

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:

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

3 S 75. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON  
4 THE RELEASE, CONDITIONAL RELEASE, OR DISCHARGE OF A PERSON FROM A  
5 CORRECTIONAL FACILITY, THE DEPARTMENT SHALL PROVIDE SUCH PERSON, WITHOUT  
6 CHARGE, WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE  
7 DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF  
8 SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH  
9 INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL  
10 JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED  
11 THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND  
12 THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK  
13 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSU-  
14 ANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE  
15 SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT  
16 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIM-  
17 INAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN  
18 THE RECORD.

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

21 S 510. INMATE TO RECEIVE A COPY OF CRIMINAL RECORD UPON RELEASE. UPON  
22 THE RELEASE OF A PERSON FROM A LOCAL CORRECTIONAL FACILITY, WHERE SUCH  
23 PERSON'S SENTENCE OF IMPRISONMENT IS THIRTY DAYS OR MORE NOT INCLUDING A  
24 SENTENCE OF INTERMITTENT IMPRISONMENT IMPOSED PURSUANT TO ARTICLE EIGHT-  
25 Y-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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1 CHARGE WITH A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE  
2 DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF  
3 SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH  
4 INFORMATION AND INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL  
5 JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED  
6 THIRTY-SEVEN OF THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND  
7 THE CONTENTS OF THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK  
8 CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSU-  
9 ANT TO REGULATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE  
10 SERVICES. SUCH INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT  
11 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIM-  
12 INAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN  
13 THE RECORD.

14 S 3. The criminal procedure law is amended by adding a new section  
15 380.51 to read as follows:

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

17 AT THE TIME OF PRONOUNCING SENTENCE UPON A DEFENDANT, WHERE SUCH  
18 DEFENDANT IS NOT SENTENCED TO A PERIOD OF IMPRISONMENT, IS SENTENCED TO  
19 INTERMITTENT IMPRISONMENT PURSUANT TO ARTICLE EIGHTY-FIVE OF THE PENAL  
20 LAW, IS SENTENCED TO A PERIOD OF IMPRISONMENT OF THIRTY DAYS OR LESS, OR  
21 IS SENTENCED TO A PERIOD OF IMPRISONMENT EQUAL TO THE TIME ALREADY SPENT  
22 IN CUSTODY, THE COURT SHALL PROVIDE THE DEFENDANT, WITHOUT CHARGE, WITH  
23 A COPY OF HIS OR HER CRIMINAL RECORD AS MAINTAINED BY THE DIVISION OF  
24 CRIMINAL JUSTICE SERVICES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT  
25 HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW TOGETHER WITH INFORMATION AND  
26 INSTRUCTIONS, PRODUCED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES  
27 PURSUANT TO SUBDIVISION SIX-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF  
28 THE EXECUTIVE LAW, TO ASSIST SUCH PERSON TO UNDERSTAND THE CONTENTS OF  
29 THE CRIMINAL RECORD AND EXPLAIN HOW SUCH PERSON MAY SEEK CORRECTION OF  
30 ANY INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGU-  
31 LATIONS PROMULGATED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. SUCH  
32 INFORMATION AND INSTRUCTIONS SHALL ALSO INCLUDE CONTACT INFORMATION FOR  
33 LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF THE CRIMINAL RECORD TO  
34 SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN THE RECORD.  
35 THE FAILURE TO PROVIDE THE DEFENDANT WITH A COPY OF HIS OR HER CRIMINAL  
36 RECORD PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO AFFECT THE VOLUN-  
37 TARINESS OF A PLEA OF GUILTY OR THE VALIDITY OF A CONVICTION OR  
38 SENTENCE.

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

41 6-A. PRODUCE WRITTEN INSTRUCTIONS CONTAINING CLEAR AND SIMPLE LANGUAGE  
42 ABOUT HOW TO READ AND UNDERSTAND A CRIMINAL RECORD AND HOW THE SUBJECT  
43 OF A CRIMINAL RECORD MAY CHALLENGE AND APPEAL INCORRECT INFORMATION  
44 CONTAINED IN SUCH CRIMINAL RECORD AS PROVIDED IN THE RULES AND REGU-  
45 LATIONS OF THE DIVISION AND PRODUCE WRITTEN INFORMATION AND CONTACT  
46 INFORMATION FOR LEGAL RESOURCES THAT CAN ASSIST THE SUBJECT OF A CRIMI-  
47 NAL RECORD TO SEEK CORRECTION OF ANY INCORRECT INFORMATION. SUCH INFOR-  
48 MATION AND INSTRUCTIONS SHALL BE FURNISHED TO COURTS OF THE UNIFIED  
49 COURT SYSTEM, SHERIFFS' OFFICES, THE NEW YORK CITY DEPARTMENT OF  
50 CORRECTIONS, AND THE STATE DEPARTMENT OF CORRECTIONAL SERVICES FOR  
51 DISTRIBUTION TO PERSONS BEING PROVIDED A COPY OF THEIR CRIMINAL RECORD  
52 PURSUANT TO SECTION 380.51 OF THE CRIMINAL PROCEDURE LAW OR SECTION  
53 SEVENTY-FIVE OR FIVE HUNDRED TEN OF THE CORRECTION LAW.

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