

3769

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. AUBRY -- Multi-Sponsored by -- M. of A. GOTTFRIED
-- read once and referred to the Committee on Correction

AN ACT to amend the correction law, the criminal procedure law and the executive law, in relation to providing defendants not sentenced to a period of imprisonment and inmates being released a copy of their criminal record

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The correction law is amended by adding a new section 75 to
2 read as follows:

3 S 75. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON
4 THE RELEASE, CONDITIONAL RELEASE, OR DISCHARGE OF A PERSON FROM A
5 CORRECTIONAL FACILITY, THE DEPARTMENT SHALL PROVIDE SUCH PERSON, WITHOUT
6 CHARGE, WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE
7 DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF
8 SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH
9 INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL
10 JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED
11 THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND
12 THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK
13 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSU-
14 ANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE
15 SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT
16 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIM-
17 INAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN
18 THE RECORD.

19 S 2. The correction law is amended by adding a new section 510 to read
20 as follows:

21 S 510. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON
22 THE RELEASE OF A PERSON FROM A LOCAL CORRECTIONAL FACILITY, WHERE SUCH
23 PERSON'S SENTENCE OF IMPRISONMENT IS THIRTY DAYS OR MORE NOT INCLUDING A
24 SENTENCE OF INTERMITTENT IMPRISONMENT IMPOSED PURSUANT TO ARTICLE EIGHT-
25 Y-FIVE OF THE PENAL LAW, THE SHERIFF SHALL PROVIDE SUCH PERSON WITHOUT
26 CHARGE WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE

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

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1 DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF
2 SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH
3 INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL
4 JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED
5 THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND
6 THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK
7 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSU-
8 ANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE
9 SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT
10 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIM-
11 INAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN
12 THE RECORD.

13 S 3. The criminal procedure law is amended by adding a new section
14 380.51 to read as follows:

15 S 380.51 DEFENDANT TO RECEIVE COPY OF CRIMINAL RECORD UPON SENTENCING.

16 AT THE TIME OF PRONOUNCING SENTENCE UPON A DEFENDANT, WHERE SUCH
17 DEFENDANT IS NOT SENTENCED TO A PERIOD OF IMPRISONMENT, IS SENTENCED TO
18 INTERMITTENT IMPRISONMENT PURSUANT TO ARTICLE EIGHTY-FIVE OF THE PENAL
19 LAW, IS SENTENCED TO A PERIOD OF IMPRISONMENT OF THIRTY DAYS OR LESS, OR
20 IS SENTENCED TO A PERIOD OF IMPRISONMENT EQUAL TO THE TIME ALREADY SPENT
21 IN CUSTODY, THE COURT SHALL PROVIDE THE DEFENDANT, WITHOUT CHARGE, WITH
22 A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE DIVISION OF
23 CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT
24 HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH INFORMATION AND
25 INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES
26 PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF
27 THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND THE CONTENTS OF
28 THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK CORRECTION OF
29 ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGU-
30 LATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH
31 INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT INFORMATION FOR
32 LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIMINAL RECORD TO
33 SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN THE RECORD.
34 THE FAILURE TO PROVIDE THE DEFENDANT WITH A COPY OF HIS OR HER CRIMINAL
35 RECORD PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO AFFECT THE VOLUN-
36 TARINESS OF A PLEA OF GUILTY OR THE VALIDITY OF A CONVICTION OR
37 SENTENCE.

38 S 4. Section 837 of the executive law is amended by adding a new
39 subdivision 6-a to read as follows:

40 6-A. PRODUCE WRITTEN INSTRUCTIONS CONTAINING CLEAR AND SIMPLE LANGUAGE
41 ABOUT HOW TO READ AND UNDERSTAND A CRIMINAL RECORD AND HOW THE SUBJECT
42 OF A CRIMINAL RECORD MAY CHALLENGE AND APPEAL INCORRECT INFORMATION
43 CONTAINED IN SUCH CRIMINAL RECORD AS PROVIDED IN THE RULES AND REGU-
44 LATIONS OF THE DIVISION AND PRODUCE WRITTEN INFORMATION AND CONTACT
45 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF A CRIMI-
46 NAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION. SUCH INFOR-
47 MATION AND INSTRUCTIONS SHALL BE FURNISHED TO COURTS OF THE UNIFIED
48 COURT SYSTEM, SHERIFFS' OFFICES, THE NEW YORK CITY DEPARTMENT OF
49 CORRECTIONS, AND THE STATE DEPARTMENT OF CORRECTIONAL SERVICES FOR
50 DISTRIBUTION TO PERSONS BEING PROVIDED A COPY OF THEIR CRIMINAL RECORD
51 PURSUANT TO SECTION 380.51 OF THE CRIMINAL PROCEDURE LAW OR SECTION
52 SEVENTY-FIVE OR FIVE HUNDRED TEN OF THE CORRECTION LAW.

53 S 5. This act shall take effect on the thirtieth day after it shall
54 have become a law.