

3658

2009-2010 Regular Sessions

I N S E N A T E

March 27, 2009

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

AN ACT to amend the executive law, the village law and the general municipal law, in relation to criminal background checks for fire-fighters and emergency medical services personnel

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

1 Section 1. The section heading and subdivision 1 of section 837-o of
2 the executive law, as added by chapter 423 of the laws of 1999, is
3 amended to read as follows:
4 Search for arson AND SEX OFFENSE conviction records of volunteer fire-
5 fighter applicants. 1. Any person who applies for membership in a fire
6 company, as such term is defined in section three of the volunteer fire-
7 fighters' benefit law, or who seeks to transfer as a member to another
8 fire company, shall be required to authorize the submission of his or
9 her name and other authorized identifying information to the division
10 which shall search its files for records indicating whether the person
11 stands convicted of the crime of arson OR OF ANY SEX OFFENSE OR
12 ATTEMPTED SEX OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE
13 PENAL LAW. The chief of the fire company to which application is made
14 shall provide written notice to the applicant that a search will be
15 conducted, and if the applicant desires to proceed, he or she shall
16 complete a search request on the form provided for this purpose by the
17 division of criminal justice services.
18 S 2. Subdivision 3 of section 837-o of the executive law, as added by
19 chapter 423 of the laws of 1999, paragraph (b) as amended by chapter 689
20 of the laws of 2002, is amended to read as follows:
21 3. (a) All searches concerning the application for membership in a
22 fire company shall be conducted under the provisions of subdivision six
23 of section eight hundred thirty-seven of this article without the
24 assessment of any fee to the applicant or fire company and shall pertain

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

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1 solely to ascertaining whether the applicant stands convicted of arson
2 OR OF A SEX OFFENSE OR ATTEMPTED SEX OFFENSE.

3 (b) The results of the search shall be communicated in writing, within
4 ten business days of receipt from the division, to the chief of the fire
5 company from which the search request originated by either the sheriff's
6 department or the department of state, office of fire prevention and
7 control, and shall be kept confidential by the chief, except as provided
8 in paragraph (c) of this subdivision. The results of the search shall
9 only state either that: (i) the applicant stands convicted of arson OR A
10 SEX OFFENSE OR AN ATTEMPTED SEX OFFENSE, or (ii) the applicant has no
11 record of conviction for arson OR FOR A SEX OFFENSE OR FOR AN ATTEMPTED
12 SEX OFFENSE. The results of the search shall not divulge any other
13 information relating to the criminal history of the applicant.

14 (c) At the time an applicant is advised that he or she is ineligible
15 for membership due to a record of conviction for arson OR FOR A SEX
16 OFFENSE OR FOR AN ATTEMPTED SEX OFFENSE, he or she shall also be advised
17 of the rights to challenge and appeal the information contained in the
18 record of conviction as provided in the rules and regulations of the
19 division. The applicant shall continue to be barred from membership
20 until all administrative and judicial challenges to the accuracy of such
21 information or appeals therefrom, are ultimately resolved in his or her
22 favor, or if such a determination is unchallenged.

23 S 3. Subdivision 18 of section 10-1006 of the village law, as added by
24 chapter 719 of the laws of 1985, is amended to read as follows:

25 18. A person who has been convicted of arson in any degree OR OF A SEX
26 OFFENSE OR ATTEMPTED SEX OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIR-
27 TY OF THE PENAL LAW shall not be eligible to be elected or appointed as
28 a volunteer member of a fire company. The membership of any volunteer
29 member of a fire company shall immediately terminate if he is OR HAS
30 BEEN convicted of arson in any degree [while a member of a fire company]
31 OR A SEX OFFENSE OR AN ATTEMPTED SEX OFFENSE AS DEFINED IN ARTICLE ONE
32 HUNDRED THIRTY OF THE PENAL LAW.

33 S 4. Subdivision 19 of section 10-1006 of the village law, as added by
34 chapter 423 of the laws of 1999, is amended to read as follows:

35 19. Upon application by any person for membership in a fire company
36 operating pursuant to this section, the fire chief shall cause the
37 applicant's background to be checked pursuant to section eight hundred
38 thirty-seven-o of the executive law for a criminal history involving a
39 conviction for arson AND FOR ANY SEX OFFENSE OR ATTEMPTED SEX OFFENSE AS
40 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW.

41 S 5. Section 122-b of the general municipal law is amended by adding a
42 new subdivision 6 to read as follows:

43 6. ANY MEMBER OF A VOLUNTEER AMBULANCE COMPANY OR EMERGENCY MEDICAL
44 SERVICE ORGANIZATION SHALL BE SUBJECT TO A CRIMINAL BACKGROUND CHECK
45 PURSUANT TO SECTION EIGHT HUNDRED THIRTY-SEVEN-O OF THE EXECUTIVE LAW
46 FOR A CRIMINAL HISTORY INVOLVING A CONVICTION FOR ANY SEX OFFENSE OR
47 ATTEMPTED SEX OFFENSE AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS TWO AND
48 THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-A OF THE CORRECTION LAW. THE
49 SHERIFF OF ANY COUNTY IN WHICH SUCH EMERGENCY SERVICES ARE PROVIDED
50 SHALL BE RESPONSIBLE FOR RECEIVING THE SEARCH REQUESTS AND PROCESSING
51 THE SEARCH REQUESTS WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES WITH-
52 IN TEN BUSINESS DAYS OF RECEIPT FROM THE AMBULANCE OR EMERGENCY MEDICAL
53 SERVICES COMPANY. A PERSON WHO HAS BEEN CONVICTED OF A SEX OFFENSE OR
54 ATTEMPTED SEX OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE
55 PENAL LAW SHALL NOT BE ELIGIBLE TO BE ELECTED OR APPOINTED AS A VOLUN-
56 TEER MEMBER OF AN AMBULANCE COMPANY OR EMERGENCY MEDICAL SERVICES ORGAN-

1 IZATION. THE MEMBERSHIP OF ANY MEMBER OF AN AMBULANCE COMPANY OR EMER-
2 GENCY MEDICAL SERVICES ORGANIZATION SHALL IMMEDIATELY TERMINATE IF HE OR
3 SHE IS OR HAS BEEN CONVICTED OF A SEX OFFENSE OR AN ATTEMPTED SEX
4 OFFENSE AS THOSE TERMS ARE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE
5 PENAL LAW.
6 S 6. This act shall take effect immediately.