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5905

2013-2014 Regular Sessions

I N  S E N A T E

June 21, 2013

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, the general business law and the surrogate's court procedure act, in relation to firearms; and to amend the executive law, the mental hygiene law, the penal law and the public health law, in relation to the evaluation and reporting of persons who present a serious and imminent threat to the health and safety of self or others; and to repeal certain provisions of the penal law relating thereto

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

Section 1. Section 265.37 of the penal law is REPEALED.

S 2. Subdivision 8 of section 265.02 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(8) Such person possesses a large capacity ammunition feeding device. For purposes of this subdivision, a large capacity ammunition feeding device shall not include an ammunition feeding device lawfully possessed by such person before the effective date of [the] chapter ONE of the laws of two thousand thirteen [which amended this subdivision, that has a capacity of, or that can be readily restored or converted to accept more than seven but less than eleven rounds of ammunition, or] that was manufactured before September thirteenth, nineteen hundred ninety-four, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; or

S 3. Subdivision 23 of section 265.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, that [(a)] has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition[, or (b) contains more than seven rounds of ammunition, or (c) is obtained after the effective date of the chapter of the

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

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laws of two thousand thirteen which amended this subdivision and has a capacity of, or that can be readily restored or converted to accept, more than seven rounds of ammunition]; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least fifty years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision sixteen-a of section 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within thirty days of their transfer into the state. Notwithstanding paragraph (h) of subdivision twenty-two of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of section 400.03 of this chapter including the check required to be conducted pursuant to such section.

S 4. Subdivision 24 of section 265.00 of the penal law is REPEALED and a new subdivision 24 is added to read as follows:

24. "QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO IS A RETIRED POLICE OFFICER AS POLICE OFFICER IS DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, A RETIRED PEACE OFFICER AS PEACE OFFICER IS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW OR A RETIRED FEDERAL LAW ENFORCEMENT OFFICER AS FEDERAL LAW ENFORCEMENT OFFICER IS DEFINED IN SECTION 2.15 OF THE CRIMINAL PROCEDURE LAW, WHO: (A) SEPARATED FROM SERVICE IN GOOD STANDING FROM AN AGENCY LOCATED IN NEW YORK STATE IN WHICH SUCH PERSON SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER; AND (B) (I) BEFORE SUCH SEPARATION, SERVED AS EITHER A POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER FOR FIVE YEARS OR MORE AND AT THE TIME OF SEPARATION, IS SUCH AN OFFICER; OR (II) SEPARATED FROM SERVICE WITH SUCH AGENCY, AFTER COMPLETING ANY APPLICABLE PROBATIONARY PERIOD OF SUCH SERVICE, DUE TO SERVICE-CONNECTED DISABILITY, AS DETERMINED BY SUCH AGENCY; AND (C) (I) HAS NOT BEEN FOUND BY A QUALIFIED MEDICAL PROFESSIONAL EMPLOYED BY SUCH AGENCY TO BE UNQUALIFIED FOR REASONS RELATING TO MENTAL HEALTH; OR (II) HAS NOT ENTERED INTO AN AGREEMENT WITH SUCH AGENCY FROM WHICH THE INDIVIDUAL IS SEPARATING FROM SERVICE IN WHICH THAT INDIVIDUAL ACKNOWLEDGES HE OR SHE IS NOT QUALIFIED UNDER THIS SECTION FOR REASONS RELATING TO MENTAL HEALTH; AND (D) IS NOT OTHERWISE PROHIBITED BY NEW YORK OR FEDERAL LAW FROM POSSESSING ANY FIREARM.

S 5. Section 265.20 of the penal law is amended by adding a new subdivision e to read as follows:

E. SUBDIVISION EIGHT OF SECTION 265.02 AND SECTION 265.36 OF THIS CHAPTER SHALL NOT APPLY TO A QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FOUR OF SECTION 265.00 OF THIS ARTICLE, WITH RESPECT TO LARGE CAPACITY AMMUNITION FEEDING DEVICES ISSUED TO SUCH OFFICER OR PURCHASED BY SUCH OFFICER IN THE COURSE OF HIS OR HER OFFICIAL DUTIES AND OWNED BY SUCH OFFICER AT THE TIME OF HIS OR HER RETIREMENT OR REPLACEMENTS FOR SUCH DEVICES IF THE FORMER AGENCY OF THE INDIVIDUAL HAS QUALIFIED SUCH OFFICER IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH DEVICE WITHIN TWELVE MONTHS BEFORE HIS OR HER RETIREMENT, OR IF SUCH OFFICER RETIRED PRIOR TO THE EFFECTIVE DATE

OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT ADDED THIS SUBDIVISION IF THE FORMER AGENCY OF THE INDIVIDUAL QUALIFIES SUCH OFFICER IN THE USE OF THE WEAPON WHICH ACCEPTS SUCH DEVICE WITHIN TWELVE MONTHS OF SUCH EFFECTIVE DATE.

