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

7030

2015-2016 Regular Sessions

I N A S S E M B L Y

April 20, 2015

Introduced by M. of A. LENTOL -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the correction law, the criminal procedure law and the executive law, in relation to the sealing of records following conviction for certain offenses

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

Section 1. Section 750 of the correction law is amended by adding a new subdivision 6 to read as follows:

(6) "CONVICTION OF ONE OR MORE CRIMINAL OFFENSES" MEANS A CONVICTION OR CONVICTIONS THAT HAS OR HAVE NOT BEEN SEALED PURSUANT TO ARTICLE ONE HUNDRED SIXTY OF THE CRIMINAL PROCEDURE LAW; AND A PERSON WHO HAS BEEN "CONVICTED OF ONE OR MORE CRIMINAL OFFENSES" MEANS A PERSON WHOSE CONVICTION OR CONVICTIONS HAS OR HAVE NOT BEEN SEALED PURSUANT TO SUCH ARTICLE. PROVIDED, HOWEVER, THIS SUBDIVISION SHALL NOT APPLY TO A CONVICTION WHERE USE OF SUCH CONVICTION FOR A PURPOSE SPECIFIED IN SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW WOULD NOT CONSTITUTE AN UNLAWFUL DISCRIMINATORY PRACTICE PURSUANT TO SUCH SUBDIVISION.

S 2. The opening paragraph of subdivision 1 of section 160.55 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

Upon the termination of a criminal action or proceeding CHARGING AN OFFENSE against a person by the conviction of such person of a traffic infraction or a violation, other than a violation of loitering as described in paragraph (d) [or (e)] of subdivision one of section 160.10 of this [chapter] ARTICLE or the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, unless the district attorney upon motion with not less than five days notice to such person or his or her attorney demonstrates to the satisfaction of the court

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

LBD05651-01-5

that the interests of justice require otherwise, or the court on its own motion with not less than five days notice to such person or his or her attorney determines that the interests of justice require otherwise and states the reasons for such determination on the record, the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated by such conviction. Upon receipt of notification of such termination:

S 3. The criminal procedure law is amended by adding a new section 160.65 to read as follows:

S 160.65 SEALING THE RECORD OF A CONVICTION.

1. PETITION FOR SEALING; WHEN PETITION MAY BE MADE. SUBJECT TO THE PROVISIONS OF THIS SECTION, A PERSON MAY PETITION A SUPERIOR COURT TO SEAL THE RECORD OF HIS OR HER CONVICTION FOR A PAST CRIMINAL OFFENSE OR OFFENSES PROVIDED HE OR SHE HAS BROUGHT NO SUCH PETITION IN THE PRECEDING TWO YEARS AND:

(A) SUCH PERSON HAS BEEN CONVICTED OF NOT MORE THAN ONE CRIME, AT LEAST TEN YEARS HAVE ELAPSED SINCE SUCH PERSON WAS CONVICTED OF THAT CRIME AND THAT CRIME WAS A FELONY OFFENSE OTHER THAN (I) A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW, (II) ANY OFFENSE FOR WHICH A TERM OF LIFE IMPRISONMENT IS AUTHORIZED, (III) AN OFFENSE SPECIFIED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OF THE PENAL LAW, (IV) AN OFFENSE SPECIFIED IN ARTICLE ONE HUNDRED NINETY-FIVE OR TWO HUNDRED OF THE PENAL LAW WHERE THE PETITIONER WAS A PUBLIC SERVANT AT THE TIME OF THE OFFENSE, (V) AN OFFENSE SPECIFIED IN SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR (VI) ANY CRIME SPECIFIED IN THE PENAL LAW FOR WHICH A VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW IS AN ESSENTIAL ELEMENT; OR

(B) SUCH PERSON HAS NOT BEEN CONVICTED OF A FELONY, AT LEAST SEVEN YEARS HAVE ELAPSED SINCE SUCH PERSON WAS LAST CONVICTED OF A MISDEMEANOR AND HE OR SHE HAS BEEN CONVICTED OF NOT MORE THAN TWO MISDEMEANORS NEITHER OF WHICH WAS (I) AN OFFENSE SPECIFIED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OF THE PENAL LAW, (II) AN OFFENSE SPECIFIED IN ARTICLE ONE HUNDRED NINETY-FIVE OR TWO HUNDRED OF THE PENAL LAW WHERE THE PETITIONER WAS A PUBLIC SERVANT AT THE TIME OF THE OFFENSE, OR (III) AN OFFENSE SPECIFIED IN SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW. NOTWITHSTANDING THE FOREGOING, IN NO EVENT MAY A PERSON BRING A PETITION UNDER THIS SECTION UNLESS HE OR SHE HAS COMPLETED ANY AND ALL SENTENCES HE OR SHE RECEIVED ON ACCOUNT OF SUCH CONVICTION OR CONVICTIONS. WHERE A PERSON HAS BEEN CONVICTED OF A CRIMINAL OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE, AND SUCH CONVICTION WOULD CONSTITUTE A FELONY UNDER THE PENAL LAW OF THIS STATE, SUCH PERSON MAY NOT BRING A PETITION UNDER THIS SECTION; AND WHERE SUCH CONVICTION WOULD CONSTITUTE A MISDEMEANOR, IT SHALL BE COUNTED FOR PURPOSES OF THIS PARAGRAPH AS IF IT WERE A MISDEMEANOR UNDER THE PENAL LAW OF THIS STATE.

