

1277

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. REILLY -- read once and referred to the Committee  
on Governmental Operations

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 ASSEM-  
BLY, 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

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

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1 assessment of any fee to the applicant or fire company and shall pertain  
2 solely to ascertaining whether the applicant stands convicted of arson  
3 OR OF A SEX OFFENSE OR ATTEMPTED SEX OFFENSE.

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

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

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

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

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

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

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

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

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

7 S 6. This act shall take effect immediately.