S 6. Subdivision 16-a of section 400.00 of the penal law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION TO THE CONTRARY, AN OWNER OF AN ASSAULT WEAPON AS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 265.00 OF THIS CHAPTER, WHO IS A QUALIFIED RETIRED NEW YORK OR FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN SUBDIVISION TWENTY-FOUR OF SECTION 265.00 OF THIS CHAPTER, WHERE SUCH WEAPON WAS ISSUED TO OR PURCHASED BY SUCH OFFICER IN THE COURSE OF HIS OR HER OFFICIAL DUTIES, AND FOR WHICH SUCH OFFICER WAS QUALIFIED BY HIS OR HER FORMER AGENCY WITHIN TWELVE MONTHS PRIOR TO HIS OR HER RETIREMENT, MUST REGISTER SUCH WEAPON WITHIN SIXTY DAYS OF RETIREMENT.

S 7. Subdivision a of section 265.20 of the penal law is amended by adding a new paragraph 17 to read as follows:

17. POSSESSION OF A LARGE CAPACITY AMMUNITION FEEDING DEVICE BY A PRIVATE INVESTIGATOR, BAIL ENFORCEMENT AGENT, OR WATCHMEN, GUARDS OR PRIVATE PATROLMEN EMPLOYED BY A WATCH GUARD OR PATROL AGENCY, LICENSED PURSUANT TO ARTICLE SEVEN OF THE GENERAL BUSINESS LAW, OR A SECURITY GUARD AS DEFINED UNDER PARAGRAPHS (A), (B) OR (C) OF SUBDIVISION SIX OF SECTION EIGHTY-NINE-F OF THE GENERAL BUSINESS LAW, AND REGISTERED PURSUANT TO ARTICLE SEVEN-A OF THE GENERAL BUSINESS LAW, OR AN ARMORED CAR GUARD AS DEFINED IN SUBDIVISION EIGHT OF SECTION EIGHTY-NINE-PPP OF THE GENERAL BUSINESS LAW, IF SUCH PERSON IS DULY LICENSED TO POSSESS A PISTOL OR REVOLVER PURSUANT TO SECTION 400.00 OR 400.01 OF THIS CHAPTER, AND IS AUTHORIZED BY HIS OR HER EMPLOYER TO ACCESS A FIREARM WHEN PERFORMING HIS OR HER DUTIES.

S 8. The first and second undesignated paragraphs of section 265.36 of the penal law are designated subdivisions 1 and 2 and a new subdivision 3 is added to read as follows:

3. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A PRIVATE INVESTIGATOR, BAIL ENFORCEMENT AGENT, OR WATCHMEN, GUARDS OR PRIVATE PATROLMEN EMPLOYED BY A WATCH GUARD OR PATROL AGENCY, LICENSED PURSUANT TO ARTICLE SEVEN OF THE GENERAL BUSINESS LAW, OR A SECURITY GUARD AS DEFINED UNDER PARAGRAPHS (A), (B) OR (C) OF SUBDIVISION SIX OF SECTION EIGHTY-NINE-F OF THE GENERAL BUSINESS LAW, AND REGISTERED PURSUANT TO ARTICLE SEVEN-A OF THE GENERAL BUSINESS LAW, OR AN ARMORED CAR GUARD AS DEFINED IN SUBDIVISION EIGHT OF SECTION EIGHTY-NINE-PPP OF THE GENERAL BUSINESS LAW, IF SUCH PERSON IS DULY LICENSED TO POSSESS A PISTOL OR REVOLVER PURSUANT TO SECTION 400.00 OR 400.01 OF THIS CHAPTER, IS AUTHORIZED BY HIS OR HER EMPLOYER TO ACCESS A FIREARM WHEN PERFORMING HIS OR HER DUTIES, DURING THE PERFORMANCE OF THOSE DUTIES.

