

4664

2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 2011

Introduced by M. of A. J. MILLER -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to full criminal back-
ground checks for volunteer and paid firefighters

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

1 Section 1. Section 837-o of the executive law, as added by chapter 423
2 of the laws of 1999, subdivision 2 and paragraph (b) of subdivision 3 as
3 amended by section 41 of part B of chapter 56 of the laws of 2010, is
4 amended to read as follows:

5 S 837-o. Search for [arson conviction] CRIMINAL records of [volunteer]
6 firefighter applicants. 1. Any person who applies for membership in a
7 fire company, VOLUNTEER, PAID OR BOTH, as such term is defined in
8 section three of the volunteer firefighters' benefit law, or who seeks
9 to transfer as a member to another fire company, shall be required to
10 authorize the submission of his or her name and other authorized identi-
11 fying information to the division which shall search its files for ANY
12 AND ALL CRIMINAL records [indicating whether the] PERTAINING TO SUCH
13 person [stands convicted of the crime of arson]. The chief of the fire
14 company to which application is made shall provide written notice to the
15 applicant that a search will be conducted, and if the applicant desires
16 to proceed, he or she shall complete a search request on the form
17 provided for this purpose by the division of criminal justice services.

18 2. Within ten business days of receipt from the applicant, the chief
19 of the fire company shall send the completed search request form to
20 either (i) the sheriff's department of the county in which the fire
21 company is located, or (ii) the office of fire prevention and control,
22 as follows:

23 (a) the sheriff's department of the county in which the fire company
24 is located shall be responsible for receiving the search requests and
25 processing the search requests with the division within ten business

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

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1 days of receipt from the chief of the fire company, unless the county
2 legislative body adopts and files with the office of fire prevention and
3 control pursuant to the municipal home rule law a local law providing
4 that the sheriff's department shall not have such responsibility;

5 (b) in all other instances where a county legislative body has adopted
6 a local law pursuant to paragraph (a) of this subdivision, the office of
7 fire prevention and control shall be responsible for receiving search
8 requests and forwarding the search requests to the division.

9 The office of fire prevention and control is hereby authorized to estab-
10 lish a communication network with the division for the purpose of
11 forwarding search requests and receiving search results pursuant to
12 paragraph (b) of [this] subdivision THREE OF THIS SECTION.

13 3. (a) All searches concerning the application for membership in a
14 fire company shall be conducted under the provisions of subdivision six
15 of section eight hundred thirty-seven of this article without the
16 assessment of any fee to the applicant or fire company [and shall
17 pertain solely to ascertaining whether the applicant stands convicted of
18 arson].

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

29 (c) At the time an applicant is advised that he or she is ineligible
30 for membership due to [a record of conviction for arson] HIS OR HER
31 CRIMINAL RECORDS, he or she shall also be advised of the rights to chal-
32 lenge and appeal the information contained in the record of conviction
33 as provided in the rules and regulations of the division. The applicant
34 shall continue to be barred from membership until all administrative and
35 judicial challenges to the accuracy of such information or appeals ther-
36 efrom, are ultimately resolved in his or her favor, or if such a deter-
37 mination is unchallenged.

38 S 2. This act shall take effect on the ninetieth day after it shall
39 have become a law. Effective immediately, the addition, amendment and/or
40 repeal of any rule or regulation necessary for the implementation of
41 this act on its effective date is authorized and directed to be made and
42 completed on or before such effective date.