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

2965

2009-2010 Regular Sessions

I N S E N A T E

March 9, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to including sex offense convictions in background checks for persons applying for membership in a fire company

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

Section 1. The section heading and subdivisions 1 and 3 of section 837-o of the executive law, as added by chapter 423 of the laws of 1999, paragraph (b) of subdivision 3 as amended by chapter 689 of the laws of 2002, are amended to read as follows:

Search for arson OR SEX OFFENSE conviction records of volunteer firefighter applicants. 1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson OR A SEX OFFENSE. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services. FOR PURPOSES OF THIS SECTION, THE TERM SEX OFFENSE SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED SIXTY-EIGHT-A OF THE CORRECTION LAW.

3. (a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain

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

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solely to ascertaining whether the applicant stands convicted of arson OR A SEX OFFENSE.

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

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

S 2. This act shall take effect immediately.