

8667

2011-2012 Regular Sessions

I N   A S S E M B L Y

October 14, 2011

---

Introduced by M. of A. WEPRIN -- read once and referred to the Committee  
on Mental Health

AN ACT to amend the mental hygiene law and the executive law, in  
relation to directing the commissioner of the office for people with  
developmental disabilities to promulgate regulations authorizing the  
denial or disapproval of certain employment or volunteer applications  
following a criminal history report for such applicant

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

1     Section 1. Section 13.19 of the mental hygiene law is amended by  
2     adding a new subdivision (f) to read as follows:  
3     (F) THE COMMISSIONER SHALL PROMULGATE REGULATIONS (I) REQUIRING A  
4     CRIMINAL HISTORY REPORT FOR ANY PROSPECTIVE EMPLOYEE OR VOLUNTEER IN THE  
5     OFFICE WHO WILL HAVE REGULAR DIRECT PATIENT CONTACT; AND (II) AUTHORIZ-  
6     ING THE DENIAL OR DISAPPROVAL OF ANY APPLICATION FOR EMPLOYMENT OR  
7     VOLUNTEER SERVICE IN THE OFFICE FOR A POSITION THAT WILL HAVE REGULAR  
8     DIRECT PATIENT CONTACT WHERE A CRIMINAL HISTORY REPORT CONCERNING SUCH  
9     PROSPECTIVE EMPLOYEE OR VOLUNTEER REVEALS A CONVICTION FOR ANY OFFENSE  
10    THE COMMISSIONER DETERMINES WOULD MAKE SUCH PROSPECTIVE EMPLOYEE OR  
11    VOLUNTEER UNFIT FOR EMPLOYMENT BY THE OFFICE.  
12    S 2. Subdivision 8-a of section 837 of the executive law, as amended  
13    by chapter 561 of the laws of 2006, is amended to read as follows:  
14    8-a. Charge a fee when, pursuant to statute or the regulations of the  
15    division, it conducts a search of its criminal history records and  
16    returns a report thereon in connection with an application for employ-  
17    ment or for a license or permit. The division shall adopt and may, from  
18    time to time, amend a schedule of such fees which shall be in amounts  
19    determined by the division to be reasonably related to the cost of  
20    conducting such searches and returning reports thereon but, in no event,  
21    shall any such fee exceed twenty-five dollars and an additional  
22    surcharge of fifty dollars. The comptroller is hereby authorized to

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

LBD13509-01-1

1 deposit such fees into the general fund, provided, however, that the  
2 monies received by the division of criminal justice services for payment  
3 of the additional surcharge shall be deposited in equal amounts to the  
4 general fund and to the fingerprint identification and technology  
5 account. Notwithstanding the foregoing, the division shall not request  
6 or accept any fee for searching its records and supplying a criminal  
7 history report pursuant to section two hundred fifty-one-b of the gener-  
8 al business law relating to participating in flight instruction at any  
9 aeronautical facility, flight school or institution of higher learning,  
10 NOR FOR SEARCHING ITS RECORDS AND SUPPLYING A CRIMINAL HISTORY REPORT  
11 PURSUANT TO REGULATIONS ADOPTED UNDER SECTION 13.19 OF THE MENTAL  
12 HYGIENE LAW.

13 S 3. This act shall take effect immediately.