S T A T E O F N E W Y O R K

3578--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. AUBRY, COOK, TITUS, WRIGHT -- Multi-Sponsored by -- M. of A. ORTIZ, ROBINSON, WEISENBERG -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the admission of persons with criminal records to institutions of higher education

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

Section 1. Subdivision 3 of section 313 of the education law is amended by adding two new paragraphs (f) and (g) to read as follows:

(F) NOTWITHSTANDING PARAGRAPH (E) OF THIS SUBDIVISION, IT SHALL BE AN UNFAIR EDUCATIONAL PRACTICE TO EXCLUDE OR LIMIT OR OTHERWISE DISCRIMINATE AGAINST ANY PERSON SEEKING ADMISSION AS A STUDENT TO AN EDUCATIONAL INSTITUTION OR TO ANY EDUCATIONAL PROGRAM OR COURSE OPERATED OR PROVIDED BY SUCH INSTITUTION BY REASON OF HIS OR HER HAVING BEEN CONVICTED OF ONE OR MORE CRIMINAL OFFENSES, OR BY REASON OF A FINDING OF A LACK OF "GOOD MORAL CHARACTER" WHICH IS BASED UPON HIS OR HER HAVING BEEN CONVICTED OF ONE OR MORE CRIMINAL OFFENSES, WHEN SUCH DENIAL IS IN VIOLATION OF THE PROVISIONS OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW AS SUCH PROVISIONS WOULD BE APPLICABLE TO AN EMPLOYER AND ARE HEREBY MADE APPLICABLE TO EDUCATIONAL INSTITUTIONS.

(G) NOTWITHSTANDING PARAGRAPH (E) OF THIS SUBDIVISION, IT SHALL BE AN UNFAIR EDUCATIONAL PRACTICE FOR AN EDUCATIONAL INSTITUTION TO MAKE ANY INQUIRY ABOUT, WHETHER IN ANY FORM OF APPLICATION OR OTHERWISE, OR TO ACT UPON ADVERSELY TO THE PERSON INVOLVED, ANY ARREST OR CRIMINAL ACCUSATION OF SUCH PERSON, NOT THEN PENDING AGAINST SUCH PERSON THAT WAS FOLLOWED BY A TERMINATION OF THE CRIMINAL ACTION OR PROCEEDING IN FAVOR OF SUCH PERSON, AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THE CRIMINAL PROCEDURE LAW OR BY A YOUTHFUL OFFENDER ADJUDICATION, AS

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

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DEFINED IN SUBDIVISION ONE OF SECTION 720.35 OF THE CRIMINAL PROCEDURE LAW, OR BY A CONVICTION FOR A VIOLATION SEALED PURSUANT TO SECTION 160.55 OF THE CRIMINAL PROCEDURE LAW OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.58 OF THE CRIMINAL PROCEDURE LAW, IN CONNECTION WITH THE ADMISSION TO AN EDUCATIONAL INSTITUTION.

S 2. This act shall take effect immediately.