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

5357

2011-2012 Regular Sessions

I N S E N A T E

May 11, 2011

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the judiciary law, in relation to undisposed cases

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

Section 1. The executive law is amended by adding a new section 845-c to read as follows:

S 845-C. CRIMINAL HISTORY RECORD SEARCHES; UNDISPOSED CASES. 1. WHEN, PURSUANT TO STATUTE OR THE REGULATIONS OF THE DIVISION, THE DIVISION CONDUCTS A SEARCH OF ITS CRIMINAL HISTORY RECORDS AND RETURNS A REPORT THEREON, ALL REFERENCES TO UNDISPOSED CASES CONTAINED IN SUCH CRIMINAL HISTORY RECORD SHALL BE EXCLUDED FROM SUCH REPORT.

2. FOR PURPOSES OF THIS SECTION, "UNDISPOSED CASE" SHALL MEAN A CRIMINAL ACTION OR PROCEEDING, OR AN ARREST INCIDENT, IDENTIFIED IN THE DIVISION'S CRIMINAL HISTORY RECORDS FOR WHICH NO CONVICTION, IMPOSITION OF SENTENCE, ORDER OF REMOVAL OR OTHER FINAL DISPOSITION, OTHER THAN THE ISSUANCE OF AN APPARENTLY UNEXECUTED WARRANT, HAS BEEN RECORDED AND WITH RESPECT TO WHICH NO ENTRY HAS BEEN MADE IN THE DIVISION'S CRIMINAL HISTORY RECORDS FOR A PERIOD OF AT LEAST FIVE YEARS PRECEDING THE ISSUANCE OF SUCH REPORT.

3. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY TO CRIMINAL HISTORY RECORD INFORMATION (A) PROVIDED BY THE DIVISION TO QUALIFIED AGENCIES PURSUANT TO SUBDIVISION SIX OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THIS ARTICLE, OR TO FEDERAL OR STATE LAW ENFORCEMENT AGENCIES, FOR CRIMINAL JUSTICE PURPOSES; (B) PREPARED SOLELY FOR A BONA FIDE RESEARCH PURPOSE; OR (C) PREPARED FOR THE INTERNAL RECORDKEEPING OR CASE MANAGEMENT PURPOSES OF THE DIVISION.

4. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO PERMIT OR REQUIRE THE RELEASE, DISCLOSURE OR OTHER DISSEMINATION BY THE DIVISION

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

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OF CRIMINAL HISTORY RECORD INFORMATION THAT HAS BEEN SEALED IN ACCORDANCE WITH LAW.

S 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (s) to read as follows:

(S) TAKE SUCH ACTIONS AND ADOPT SUCH MEASURES AS MAY BE NECESSARY TO ENSURE THAT NO WRITTEN OR ELECTRONIC REPORT OF A CRIMINAL HISTORY RECORD SEARCH CONDUCTED BY THE OFFICE OF COURT ADMINISTRATION, OTHER THAN A SEARCH CONDUCTED SOLELY FOR THE INTERNAL RECORDKEEPING OR CASE MANAGEMENT PURPOSES OF THE JUDICIARY OR FOR A BONA FIDE RESEARCH PURPOSE, CONTAINS INFORMATION RELATING TO AN UNDISPOSED CASE. FOR PURPOSES OF THIS PARAGRAPH, "UNDISPOSED CASE" SHALL MEAN A CRIMINAL ACTION OR PROCEEDING, OR AN ARREST INCIDENT, APPEARING IN THE CRIMINAL HISTORY RECORDS OF THE OFFICE OF COURT ADMINISTRATION FOR WHICH NO CONVICTION, IMPOSITION OF SENTENCE, ORDER OF REMOVAL OR OTHER FINAL DISPOSITION, OTHER THAN THE ISSUANCE OF AN APPARENTLY UNEXECUTED WARRANT, HAS BEEN RECORDED AND WITH RESPECT TO WHICH NO ENTRY HAS BEEN MADE IN SUCH RECORDS FOR A PERIOD OF AT LEAST FIVE YEARS PRECEDING THE ISSUANCE OF SUCH REPORT. NOTHING CONTAINED IN THIS PARAGRAPH SHALL BE DEEMED TO PERMIT OR REQUIRE THE RELEASE, DISCLOSURE OR OTHER DISSEMINATION BY THE OFFICE OF COURT ADMINISTRATION OF CRIMINAL HISTORY RECORD INFORMATION THAT HAS BEEN SEALED IN ACCORDANCE WITH LAW.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to searches of criminal history records conducted on or after such date; provided, however, that prior to such effective date, the division of criminal justice services, in consultation with the state administrator of the unified court system as well as any other public or private agency, shall undertake such measures as may be necessary and appropriate to update its criminal history records with respect to criminal cases and arrest incidents for which no final disposition has been reported.