FOR PURPOSES OF THIS SECTION, A PERSON SHALL HAVE COMPLETED A SENTENCE WHEN HE OR SHE HAS SERVED IN FULL ANY TERM OF IMPRISONMENT AND FINISHED ANY TERM OR PERIOD OF PAROLE, PROBATION, CONDITIONAL RELEASE AND POST-RELEASE SUPERVISION; MADE ALL REQUIRED RESTITUTION; COMPLETED ALL REQUIRED COMMUNITY SERVICE; PAID ALL FINES AND SURCHARGES ASSESSED, INCLUDING THOSE THAT WERE DEFERRED AND MADE SUBJECT TO COLLECTION IN THE SAME MANNER AS A CIVIL JUDGMENT PURSUANT TO SUBDIVISION FIVE OF SECTION 420.40 OF THIS CHAPTER; AND OTHERWISE SATISFIED ALL CONDITIONS IMPOSED

BY THE SENTENCING COURT. FURTHER, THE PERIODS OF TIME SPECIFIED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL BE TOLLED BY ANY PERIOD FROM THE DATE OF SENTENCE TO THE DATE WHEN THE PETITIONER WAS LAST RELEASED FROM ANY PERIOD OF INCARCERATION ON ACCOUNT OF THE CONVICTION OR CONVICTIONS FOR WHICH SEALING IS SOUGHT.

NO PERSON MAY BRING A PETITION UNDER THIS SECTION WHILE ANY CHARGED CRIMINAL OFFENSE IS PENDING AGAINST HIM OR HER AND NO PERSON MAY HAVE MORE THAN ONE SUCH PETITION GRANTED DURING HIS OR HER LIFETIME. THE RIGHT TO BRING A PETITION HEREUNDER MAY NOT BE WAIVED.

2. COURT TO WHICH PETITION UNDER THIS SECTION MUST BE BROUGHT; FILING FEE; RESPONSIBILITIES OF THE COURT. (A) A PETITION TO SEAL THE RECORD OF A CONVICTION FOR A CRIMINAL OFFENSE SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION MUST BE BROUGHT IN THE SUPERIOR COURT IN WHICH THE CONVICTION WAS ENTERED. A PETITION TO SEAL THE RECORD OF A CONVICTION FOR A CRIMINAL OFFENSE SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION MUST BE BROUGHT IN A SUPERIOR COURT OF THE COUNTY IN WHICH THE COURT IN WHICH THE CONVICTION WAS ENTERED IS LOCATED OR, IF THE PETITION IS TO SEAL THE RECORDS OF MORE THAN ONE SUCH CONVICTION, THE PETITION MAY BE BROUGHT IN THE SUPERIOR COURT OF ANY COUNTY IN WHICH A COURT IN WHICH ONE OR MORE OF SUCH CONVICTIONS WAS ENTERED IS LOCATED. NO COURT MAY ACCEPT A PETITION UNDER THIS SECTION UNLESS IT IS ACCOMPANIED BY A FILING FEE OF NINETY-FIVE DOLLARS PAYABLE TO THE CLERK OF THE COURT; PROVIDED, HOWEVER, SUCH FEE MAY BE WAIVED WHERE, DUE TO THE PETITIONER'S INDIGENCE, PAYMENT OF THE FILING FEE WOULD WORK AN UNREASONABLE HARDSHIP ON THE PERSON OR HIS OR HER IMMEDIATE FAMILY.

