

STATE OF NEW YORK

4111--A

2019-2020 Regular Sessions

IN SENATE

February 28, 2019

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to removing the requirement to reveal certain past convictions

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

1 Section 1. Subdivision 16 of section 296 of the executive law, as
2 amended by section 2 of subpart 0 of part II of chapter 55 of the laws
3 of 2019, is amended to read as follows:
4 16. It shall be an unlawful discriminatory practice, unless specif-
5 ically required or permitted by statute, for any person, agency, bureau,
6 corporation or association, including the state and any political subdi-
7 vision thereof, to make any inquiry about, whether in any form of appli-
8 cation or otherwise, or to act upon adversely to the individual
9 involved, any arrest or criminal accusation of such individual not then
10 pending against that individual which was followed by a termination of
11 that criminal action or proceeding in favor of such individual, as
12 defined in subdivision two of section 160.50 of the criminal procedure
13 law, or by an order adjourning the criminal action in contemplation of
14 dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10
15 of the criminal procedure law, or by a youthful offender adjudication,
16 as defined in subdivision one of section 720.35 of the criminal proce-
17 dure law, or by a conviction for a violation sealed pursuant to section
18 160.55 of the criminal procedure law or by a conviction which is sealed
19 pursuant to section 160.59 or 160.58 of the criminal procedure law, in
20 connection with the licensing, housing, employment, including volunteer
21 positions, or providing of credit or insurance to such individual;

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

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1 provided, further, that no person shall be required to divulge informa-
2 tion pertaining to any arrest or criminal accusation of such individual
3 not then pending against that individual which was followed by a termi-
4 nation of that criminal action or proceeding in favor of such individ-
5 ual, as defined in subdivision two of section 160.50 of the criminal
6 procedure law, or by an order adjourning the criminal action in contem-
7 plation of dismissal, pursuant to section 170.55 or 170.56, 210.46,
8 210.47 or 215.10 of the criminal procedure law, or by a youthful offen-
9 der adjudication, as defined in subdivision one of section 720.35 of the
10 criminal procedure law, or by a conviction for a violation sealed pursu-
11 ant to section 160.55 of the criminal procedure law, or by a conviction
12 which is sealed pursuant to section 160.58 or 160.59 of the criminal
13 procedure law. Any individual with a conviction which is sealed pursu-
14 ant to section 160.55, 160.58 or 160.59 of the criminal procedure law,
15 shall be permitted to answer in the negative to the question "Have you
16 ever been convicted of a crime or violation?", or any question with the
17 same substantive content. An individual required or requested to provide
18 information in violation of this subdivision may respond as if the
19 arrest, criminal accusation, or disposition of such arrest or criminal
20 accusation did not occur. The provisions of this subdivision shall not
21 apply to the licensing activities of governmental bodies in relation to
22 the regulation of guns, firearms and other deadly weapons or in relation
23 to an application for employment as a police officer or peace officer as
24 those terms are defined in subdivisions thirty-three and thirty-four of
25 section 1.20 of the criminal procedure law; provided further that the
26 provisions of this subdivision shall not apply to an application for
27 employment or membership in any law enforcement agency with respect to
28 any arrest or criminal accusation which was followed by a youthful
29 offender adjudication, as defined in subdivision one of section 720.35
30 of the criminal procedure law, or by a conviction for a violation sealed
31 pursuant to section 160.55 of the criminal procedure law, or by a
32 conviction which is sealed pursuant to section 160.58 or 160.59 of the
33 criminal procedure law. For purposes of this subdivision, an action
34 which has been adjourned in contemplation of dismissal, pursuant to
35 section 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal
36 procedure law, shall not be considered a pending action, unless the
37 order to adjourn in contemplation of dismissal is revoked and the case
38 is restored to the calendar for further prosecution.

39 § 2. This act shall take effect immediately.