

4257

2009-2010 Regular Sessions

I N S E N A T E

April 20, 2009

Introduced by Sens. SCHNEIDERMAN, DIAZ, PARKER -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to unsealing criminal records where justice requires, on notice both to the adverse party and the subject of the records

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

1 Section 1. Paragraph (d) of subdivision 1 of section 160.50 of the
2 criminal procedure law, as amended by chapter 169 of the laws of 1994,
3 is amended to read as follows:
4 (d) such records shall be made available to the person accused or to
5 such person's designated agent, and shall be made available to (i) a
6 prosecutor in any proceeding in which the accused has moved for an order
7 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
8 enforcement agency upon ex parte motion in any superior court, if such
9 agency demonstrates to the satisfaction of the court that justice
10 requires that such records be made available to it, or (iii) any state
11 or local officer or agency with responsibility for the issuance of
12 licenses to possess guns, when the accused has made application for such
13 a license, or (iv) the New York state division of parole when the
14 accused is on parole supervision as a result of conditional release or a
15 parole release granted by the New York state board of parole, and the
16 arrest which is the subject of the inquiry is one which occurred while
17 the accused was under such supervision or (v) any prospective employer
18 of a police officer or peace officer as those terms are defined in
19 subdivisions thirty-three and thirty-four of section 1.20 of this chap-
20 ter, in relation to an application for employment as a police officer or
21 peace officer; provided, however, that every person who is an applicant
22 for the position of police officer or peace officer shall be furnished
23 with a copy of all records obtained under this paragraph and afforded an

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

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1 opportunity to make an explanation thereto, or (vi) the probation
2 department responsible for supervision of the accused when the arrest
3 which is the subject of the inquiry is one which occurred while the
4 accused was under such supervision, OR (VII) A PARTY IN A CRIMINAL
5 PROCEEDING IF, ON NOTICE TO THE ADVERSE PARTY AND THE SUBJECT OF THE
6 RECORDS, THE MOVING PARTY DEMONSTRATES TO THE SATISFACTION OF THE COURT
7 THAT JUSTICE REQUIRES THAT THE RECORDS BE MADE AVAILABLE TO IT IN
8 CONNECTION WITH THE CRIMINAL PROCEEDING; and

9 S 2. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
10 procedure law, as amended by chapter 169 of the laws of 1994, is amended
11 to read as follows:

12 (d) the records referred to in paragraph (c) of this subdivision shall
13 be made available to the person accused or to such person's designated
14 agent, and shall be made available to (i) a prosecutor in any proceeding
15 in which the accused has moved for an order pursuant to section 170.56
16 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex
17 parte motion in any superior court, if such agency demonstrates to the
18 satisfaction of the court that justice requires that such records be
19 made available to it, or (iii) any state or local officer or agency with
20 responsibility for the issuance of licenses to possess guns, when the
21 accused has made application for such a license, or (iv) the New York
22 state division of parole when the accused is under parole supervision as
23 a result of conditional release or parole release granted by the New
24 York state board of parole and the arrest which is the subject of the
25 inquiry is one which occurred while the accused was under such super-
26 vision, or (v) the probation department responsible for supervision of
27 the accused when the arrest which is the subject of the inquiry is one
28 which occurred while the accused was under such supervision, OR (VI) A
29 PARTY IN A CRIMINAL PROCEEDING IF, ON NOTICE TO THE ADVERSE PARTY AND
30 THE SUBJECT OF THE RECORDS, THE MOVING PARTY DEMONSTRATES TO THE SATIS-
31 FACTION OF THE COURT THAT JUSTICE REQUIRES THAT THE RECORDS BE MADE
32 AVAILABLE TO IT IN CONNECTION WITH THE CRIMINAL PROCEEDING; and

33 S 3. This act shall take effect on the first of November next
34 succeeding the date on which it shall have become a law.