(B) THE SUPERIOR COURT THAT RECEIVES A PETITION UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL REQUEST FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION AN UPDATED CRIMINAL HISTORY RECORD OF THE PETITIONER, INCLUDING ANY SEALED OR SUPPRESSED INFORMATION. UPON RECEIPT OF THE REQUEST, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROVIDE A CRIMINAL HISTORY REPORT AND SHALL ALSO PROVIDE A REPORT FROM THE FEDERAL BUREAU OF INVESTIGATION REGARDING ANY CRIMINAL HISTORY INFORMATION THAT OCCURRED IN OTHER JURISDICTIONS. THE DIVISION IS HEREBY AUTHORIZED TO RECEIVE SUCH INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION FOR THIS PURPOSE.

(C) (1) PROVIDED THE PETITION COMPLIES WITH THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND THE PETITIONER HAS BEEN CONVICTED OF A FELONY OFFENSE, THE COURT, IN ITS DISCRETION AND IN THE INTERESTS OF JUSTICE, MAY GRANT THE PETITION AND ORDER THE SEALING OF THE RECORDS OF THE PETITIONER'S CONVICTION OR MAY DISMISS THE PETITION. IF, HOWEVER, THE PETITIONER HAS NOT BEEN CONVICTED OF ANY FELONY OFFENSE, THE COURT MUST GRANT THE PETITION AND ORDER THE SEALING OF THE RECORDS OF ALL OF THE PETITIONER'S CONVICTIONS FOR OFFENSES WITHIN THE MEANING OF SUBDIVISION ONE OF SECTION 10.00 OF THE PENAL LAW. WHERE THE COURT GRANTS A PETITION UNDER THIS SECTION, THE COURT MUST ALSO ORDER THE SEALING OF THE RECORDS OF ANY NON-CRIMINAL OFFENSE SCHEDULED IN THE PETITION THAT IS MORE THAN SEVEN YEARS OLD.

(2) WHERE THE COURT HAS DISCRETION TO GRANT OR DISMISS A PETITION PURSUANT TO SUBPARAGRAPH ONE OF THIS PARAGRAPH, IT MUST, BEFORE MAKING ITS DETERMINATION, NOTIFY THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE PETITIONER WAS CONVICTED OF A FELONY AND ADVISE THAT THE COURT IS CONSIDERING SEALING THE RECORDS OF THAT CONVICTION. THE DISTRICT ATTORNEY MUST BE GIVEN A REASONABLE OPPORTUNITY, WHICH SHALL NOT BE LESS THAN THIRTY DAYS NOR MORE THAN SIXTY DAYS, IN WHICH TO COMMENT AND SUBMIT MATERIALS TO AID THE COURT IN DETERMINING THE PETITION. THE DISTRICT

ATTORNEY MUST PROVIDE NOTICE TO THE VICTIM, IF ANY, OF THE PETITION FOR SEALING BY MAILING WRITTEN NOTICE TO THE VICTIM'S LAST-KNOWN ADDRESS. FOR PURPOSES OF THIS PARAGRAPH, "VICTIM" MEANS ANY PERSON WHO HAS SUSTAINED PHYSICAL OR FINANCIAL INJURY TO PERSON OR PROPERTY AS A DIRECT RESULT OF A FELONY THE RECORD OF WHICH THE PETITIONER IS ASKING THE COURT TO SEAL.

(3) AT THE REQUEST OF THE PETITIONER OR THE DISTRICT ATTORNEY OF A COUNTY WHO RECEIVES NOTIFICATION PURSUANT TO SUBPARAGRAPH TWO OF THIS PARAGRAPH, OR IN ITS OWN DISCRETION, THE COURT MAY CONDUCT A HEARING TO CONSIDER AND REVIEW ANY RELEVANT EVIDENCE, INCLUDING TESTIMONY OF WITNESSES, OFFERED BY EITHER PARTY THAT WOULD AID THE COURT IN DETERMINING WHETHER TO ORDER THE SEALING OF THE RECORDS OF THE PETITIONER'S CONVICTIONS.

(4) WHERE THE COURT HAS DISCRETION TO GRANT OR DISMISS A PETITION PURSUANT TO SUBPARAGRAPH ONE OF THIS PARAGRAPH, IT MUST CONSIDER ANY RELEVANT FACTORS, INCLUDING BUT NOT LIMITED TO: (I) THE CIRCUMSTANCES AND SERIOUSNESS OF THE OFFENSE THAT RESULTED IN THE CONVICTION; (II) THE CHARACTER OF THE PETITIONER, INCLUDING WHAT STEPS HE OR SHE HAS TAKEN SINCE THE TIME OF HIS OR HER OFFENSE TOWARD PERSONAL REHABILITATION, INCLUDING TREATMENT, WORK, SCHOOL, OR OTHER PERSONAL HISTORY THAT DEMONSTRATES REHABILITATION; (III) THE PETITIONER'S CRIMINAL HISTORY; (IV) THE IMPACT OF SEALING THE PETITIONER'S RECORDS UPON HIS OR HER REHABILITATION AND HIS OR HER SUCCESSFUL AND PRODUCTIVE REENTRY AND REINTEGRATION INTO SOCIETY, AND UPON PUBLIC SAFETY; AND (V) ANY STATEMENTS MADE BY ANY VICTIM OF AN OFFENSE COMMITTED BY THE PETITIONER WHERE THERE WAS IN FACT A VICTIM OF SUCH OFFENSE.

