

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to regulating the collection, recording and disclosing of confidential information by state employees obtained by state employees in the course of official duties

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

- 1 Section 1. The civil rights law is amended by adding a new section
2 50-f to read as follows:
3 S 50-F. DISCLOSURE OF CONFIDENTIAL INFORMATION BY STATE EMPLOYEES. 1.
4 DEFINITION. AS USED IN THIS SECTION, "CONFIDENTIAL INFORMATION" MEANS
5 ANY INFORMATION MAINTAINED OR OBTAINED BY A STATE AGENCY, OFFICER OR
6 EMPLOYEE CONCERNING AN INDIVIDUAL'S HEALTH OR DISABILITY STATUS, INCOME
7 TAX RECORDS, SEXUAL ORIENTATION, STATUS AS A VICTIM OF DOMESTIC
8 VIOLENCE, STATUS AS A CRIME VICTIM OR WITNESS, PUBLIC ASSISTANCE STATUS,
9 IMMIGRATION STATUS OR ANY INFORMATION THAT IS OTHERWISE PROTECTED FROM
10 DISCLOSURE BY ANY PROVISION OF FEDERAL, STATE OR LOCAL LAW; AND "LINE
11 WORKER" MEANS ANY PERSON EMPLOYED BY ANY STATE AGENCY WHOSE DUTIES
12 INVOLVE CONTACT WITH THE PUBLIC.
13 2. PROCEDURE FOR THE DISCLOSURE OF CONFIDENTIAL INFORMATION.
14 A. EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, NO STATE
15 OFFICER OR EMPLOYEE SHALL DISCLOSE CONFIDENTIAL INFORMATION TO ANYONE
16 EXCEPT ANOTHER STATE OFFICER OR EMPLOYEE ACTING IN THE SCOPE OF HIS OR
17 HER OFFICIAL DUTIES.
18 B. OTHER THAN AS PROVIDED IN PARAGRAPH A OF THIS SUBDIVISION, CONFIDENTIAL
19 INFORMATION MAY BE DISCLOSED ONLY IF:
20 (I) THE OFFICER'S OR EMPLOYEE'S AGENCY IS REQUIRED BY LAW TO DISCLOSE
21 SUCH CONFIDENTIAL INFORMATION AND PROVIDED THAT SUCH DISCLOSURE SHALL BE
22 LIMITED TO THAT REQUIRED BY LAW; OR

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

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1 (II) THE OFFICER'S OR EMPLOYEE'S AGENCY HAS BEEN AUTHORIZED, IN WRIT-
2 ING SIGNED BY THE INDIVIDUAL OR, IF THE INDIVIDUAL IS A MINOR OR OTHER-
3 WISE INCOMPETENT, SUCH AUTHORIZATION HAS BEEN SIGNED BY THE INDIVIDUAL'S
4 PARENT OR LEGAL GUARDIAN, TO DISCLOSE SUCH CONFIDENTIAL INFORMATION, AND
5 PROVIDED THAT THE DISCLOSURE SHALL BE LIMITED TO THAT AUTHORIZED IN
6 WRITING BY THE INDIVIDUAL; OR

7 (III) THERE IS REASONABLE SUSPICION OR PROBABLE CAUSE TO BELIEVE THAT
8 A PERSON IS ENGAGING IN CRIMINAL ACTIVITY AND THE DISCLOSURE OF CONFIDENTIAL
9 INFORMATION IS NECESSARY TO COOPERATE WITH A LAW ENFORCEMENT
10 AGENCY OR AGENCIES INVESTIGATING THAT CRIMINAL ACTIVITY; OR

11 (IV) SUCH CONFIDENTIAL INFORMATION IS TO BE USED BY A FEDERAL, STATE
12 OR LOCAL GOVERNMENT AGENCY, AND SOLELY FOR THE PURPOSE OF COMPILING
13 STATISTICAL INFORMATION, PROVIDED THAT THE DISCLOSURE SHALL BE LIMITED
14 TO THAT NECESSARY TO COMPILE SUCH STATISTICAL INFORMATION, AND PROVIDED
15 FURTHER THAT THE RECIPIENT OF THE INFORMATION ENSURES, IN WRITING IN
16 ADVANCE OF ANY DISCLOSURE, THAT THE CONFIDENTIAL INFORMATION DISCLOSED
17 WILL NOT BE FURTHER DISCLOSED TO ANY OTHER AGENCY OR OTHER INDIVIDUAL.

18 3. PROCEDURE FOR THE COLLECTING AND/OR RECORDING OF CONFIDENTIAL
19 INFORMATION. THIS SUBDIVISION SHALL APPLY TO ANY DOCUMENTATION, QUES-
20 TIONNAIRE, INTERVIEW SHEET OR OTHER FORM USED IN RELATION TO BENEFITS OR
21 SERVICES PROVIDED BY THE STATE.

