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

6440

2009-2010 Regular Sessions

I N  A S S E M B L Y

March 4, 2009

Introduced by M. of A. AUBRY, ORTIZ, GREENE, MILLMAN, SCHROEDER, CLARK, JAFFEE, ZEBROWSKI, PERALTA, TITONE, O'DONNELL, JEFFRIES, WRIGHT, ESPAILLAT -- Multi-Sponsored by -- M. of A. BOYLAND, BRADLEY, CAHILL, COOK, DIAZ, GLICK, GORDON, HEASTIE, JACOBS, KELLNER, MAISEL, PEOPLES, PHEFFER, REILLY, ROBINSON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing no person shall be required to divulge certain information pertaining to a previous arrest or criminal accusation against such person

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

Section 1. Subdivision 16 of section 296 of the executive law, as amended by chapter 639 of the laws of 2007, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as 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 in connection with the licensing, employment or providing of credit or insurance to such individual; provided, [however, that the] FURTHER, NO PERSON SHALL BE REQUIRED TO DIVULGE INFORMATION PERTAINING TO ANY ARREST OR CRIMINAL ACCUSATION OF SUCH INDIVIDUAL NOT THEN PENDING AGAINST THAT INDIVIDUAL WHICH WAS FOLLOWED BY A TERMINATION OF THAT

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

LBD07939-01-9

CRIMINAL ACTION OR PROCEEDING IN FAVOR OF SUCH INDIVIDUAL, AS DEFINED IN SUBDIVISION TWO OF SECTION 160.50 OF THE CRIMINAL PROCEDURE LAW, OR BY A YOUTHFUL OFFENDER ADJUDICATION, AS 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. THE provisions [hereof] OF THIS SUBDIVISION shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as 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.

S 2. This act shall take effect immediately.