(5) WHEN A COURT ORDERS THE SEALING OF THE RECORD OF A PETITIONER'S CONVICTION OR CONVICTIONS, THE CLERK OF SUCH COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE HEADS OF ALL APPROPRIATE POLICE DEPARTMENTS AND ALL OTHER LAW ENFORCEMENT AGENCIES, AND ANY COURT THAT SENTENCED THE PETITIONER FOLLOWING CONVICTION OF AN OFFENSE THE RECORD OF WHICH MUST BE SEALED, OF SUCH ORDER. THEREUPON, ALL OFFICIAL RECORDS AND PAPERS RELATING TO THE PETITIONER'S ARRESTS, PROSECUTIONS AND CONVICTIONS, INCLUDING ALL DUPLICATES AND COPIES THEREOF, ON FILE WITH THE DIVISION OR ANY COURT SHALL BE SEALED AND NOT MADE AVAILABLE TO ANY PERSON OR PUBLIC OR PRIVATE AGENCY; PROVIDED, HOWEVER, THE DIVISION SHALL RETAIN ANY FINGERPRINTS, PALMPRINTS, PHOTOGRAPHS OR DIGITAL IMAGES OF THE SAME.

(6) NOTWITHSTANDING SUBPARAGRAPH FIVE OF THIS PARAGRAPH, RECORDS SEALED PURSUANT TO SUCH SUBPARAGRAPH SHALL BE MADE AVAILABLE TO: (I) THE PETITIONER OR HIS OR HER DESIGNATED AGENT; (II) QUALIFIED AGENCIES, AS DEFINED IN SUBDIVISION NINE OF SECTION EIGHT HUNDRED THIRTY-FIVE OF THE EXECUTIVE LAW, AND FEDERAL AND STATE LAW ENFORCEMENT AGENCIES, WHEN ACTING WITHIN THE SCOPE OF THEIR LAW ENFORCEMENT DUTIES; (III) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PETITIONER HAS MADE AN APPLICATION FOR SUCH A LICENSE; (IV) ANY PROSPECTIVE EMPLOYER OF A POLICE OFFICER OR PEACE OFFICER AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS THIRTY-THREE AND THIRTY-FOUR OF SECTION 1.20 OF THIS CHAPTER, IN RELATION TO AN APPLICATION FOR EMPLOYMENT AS A POLICE OFFICER OR PEACE OFFICER, PROVIDED, HOWEVER, THAT EVERY PERSON WHO IS AN APPLICANT FOR THE POSITION OF POLICE OFFICER OR PEACE OFFICER SHALL BE FURNISHED WITH A COPY OF ALL RECORDS OBTAINED UNDER THIS SUBPARAGRAPH AND AFFORDED AN OPPORTUNITY TO MAKE AN EXPLANATION THEREOF; (V) THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS, IN RELATION TO PERFORMING ITS DUTIES UNDER ARTICLE TWENTY OF THE EXECUTIVE LAW; AND (VI) SUCH OTHER

AND FURTHER OFFICERS, INDIVIDUALS, INSTITUTIONS AND AGENCIES, PUBLIC OR PRIVATE, THAT EMPLOY PERSONS WHO THEREBY HAVE REGULAR CONTACT WITH CHILDREN OR OTHER VULNERABLE PERSONS AS THE CHIEF ADMINISTRATOR OF THE COURTS MAY DESIGNATE, INCLUDING ALL OFFICERS, INDIVIDUALS, INSTITUTIONS AND AGENCIES SUBJECT TO OPERATION, LICENSURE OR CERTIFICATION BY A STATE OVERSIGHT AGENCY AS DEFINED IN SUBDIVISION FOUR OF SECTION FIVE HUNDRED FIFTY OF THE EXECUTION LAW OR OTHERWISE SUBJECT TO OVERSIGHT OR REGULATION BY THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS.

3. DETERMINATION TO BE IN WRITING. ANY DETERMINATION GRANTING OR DISMISSING A PETITION PURSUANT TO SUBDIVISION ONE OF THIS SECTION MUST BE IN WRITING AND, WHERE THE COURT HAS DISCRETION TO MAKE SUCH DETERMINATION, SHALL STATE THE REASONS FOR THAT DETERMINATION.

