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

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2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. BARCLAY, CROUCH, GIGLIO, CORWIN, GRAF, HAWLEY, WALTER, McLAUGHLIN, CURRAN, DUPREY, MONTESANO, McKEVITT, LOSQUADRO, TENNEY, SALADINO, RAIA -- Multi-Sponsored by -- M. of A. ARROYO, CERETTO, FRIEND, McDONOUGH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the social services law, in relation to requiring the division of criminal justice services to check the wanted felon status and other information of people applying for public assistance

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. REQUESTS FOR WANTED FELON INFORMATION. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "AUTHORIZED PERSON" MEANS A COMMISSIONER OF SOCIAL SERVICES, AS DEFINED IN SUBDIVISION TEN OF SECTION TWO OF THE SOCIAL SERVICES LAW, OR ANY ONE OR MORE INDIVIDUALS DESIGNATED BY SUCH COMMISSIONER AS AUTHORIZED TO REQUEST, RECEIVE AND REVIEW INFORMATION REGARDING THE WANTED FELON PORTION OF THE NATIONAL CRIME INFORMATION CENTER AND/OR, IF APPLICABLE, INFORMATION REGARDING AN INDIVIDUAL'S VIOLATION OF HIS OR HER PROBATION OR PAROLE CONDITIONS PURSUANT TO THIS SECTION. A COMMISSIONER OF SOCIAL SERVICES MAY DESIGNATE ONE OR MORE ADDITIONAL PERSONS AS NECESSARY TO SERVE AS AUTHORIZED PERSONS PURSUANT TO THIS SECTION.

(B) "SUBJECT INDIVIDUAL" MEANS A PERSON WHO IS APPLYING FOR PUBLIC ASSISTANCE WHOSE WANTED FELON STATUS OR PROBATION OR PAROLE VIOLATOR STATUS HAS BEEN REQUESTED PURSUANT TO SECTION ONE HUNDRED THIRTY-TWO OF THE SOCIAL SERVICES LAW.

(C) "WANTED FELON" MEANS A PERSON WHO IS FLEEING OR HAS FLED TO AVOID PROSECUTION, OR CUSTODY OR CONFINEMENT AFTER CONVICTION, UNDER THE LAWS OF THE PLACE FROM WHICH THE PERSON FLEES, FOR A CRIME, OR AN ATTEMPT TO

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

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COMMIT A CRIME, WHICH IS A FELONY UNDER THE LAWS OF THE PLACE FROM WHICH THE PERSON FLEES.

(D) "PROBATION OR PAROLE VIOLATOR" MEANS A PERSON WHO IS VIOLATING A CONDITION OF PROBATION OR PAROLE AND THAT PERSON IS CURRENTLY AN ABSCONDER FROM PROBATION OR PAROLE SUPERVISION AND A WARRANT ALLEGING SUCH A VIOLATION IS OUTSTANDING, OR THE PERSON HAS BEEN FOUND BY JUDICIAL DETERMINATION TO HAVE VIOLATED PROBATION OR BY ADMINISTRATIVE ADJUDICATION BY THE DIVISION OF PAROLE TO HAVE VIOLATED PAROLE, OR THE PERSON IS VIOLATING A CONDITION OF PROBATION OR PAROLE IMPOSED UNDER FEDERAL LAW.

2. WHERE AN AUTHORIZED PERSON REQUESTS INFORMATION REGARDING THE WANTED FELON STATUS OR THE PROBATION OR PAROLE VIOLATOR STATUS, OF A SUBJECT INDIVIDUAL APPLYING FOR PUBLIC ASSISTANCE REQUIRED PURSUANT TO SECTION ONE HUNDRED THIRTY-TWO OF THE SOCIAL SERVICES LAW, SUCH PERSON SHALL PROCEED PURSUANT TO THE PROVISIONS OF THIS SECTION.

3. AN AUTHORIZED PERSON REQUESTING THE WANTED FELON STATUS OR PROBATION OR PAROLE VIOLATOR STATUS, PURSUANT TO THIS SECTION SHALL DO SO BY COMPLETING A FORM ESTABLISHED FOR SUCH PURPOSE BY THE DIVISION. SUCH FORM SHALL INCLUDE A SWORN STATEMENT OF THE AUTHORIZED PERSON CERTIFYING THAT:

(A) THE PERSON FOR WHOSE INFORMATION IS REQUESTED IS A SUBJECT INDIVIDUAL FOR WHOM INFORMATION IS AVAILABLE BY LAW;

(B) THE RESULTS OF REQUEST WILL BE USED BY THE AUTHORIZED PERSON SOLELY FOR PURPOSES AUTHORIZED BY LAW; AND

(C) THE AUTHORIZED PERSON AND HIS OR HER AGENTS AND EMPLOYEES ARE AWARE OF AND WILL ABIDE BY THE CONFIDENTIALITY REQUIREMENTS AND ALL OTHER PROVISIONS OF THIS ARTICLE.