S 9. The opening paragraph of subdivision a of section 265.20 of the penal law, as amended by section 1 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

Paragraph (h) of subdivision twenty-two of section 265.00 and sections 265.01, 265.01-a, subdivision one of section 265.01-b, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36[, 265.37] and 270.05 shall not apply to:

S 10. Paragraph 7-f of subdivision a of section 265.20 of the penal law is REPEALED.

S 11. Section 400.03 of the penal law is REPEALED.

S 12. Subdivision 1 of section 898 of the general business law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

1. In addition to any other requirements pursuant to state and federal law, all sales, exchanges or disposals of firearms, rifles or shotguns shall be conducted in accordance with this section unless such sale, exchange or disposal is conducted by a licensed importer, licensed manufacturer or licensed dealer, as those terms are defined in 18 USC S [922] 921, when such sale, exchange or disposal is conducted pursuant to that person's federal firearms license or such sale, exchange or disposal is between members of an immediate family. For purposes of this section, "immediate family" shall mean spouses, domestic partners, children and step-children, SIBLINGS, GRANDPARENTS AND GRANDCHILDREN.

S 13. Subdivision 5 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

5. Filing of approved applications. [(a)] The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. [Except as provided in paragraphs (b) through (f) of this subdivision, the name and address] THE APPLICATION AND ANY SUPPORTING RECORDS, INCLUDING ANY INFORMATION CONTAINED THEREIN, of any person to whom an application for any license has been granted shall NOT be a public record AND SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by the appropriate clerk, department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address, social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this chapter shall not be subject to disclosure pursuant to article six of the public officers law.

[(b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police within thirty days of the effective date of the chapter of the laws of two thousand thirteen, which amended this section, and provided to the applicant at the same time and in the same

manner as the application for a license, an opportunity for the applicant to request an exception from his or her application information becoming public record pursuant to paragraph (a) of this subdivision. Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of the chapter of the laws of two thousand thirteen which amended this section, shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the application with a box beside each for checking, as applicable, by the applicant, shall be as follows:

(i) the applicant's life or safety may be endangered by disclosure because:

(A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;

(B) the applicant is a protected person under a currently valid order of protection;

(C) the applicant is or was a witness in a criminal proceeding involving a criminal charge;

(D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or

(E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this paragraph, specifying which subparagraph or subparagraphs and clauses apply.

(ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant.

(iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information.

(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request an exception from the information provided on such form becoming public record pursuant to paragraph (a) of this subdivision. Such forms shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision.

(d) Information submitted on the forms described in paragraph (b) of this subdivision shall be excepted from disclosure and maintained by the entity retaining such information separate and apart from all other records.

(e) (i) Upon receiving a request for exception from disclosure, the licensing officer shall grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision.

(ii) A request for an exception from disclosure may be submitted at any time, including after a license or recertification has been granted.

(iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void.

(f) The information of licensees or applicants for a license shall not be disclosed to the public during the first one hundred twenty days following the effective date of the chapter of the laws of two thousand thirteen, which amended this section. After such period, the information of those who had applied for or been granted a license prior to the preparation of the form for requesting an exception, pursuant to paragraph (b) of this subdivision, may be released only if such individuals did not file a request for such an exception during the first sixty days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such sixty days.

(g) If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article seventy-eight of the civil practice laws and rules. Such proceeding must commence within thirty days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review.]

S 14. Section 2509 of the surrogate's court procedure act, as added by chapter 1 of the laws of 2013, is amended to read as follows:

S 2509. Firearms inventory

Whenever, by regulation, rule or statute, a fiduciary or attorney of record must file a list of assets constituting a decedent's estate, such list must include a particularized description of every firearm, shotgun and rifle, as such terms are defined in section 265.00 of the penal law, that are part of such estate. Such [list] DESCRIPTION must be PREPARED AS A REPORT SEPARATE AND APART FROM THE LIST OF ASSETS OTHERWISE REQUIRED TO BE FILED BY THIS CHAPTER AND, UNLESS OTHERWISE PROVIDED BY LAW OR BY COURT ORDER, MUST BE FILED UNDER SEAL AND MAINTAINED UNDER SEAL BY THE COURT. SUCH SEPARATE REPORT SHALL BE filed with the surrogate's court in the county in which the estate proceeding, if any, is pending [and a]. A copy OF SUCH REPORT must be filed with the division of criminal justice services; SUCH REPORT FILED WITH THE DIVISION SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

S 15. Subdivision 5 of section 470.00 of the penal law, as amended by chapter 489 of the laws of 2000, is amended to read as follows:

5. "Specified criminal conduct" means criminal conduct committed in this state constituting a criminal act, as the term criminal act is defined in section 460.10 of this [chapter] TITLE, or constituting the

crime of enterprise corruption, as defined in section 460.20 of this [chapter] TITLE, OR CONDUCT CONSTITUTING THE CRIME OF AGGRAVATED ENTERPRISE CORRUPTION, AS DEFINED IN SECTION 460.22 OF THIS TITLE, or conduct committed in any other jurisdiction which is or would be specified criminal conduct if committed in this state.