4. NO RELIEF OF DISABILITIES. A DETERMINATION GRANTING A PETITION PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT RELIEVE THE PETITIONER OF ANY FORFEITURE OR DISABILITY, OR REMOVE ANY BAR TO HIS OR HER EMPLOYMENT, AUTOMATICALLY IMPOSED BY LAW BY REASON OF HIS OR HER CONVICTION OF THE OFFENSE THE RECORDS OF WHICH ARE THEREBY SEALED PROVIDED, HOWEVER, A PETITION PURSUANT TO THIS SECTION FOR SEALING THE RECORD OF A CONVICTION MAY BE ACCOMPANIED BY AN APPLICATION FOR A CERTIFICATE OF RELIEF FROM DISABILITIES UNDER ARTICLE TWENTY-THREE OF THE CORRECTION LAW, IN WHICH EVENT THE COURT MUST DETERMINE SUCH APPLICATION AND SUCH DETERMINATION SHALL BE WITHOUT REGARD TO THE DETERMINATION OF THE PETITION FOR SEALING. NOTHING IN THIS SECTION SHALL PROHIBIT USE OF THE CONVICTION OF AN OFFENSE, THE RECORDS OF WHICH HAVE BEEN SEALED HEREUNDER, IN ANY SENTENCING PROCEEDING, OR AS AN ELEMENT OF AN OFFENSE IN ANY SUBSEQUENT CRIMINAL PROCEEDING OR REGULATORY ACTION COMMENCED AGAINST THE PETITIONER BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

5. UNSEALING OF SEALED RECORDS. WHERE RECORDS OF A PERSON'S CONVICTION OR CONVICTIONS HAVE BEEN SEALED PURSUANT TO THIS SECTION, SUCH RECORD OR RECORDS SHALL BE UNSEALED: (A) IMMEDIATELY UPON SUCH PERSON BEING SUBSEQUENTLY ARRAIGNED ON THE CHARGE OF ANY FELONY OFFENSE UNDER THE LAW OF THIS STATE, OR A CRIMINAL OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT, UNDER THE PENAL LAW OF THIS STATE, WOULD CONSTITUTE A FELONY OFFENSE; OR (B) IMMEDIATELY UPON SUCH PERSON BEING SUBSEQUENTLY CONVICTED OF ANY MISDEMEANOR OFFENSE UNDER THE LAW OF THIS STATE, OR A CRIMINAL OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT, UNDER THE PENAL LAW OF THIS STATE, WOULD CONSTITUTE A MISDEMEANOR OFFENSE. PROVIDED, HOWEVER, THAT IF SUCH NEW ARREST, CHARGE OR CONVICTION (FOLLOWING AN APPEAL THEREFROM) RESULTS IN A TERMINATION IN FAVOR OF THE ACCUSED AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THIS ARTICLE OR IN A CONVICTION FOR A NON-CRIMINAL OFFENSE AS DESCRIBED IN SECTION 160.55 OF THIS ARTICLE, SUCH UNSEALED RECORDS SHALL AGAIN BE SEALED AS PROVIDED IN SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

S 4. Subdivision 16 of section 296 of the executive law, as separately amended by section 3 of part N and section 14 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of

that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW, in connection with the licensing, employment or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency INCLUDING ANY OFFICER, INDIVIDUAL, INSTITUTION OR AGENCY SUBJECT TO OVERSIGHT OR REGULATION BY THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS OR WITH ANY OTHER OFFICER, INDIVIDUAL, INSTITUTION OR AGENCY DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS PURSUANT TO CLAUSE (VI) OF SUBPARAGRAPH SIX OF PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 of the criminal procedure law, OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW.

S 5. Whenever, in connection with the licensing, employment or providing of credit or insurance to an individual, any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, inquires of such individual if he or she has been convicted of a crime, whether in any form of application or otherwise, such inquiry, regardless of how worded, shall be deemed to be only as to convictions that have not been sealed pursuant to section 160.55, 160.58 or 160.65 of the criminal procedure law, and the individual to whom it is directed shall answer accordingly; provided, however, this section shall not apply where the inquiry would not constitute an unlawful discriminatory practice under subdivision 16 of section 296 of the executive law.

S 6. Nothing in this act shall bar any person from freely speaking or writing about, or publishing by any other means, any information in his or her possession concerning another person's past criminal conviction

or convictions, notwithstanding that such conviction or convictions may have been sealed pursuant to this act.

S 7. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all convictions occurring prior to, on, and after such effective date.