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

4792

2013-2014 Regular Sessions

I N S E N A T E

April 24, 2013

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

AN ACT to amend the family court act, in relation to the inspection of family court proceedings records when a defendant who is the subject of such records is charged with a sex offense

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

Section 1. Section 166 of the family court act is amended to read as follows:

S 166. Privacy of records. 1. The records of any proceeding in the family court shall not be open to indiscriminate public inspection. However, the court in its discretion in any case may permit the inspection of any papers or records. Any duly authorized agency, association, society or institution to which a child is committed may cause an inspection of the record of investigation to be had and may in the discretion of the court obtain a copy of the whole or part of such record.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, IN ANY CRIMINAL PROCEEDING IN WHICH THE DEFENDANT IS CHARGED WITH A SEX OFFENSE, AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OR THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-A OF THE CORRECTION LAW, AND SUCH DEFENDANT IS THE SUBJECT OF RECORDS OF A PRIOR PROCEEDING IN THE FAMILY COURT WHICH ARE NOT OPEN TO PUBLIC INSPECTION, THE FAMILY COURT SHALL, UPON REQUEST BY THE PROSECUTOR IN SUCH CRIMINAL PROCEEDING OR THE COURT WITH JURISDICTION OVER SUCH CRIMINAL PROCEEDING, INSPECT THE RECORDS OF SUCH PRIOR FAMILY COURT PROCEEDING. IF THE FAMILY COURT FINDS, AFTER INSPECTION, THAT SUCH RECORDS SHOW A SEX OFFENSE WAS COMMITTED BY SUCH DEFENDANT, THEN THE COURT SHALL MAKE SUCH RECORDS AVAILABLE TO THE PROSECUTOR, COURT AND ATTORNEY FOR THE DEFENDANT IN SUCH CRIMINAL PROCEEDING. IF THE FAMILY COURT FINDS THAT NO SEX OFFENSE WAS COMMITTED BY SUCH DEFENDANT, THEN SUCH RECORDS SHALL REMAIN CLOSED TO PUBLIC INSPECTION.

S 2. This act shall take effect immediately.

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

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