S 16. Subdivision 19 of section 837 of the executive law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

19. Receive names and other [non-clinical identifying] NECESSARY information pursuant to section 9.46 of the mental hygiene law; provided, however, any such information shall be destroyed five years after such receipt, or pursuant to a proceeding brought under [article seventy-eight of the civil practice law and rules] PARAGRAPH (D) OF SUBDIVISION ELEVEN OF SECTION 400.00 OF THE PENAL LAW determining that an individual is eligible for a license pursuant to SUCH section [400.00 of the penal law] and otherwise permitted to possess a firearm.

S 17. Subdivision (b) of section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, is amended and a new paragraph (e) is added to read as follows:

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person [is likely to engage in conduct that would result in serious harm to] PRESENTS A SERIOUS AND IMMINENT THREAT TO THE HEALTH AND SAFETY OF self or others, he or she shall be required to report, as soon as practicable, to the [director of community services, or the director's designee, who shall report to the] division of criminal justice services [whenever he or she agrees that the person is likely to engage in such conduct]. Information transmitted to the division of criminal justice services shall be limited to names and other [non-clinical identifying] NECESSARY information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

(E) THE COMMISSIONER, IN CONSULTATION WITH THE OFFICE OF MENTAL HEALTH AND THE DEPARTMENT OF EDUCATION, SHALL PROMULGATE REGULATIONS THAT ESTABLISH POLICIES AND PROCEDURES TO:

(1) ENSURE THAT AN INDIVIDUAL REPORTING PURSUANT TO SUBDIVISION (B) OF THIS SECTION IS A MENTAL HEALTH PROFESSIONAL LICENSED TO PRACTICE IN THIS STATE;

(2) EVALUATE A REPORT THAT A PERSON PRESENTS A SERIOUS AND IMMINENT THREAT TO THE HEALTH AND SAFETY OF SELF OR OTHERS; AND

(3) ENSURE THAT THE SUBJECT OF SUCH A REPORT IS PROPERLY AND ACCURATELY IDENTIFIED.

S 18. Paragraphs 12 and 15 of subdivision (c) of section 33.13 of the mental hygiene law, paragraph 12 as amended and paragraph 15 as added by chapter 1 of the laws of 2013, are amended to read as follows:

12. to a director of community services as defined in article nine of this chapter or his or her designee, provided that such director or his or her designee [(i)] requests such information in the exercise of his or her statutory functions, powers and duties pursuant to section 9.37, 9.45, 9.47, 9.48, 9.60 or 41.13 of this chapter[; or (ii) the disclosure of information is required pursuant to section 9.46 of this chapter].

15. to the division of criminal justice services, names and other [non-clinical identifying] NECESSARY information for the sole purpose of

implementing the division's responsibilities and duties under sections 400.00 and 400.02 of the penal law.

S 19. Paragraph (b) of subdivision 11 of section 400.00 of the penal law, as added by chapter 1 of the laws of 2013, is amended and a new paragraph (d) is added to read as follows:

(b) Whenever [the director of community services or his or her designee makes a report pursuant to section 9.46 of the mental hygiene law,] the division of criminal justice services RECEIVES AND SUBSTANTIATES A REPORT PURSUANT TO SECTION 9.46 OF THE MENTAL HYGIENE LAW, IT shall convey [such] NON-CLINICAL IDENTIFYING information, whenever it determines that the person named in the report possesses a license issued pursuant to this section, to the appropriate licensing official, who shall issue an order suspending or revoking such license.

