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

2495

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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:

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

S 75. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON THE RELEASE, CONDITIONAL RELEASE, OR DISCHARGE OF A PERSON FROM A CORRECTIONAL FACILITY, THE DEPARTMENT SHALL PROVIDE SUCH PERSON, WITHOUT CHARGE, WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIMINAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN THE RECORD.

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

S 510. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON THE RELEASE OF A PERSON FROM A LOCAL CORRECTIONAL FACILITY, WHERE SUCH PERSON'S SENTENCE OF IMPRISONMENT IS THIRTY DAYS OR MORE NOT INCLUDING A SENTENCE OF INTERMITTENT IMPRISONMENT IMPOSED PURSUANT TO ARTICLE EIGHTY-FIVE OF THE PENAL LAW, THE SHERIFF SHALL PROVIDE SUCH PERSON WITHOUT

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

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CHARGE WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIMINAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN THE RECORD.

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

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

AT THE TIME OF PRONOUNCING SENTENCE UPON A DEFENDANT, WHERE SUCH DEFENDANT IS NOT SENTENCED TO A PERIOD OF IMPRISONMENT, IS SENTENCED TO INTERMITTENT IMPRISONMENT PURSUANT TO ARTICLE EIGHTY-FIVE OF THE PENAL LAW, IS SENTENCED TO A PERIOD OF IMPRISONMENT OF THIRTY DAYS OR LESS, OR IS SENTENCED TO A PERIOD OF IMPRISONMENT EQUAL TO THE TIME ALREADY SPENT IN CUSTODY, THE COURT SHALL PROVIDE THE DEFENDANT, WITHOUT CHARGE, WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIMINAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN THE RECORD. THE FAILURE TO PROVIDE THE DEFENDANT WITH A COPY OF HIS OR HER CRIMINAL RECORD PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO AFFECT THE VOLUNTARINESS OF A PLEA OF GUILTY OR THE VALIDITY OF A CONVICTION OR SENTENCE.

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

6-A. PRODUCE WRITTEN INSTRUCTIONS CONTAINING CLEAR AND SIMPLE LANGUAGE ABOUT HOW TO READ AND UNDERSTAND A CRIMINAL RECORD AND HOW THE SUBJECT OF A CRIMINAL RECORD MAY CHALLENGE AND APPEAL INCORRECT INFORMATION CONTAINED IN SUCH CRIMINAL RECORD AS PROVIDED IN THE RULES AND REGULATIONS OF THE DIVISION AND PRODUCE WRITTEN INFORMATION AND CONTACT INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF A CRIMINAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION. SUCH INFORMATION AND INSTRUCTIONS SHALL BE FURNISHED TO COURTS OF THE UNIFIED COURT SYSTEM, SHERIFFS' OFFICES, THE NEW YORK CITY DEPARTMENT OF CORRECTIONS, AND THE STATE DEPARTMENT OF CORRECTIONAL SERVICES FOR DISTRIBUTION TO PERSONS BEING PROVIDED A COPY OF THEIR CRIMINAL RECORD PURSUANT TO SECTION 380.51 OF THE CRIMINAL PROCEDURE LAW OR SECTION SEVENTY-FIVE OR FIVE HUNDRED TEN OF THE CORRECTION LAW.

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