22 A. NO STATE OFFICER OR EMPLOYEE SHALL MAKE INQUIRIES REGARDING CONFIDENTIAL
23 INFORMATION OF ANY INDIVIDUAL, WHEN SUCH INDIVIDUAL, ON HIS OR
24 HER BEHALF OR ON BEHALF OF ANOTHER, IS APPLYING FOR OR IS RECEIVING ANY
25 SERVICE OR BENEFIT PROVIDED BY THE STATE, UNLESS SUCH CONFIDENTIAL
26 INFORMATION IS SPECIFICALLY REQUIRED BY FEDERAL OR STATE LAW AS A CONDI-
27 TION OF RECEIPT OF SUCH SERVICE OR BENEFIT.

28 B. IF CONFIDENTIAL INFORMATION IS REQUIRED BY FEDERAL OR STATE LAW AS
29 A CONDITION OF RECEIPT OF A SERVICE OR BENEFIT PROVIDED BY THE STATE,
30 THE STATE OFFICER OR EMPLOYEE SHALL MAKE ONLY THOSE INQUIRIES NECESSARY
31 TO DETERMINE IF AN APPLICANT OR RECIPIENT IS QUALIFIED FOR AND OTHERWISE
32 MEETS THE CONDITIONS FOR RECEIPT OF SUCH SERVICE OR BENEFIT.

33 C. NO STATE OFFICER OR EMPLOYEE SHALL COLLECT AND/OR RECORD INFORMATION
34 REGARDING THE IMMIGRATION STATUS OF AN APPLICANT FOR OR RECIPIENT
35 OF ANY SERVICE OR BENEFIT UNLESS SUCH IMMIGRATION STATUS IS REQUIRED BY
36 FEDERAL OR STATE LAW. WHERE FEDERAL OR STATE LAW REQUIRES THE RECORDING
37 OF SUCH CONFIDENTIAL IMMIGRATION STATUS INFORMATION, ONLY THAT INFORMATION
38 SPECIFICALLY REQUIRED SHALL BE RECORDED.

39 4. DESIGNATION OF ACCESS OFFICER RESPONSIBLE FOR AUTHORIZING THE
40 RELEASE OF CONFIDENTIAL INFORMATION. THE HEAD OR GOVERNING BODY OF EACH
41 AGENCY SHALL DESIGNATE ONE OR MORE PERSONS WITH SUPERVISORY AUTHORITY,
42 AND ASSIGN TO SUCH PERSONS THE FURTHER AUTHORITY TO APPROVE AND AUTHOR-
43 IZE THE RELEASE OF CONFIDENTIAL INFORMATION. THE DESIGNATION SHALL
44 INCLUDE THE NAME, SPECIFIC JOB TITLE, TELEPHONE NUMBER AND BUSINESS
45 ADDRESS OF EACH SUCH DESIGNATED ACCESS OFFICER. WHEN APPROVING AND
46 AUTHORIZING THE RELEASE OF CONFIDENTIAL INFORMATION, A DESIGNATED ACCESS
47 OFFICER SHALL SPECIFY, IN WRITING, THE SPECIFIC INFORMATION TO BE
48 DISCLOSED, AND THE PERSONS OR ENTITIES TO WHOM SUCH DISCLOSURE SHALL BE
49 MADE. THE DESIGNATED ACCESS OFFICER SHALL ENSURE THAT ANY DISCLOSURE IS
50 AUTHORIZED BY LAW AND WITHIN THE LIMITS AS PROVIDED BY LAW.

51 5. DISCLOSURE BY LINE WORKERS OF CONFIDENTIAL INFORMATION. NO LINE
52 WORKER EMPLOYED BY A STATE AGENCY SHALL DISCLOSE CONFIDENTIAL INFORMATION
53 WITHOUT OBTAINING PRIOR WRITTEN APPROVAL FROM A DESIGNATED ACCESS
54 OFFICER RESPONSIBLE FOR APPROVING AND AUTHORIZING THE RELEASE OF CONFIDENTIAL
55 INFORMATION FOR THAT AGENCY.

1 6. OTHER LAWS RESPECTING CONFIDENTIALITY. NOTHING IN THIS SECTION
2 SHALL BE DEEMED TO REDUCE OR ABRIDGE ANY OTHER PROTECTION IN FEDERAL,
3 STATE OR LOCAL LAW RESPECTING THE CONFIDENTIALITY OF INFORMATION.
4 7. SEVERABILITY. IF ANY SUBDIVISION, SENTENCE, CLAUSE, PHRASE OR OTHER
5 PORTION OF THIS SECTION IS, FOR ANY REASON, DECLARED UNCONSTITUTIONAL OR
6 INVALID, IN WHOLE OR IN PART, BY ANY COURT OF COMPETENT JURISDICTION,
7 SUCH PORTION SHALL BE DEEMED SEVERABLE, AND SUCH UNCONSTITUTIONALITY OR
8 INVALIDITY SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF
9 THIS SECTION, WHICH REMAINING PORTIONS SHALL CONTINUE IN FULL FORCE AND
10 EFFECT.
11 S 2. This act shall take effect immediately.