S 2. Subdivision 1 of section 132 of the social services law, as amended by section 22 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

1. (A) When an application for assistance or care is received, or a social services official is informed that a person is in need of public assistance and care, an investigation and record shall be made of the circumstances of such person. The object of such investigations shall be to secure the facts necessary to determine whether such person is in need of public assistance or care and what form thereof and service he or she should receive AND TO DETERMINE WHETHER SUCH PERSON IS A WANTED FELON AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW OR A PROBATION OR PAROLE VIOLATOR AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW AND IF SUCH WARRANT OR VIOLATION EXISTS, WHETHER SUCH PERSON WAS AWARE OR SHOULD HAVE BEEN AWARE OF SUCH WARRANT OR VIOLATION. Information shall be sought as to the residence of such person, the name, age, religious faith, physical condition, earnings or other income, and ability to work of all members of the family, the cause of the person's condition, the ability and willingness of the family, relatives, friends and church to assist, and such other facts as may be useful in determining the treatment which will be helpful to such person. However, nothing in this subdivision or elsewhere in this chapter contained shall be construed to require a social services official to communicate with or require assistance from any person or persons liable by law to contribute to the support of a woman pregnant with, or the mother of, an out of wedlock child, in need of care away from home during pregnancy and during and after delivery, in the case where the surrender of the child to the social services official is under consideration, for such period as may be necessary for such mother and offi-

cial to decide whether the child will be surrendered for adoption to such official, which period shall not extend beyond ninety days after birth of the child. Except where the welfare official is in possession of positive proof that the applicant is receiving or is eligible to receive unemployment insurance benefits and the amount thereof such investigations shall include written request to the commissioner of labor or his or her duly authorized officer charged with administration of the unemployment insurance law for information as to the status of such person in respect to unemployment insurance benefits.

(B) THE COMMISSIONER OF A SOCIAL SERVICES DISTRICT OR ANY AUTHORIZED PERSON, AS DEFINED IN SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW, SHALL REQUEST INFORMATION FOR EACH APPLICANT FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES, TO DETERMINE WHETHER SUCH APPLICANT IS A WANTED FELON AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW OR PROBATION OR PAROLE VIOLATOR AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW.

(C) UPON BEING INFORMED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES THAT AN APPLICANT IS A WANTED FELON OR A PROBATION OR PAROLE VIOLATOR, PURSUANT TO SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW, THE COMMISSIONER SHALL INVESTIGATE TO DETERMINE WHETHER THE APPLICANT IS AWARE OF HIS OR HER STATUS AND TO DETERMINE WHEN THE APPLICANT BECAME, OR SHOULD HAVE BECOME AWARE OF HIS OR HER STATUS.

(D) WHERE AN APPLICANT HAS NOT INITIALLY BEEN DETERMINED TO BE INELIGIBLE FOR PUBLIC ASSISTANCE BENEFITS BECAUSE OF A RELIANCE ON A FALSE STATEMENT PROVIDED IN THE APPLICATION, HOWEVER IS SUBSEQUENTLY DETERMINED TO BE INELIGIBLE FOR SUCH ASSISTANCE, THE COMMISSIONER, ON BEHALF OF THE STATE AND THE LOCAL SOCIAL SERVICES DISTRICT SHALL HAVE THE AUTHORITY TO RECOUP FROM THE INDIVIDUAL THE SUMS EXPENDED FOR SUCH ASSISTANCE DURING THE PERIOD OF TIME THAT SUCH PERSON RECEIVED BENEFITS AND KNEW OR SHOULD HAVE KNOWN THAT THEIR STATEMENT CLAIMING THAT THEY ARE NEITHER A WANTED FELON OR PROBATION OR PAROLE VIOLATOR STATUS WAS FALSE.

(E) AN INDIVIDUAL WHO IS IDENTIFIED, AND KNOWS SO OR IS NOTIFIED THEREOF, AS BEING A PROBATION OR PAROLE VIOLATOR, AS DEFINED IN SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW, IS NOT ELIGIBLE FOR PUBLIC ASSISTANCE UNTIL HE OR SHE VERIFIES THAT HE OR SHE HAS BEEN RESTORED TO PROBATION OR PAROLE SUPERVISION, RELEASED FROM CUSTODY, OR UNTIL THE PERSON'S MAXIMUM PERIOD OF IMPRISONMENT OR SUPERVISION HAS EXPIRED.

S 3. Paragraph (b) of subdivision 1 of section 145-b of the social services law, as added by chapter 2 of the laws of 1998, is amended to read as follows:

(b) For purposes of this section, "statement or representation" includes, but is not limited to:

(I) a claim for payment made to the state, a political subdivision of the state, or an entity performing services under contract to the state or a political subdivision of the state;

(II) an acknowledgment, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment, financial information whether in a cost report or otherwise, health care services available or rendered, and the qualifications of a person that is or has rendered health care services;

(III) AN INTENTIONAL INCORRECT ANSWER, MADE BY THE APPLICANT, TO A QUESTION ON AN APPLICATION FOR PUBLIC ASSISTANCE REGARDING THE WANTED FELON AS DEFINED IN SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE

LAW STATUS OR PROBATION OR PAROLE VIOLATOR AS DEFINED IN SECTION EIGHT HUNDRED FORTY-FIVE-C OF THE EXECUTIVE LAW STATUS OF AN APPLICANT OR A MEMBER OF HIS OR HER FAMILY.

S 4. The state commissioner of social services, in consultation with the commissioner of the division of criminal justice services, is hereby authorized and directed to promulgate rules and regulations necessary for the implementation of this act.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.