal justice services
5 or any court, police agency or prosecutor's office shall be sealed and
6 not made available to any person or public or private agency except as
7 provided for in subdivision nine of this section; provided, however, the
8 division shall retain any fingerprints, palmprints and photographs, or
9 digital images of the same. The clerk of such court shall immediately
10 notify the commissioner of the division of criminal justice services,
11 the heads of all appropriate police departments and other law enforce-
12 ment agencies, regarding the records that shall be sealed pursuant to
13 this section. The clerk also shall notify any court in which the defend-
14 ant has stated, pursuant to paragraph (b) of subdivision two of this
15 section, that he or she has filed or intends to file an application for
16 sealing of any other eligible offense.
17 § 3. This act shall take effect on the ninetieth day after it shall
18 have become a law.