

8574

2011-2012 Regular Sessions

I N   A S S E M B L Y

September 13, 2011

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Introduced by M. of A. CERETTO -- read once and referred to the Committee on Codes

AN ACT amending the penal law, in relation to allowing a member of the Niagara county clerk's office to access mental health records for firearm license applications

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

1     Section 1. Subdivision 4 of section 400.00 of the penal law, as  
2 amended by chapter 331 of the law of 2005, is amended to read as  
3 follows:  
4     4. Investigation. Before a license is issued or renewed, there shall  
5 be an investigation of all statements required in the application by the  
6 duly constituted police authorities of the locality where such applica-  
7 tion is made. For that purpose, the records of the appropriate office of  
8 the department of mental hygiene concerning previous or present mental  
9 illness of the applicant shall be available for inspection by the inves-  
10 tigating officer of the police authority OR IN NIAGARA COUNTY RECORDS  
11 MAY BE ACCESSED BY A CERTIFIED EMPLOYEE OF THE COUNTY CLERK'S OFFICE WHO  
12 IS AUTHORIZED TO ACCESS CLINICAL RECORDS IN ACCORDANCE WITH SECTION  
13 33.13 OF THE MENTAL HYGIENE LAW. In order to ascertain any previous  
14 criminal record, the investigating officer shall take the fingerprints  
15 and physical descriptive data in quadruplicate of each individual by  
16 whom the application is signed and verified. Two copies of such finger-  
17 prints shall be taken on standard fingerprint cards eight inches square,  
18 and one copy may be taken on a card supplied for that purpose by the  
19 federal bureau of investigation; provided, however, that in the case of  
20 a corporate applicant that has already been issued a dealer in firearms  
21 license and seeks to operate a firearm dealership at a second or subse-  
22 quent location, the original fingerprints on file may be used to ascer-  
23 tain any criminal record in the second or subsequent application unless  
24 any of the corporate officers have changed since the prior application,

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

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1 in which case the new corporate officer shall comply with procedures  
2 governing an initial application for such license. When completed, one  
3 standard card shall be forwarded to and retained by the division of  
4 criminal justice services in the executive department, at Albany. A  
5 search of the files of such division and written notification of the  
6 results of the search to the investigating officer shall be made without  
7 unnecessary delay. Thereafter, such division shall notify the licensing  
8 officer and the executive department, division of state police, Albany,  
9 of any criminal record of the applicant filed therein subsequent to the  
10 search of its files. A second standard card, or the one supplied by the  
11 federal bureau of investigation, as the case may be, shall be forwarded  
12 to that bureau at Washington with a request that the files of the bureau  
13 be searched and notification of the results of the search be made to the  
14 investigating police authority. The failure or refusal of the federal  
15 bureau of investigation to make the fingerprint check provided for in  
16 this section shall not constitute the sole basis for refusal to issue a  
17 permit pursuant to the provisions of this section. Of the remaining two  
18 fingerprint cards, one shall be filed with the executive department,  
19 division of state police, Albany, within ten days after issuance of the  
20 license, and the other remain on file with the investigating police  
21 authority. No such fingerprints may be inspected by any person other  
22 than a peace officer, who is acting pursuant to his special duties, or a  
23 police officer, except on order of a judge or justice of a court of  
24 record either upon notice to the licensee or without notice, as the  
25 judge or justice may deem appropriate. Upon completion of the investi-  
26 gation, the police authority shall report the results to the licensing  
27 officer without unnecessary delay.

28 S 2. This act shall take effect immediately.