

5684

2009-2010 Regular Sessions

I N   S E N A T E

May 27, 2009

---

Introduced by Sens. PADAVAN, SKELOS, ALESİ, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GOLDEN, GRIFFO, HANNON, O. JOHNSON, LANZA, LARKIN, LAVALLE, LEIBELL, LIBOUS, LITTLE, MARCELLINO, MAZIARZ, McDONALD, MORAHAN, NOZZOLIO, RANZENHOFER, ROBACH, SALAND, SEWARD, VOLKER, WINNER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the executive law, in relation to inquiries about certain sealed convictions; and to repeal section 160.58 of the criminal procedure law relating to conditional sealing of certain controlled substances, marihuana or specified offense convictions

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

1     Section 1. Section 160.58 of the criminal procedure law is REPEALED.  
2     S 2. Subdivision 16 of section 296 of the executive law, as separately  
3 amended by section 3 of part N and section 14 of part AAA of chapter 56  
4 of the laws of 2009, is amended to read as follows:  
5     16. It shall be an unlawful discriminatory practice, unless specif-  
6 ically required or permitted by statute, for any person, agency, bureau,  
7 corporation or association, including the state and any political subdi-  
8 vision thereof, to make any inquiry about, whether in any form of appli-  
9 cation or otherwise, or to act upon adversely to the individual  
10 involved, any arrest or criminal accusation of such individual not then  
11 pending against that individual which was followed by a termination of  
12 that criminal action or proceeding in favor of such individual, as  
13 defined in subdivision two of section 160.50 of the criminal procedure  
14 law, or by a youthful offender adjudication, as defined in subdivision  
15 one of section 720.35 of the criminal procedure law, or by a conviction  
16 for a violation sealed pursuant to section 160.55 of the criminal proce-  
17 dure law [or by a conviction which is sealed pursuant to section 160.58  
18 of the criminal procedure law], in connection with the licensing,  
19 employment or providing of credit or insurance to such individual;

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

LBD14086-01-9

1 provided, further, that no person shall be required to divulge informa-  
2 tion pertaining to any arrest or criminal accusation of such individual  
3 not then pending against that individual which was followed by a termi-  
4 nation of that criminal action or proceeding in favor of such individ-  
5 ual, as defined in subdivision two of section 160.50 of the criminal  
6 procedure law, or by a youthful offender adjudication, as defined in  
7 subdivision one of section 720.35 of the criminal procedure law, or by a  
8 conviction for a violation sealed pursuant to section 160.55 of the  
9 criminal procedure law[, or by a conviction which is sealed pursuant to  
10 section 160.58 of the criminal procedure law]. The provisions of this  
11 subdivision shall not apply to the licensing activities of governmental  
12 bodies in relation to the regulation of guns, firearms and other deadly  
13 weapons or in relation to an application for employment as a police  
14 officer or peace officer as those terms are defined in subdivisions  
15 thirty-three and thirty-four of section 1.20 of the criminal procedure  
16 law; provided further that the provisions of this subdivision shall not  
17 apply to an application for employment or membership in any law enforce-  
18 ment agency with respect to any arrest or criminal accusation which was  
19 followed by a youthful offender adjudication, as defined in subdivision  
20 one of section 720.35 of the criminal procedure law, or by a conviction  
21 for a violation sealed pursuant to section 160.55 of the criminal proce-  
22 dure law[, or by a conviction which is sealed pursuant to section 160.58  
23 of the criminal procedure law].  
24 S 3. This act shall take effect immediately.