(D) THE COMMISSIONER OF MENTAL HEALTH SHALL ESTABLISH AN ADMINISTRATIVE PROCESS TO PERMIT A PERSON WHO HAS HAD THEIR LICENSE SUSPENDED OR REVOKED UNDER PARAGRAPH (B) OF THIS SUBDIVISION TO PETITION FOR RELIEF WHERE SUCH PERSON'S RECORD AND REPUTATION ARE SUCH THAT SUCH PERSON WILL NOT BE LIKELY TO ACT IN A MANNER DANGEROUS TO PUBLIC SAFETY AND WHERE THE GRANTING OF THE RELIEF WOULD NOT BE CONTRARY TO PUBLIC SAFETY. THE COMMISSIONER OF MENTAL HEALTH SHALL PROMULGATE REGULATIONS TO ESTABLISH THE RELIEF PROGRAM, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS PROVIDING FOR: (I) AN OPPORTUNITY FOR A PERSON WHO HAS HAD THEIR LICENSE SUSPENDED OR REVOKED UNDER PARAGRAPH (B) OF THIS SUBDIVISION TO PETITION FOR RELIEF IN WRITING; (II) THE AUTHORITY FOR THE AGENCY TO REQUIRE THAT THE PETITIONER UNDERGO A CLINICAL EVALUATION AND RISK ASSESSMENT; AND (III) A REQUIREMENT THAT THE AGENCY ISSUE A DECISION IN WRITING EXPLAINING THE REASONS FOR A DENIAL OR GRANT OF RELIEF. THE DENIAL OF A PETITION FOR RELIEF MAY BE REVIEWED DE NOVO PURSUANT TO THE PROCEEDINGS UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 20. The opening paragraph of paragraph 1 of subdivision (e) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows;

A petition for an order authorizing assisted outpatient treatment may be filed in the supreme or county court in the county in which the subject of the petition is present or reasonably believed to be present. WHEN A DIRECTOR OF COMMUNITY SERVICES HAS REASON TO BELIEVE THAT AN ASSISTED OUTPATIENT HAS CHANGED HIS OR HER COUNTY OF RESIDENCE, FUTURE PETITIONS AND APPLICATIONS UNDER THIS SECTION MAY BE FILED IN THE SUPREME OR COUNTY COURT IN THE ASSISTED OUTPATIENT'S NEW COUNTY OF RESIDENCE, WHICH SHALL HAVE CONCURRENT JURISDICTION WITH THE COURT THAT INITIALLY ORDERED SUCH TREATMENT. Such petition may be initiated only by the following persons:

S 21. Subdivisions 9, 10, 11 and 12 of section 18 of the public health law are renumbered subdivisions 10, 11, 12 and 13 and a new subdivision 9 is added to read as follows:

9. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, INFORMATION ABOUT PATIENTS OR CLIENTS, INCLUDING THE IDENTIFICATION OF PATIENTS OR CLIENTS, CLINICAL RECORDS OR CLINICAL INFORMATION TENDING TO IDENTIFY PATIENTS OR CLIENTS, MAY BE RELEASED BY A MENTAL HEALTH PROFESSIONAL, AS DEFINED BY SECTION 9.46 OF THE MENTAL HYGIENE LAW:

(1) TO AN ENDANGERED INDIVIDUAL AND A LAW ENFORCEMENT AGENCY WHEN A TREATING MENTAL HEALTH PROFESSIONAL HAS DETERMINED THAT A PATIENT OR CLIENT PRESENTS A SERIOUS AND IMMINENT DANGER TO THAT INDIVIDUAL. THE REASONS FOR ANY SUCH DISCLOSURES SHALL BE FULLY DOCUMENTED IN THE CLINICAL RECORD. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO IMPOSE AN

OBLIGATION UPON A TREATING MENTAL HEALTH PROFESSIONAL TO RELEASE INFORMATION PURSUANT TO THIS PARAGRAPH.

(2) TO THE DIVISION OF CRIMINAL JUSTICE SERVICES, NAMES AND OTHER NECESSARY INFORMATION FOR THE SOLE PURPOSE OF IMPLEMENTING THE DIVISION'S RESPONSIBILITIES AND DUTIES UNDER SECTIONS 400.00 AND 400.02 OF THE PENAL LAW.

S 22. This act shall take effect immediately, provided that:

1. the amendments to paragraphs (b) and (c) of subdivision 23 of section 265.00 of the penal law made by section three of this act shall not affect the suspension of such paragraphs pursuant to subdivision b of section 58 of chapter 1 of the laws of 2013, as amended;

2. the amendments to subdivision 11 of section 400.00 of the penal law made by section nineteen of this act shall take effect on the same date and in the same manner as section 48 of chapter 1 of the laws of 2013, takes effect; and

3. the amendments to section 9.60 of the mental hygiene law made by section twenty of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.