

7030

2015-2016 Regular Sessions

I N   A S S E M B L Y

April 20, 2015

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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:

1     Section 1. Section 750 of the correction law is amended by adding a  
2     new subdivision 6 to read as follows:  
3     (6) "CONVICTION OF ONE OR MORE CRIMINAL OFFENSES" MEANS A CONVICTION  
4     OR CONVICTIONS THAT HAS OR HAVE NOT BEEN SEALED PURSUANT TO ARTICLE ONE  
5     HUNDRED SIXTY OF THE CRIMINAL PROCEDURE LAW; AND A PERSON WHO HAS BEEN  
6     "CONVICTED OF ONE OR MORE CRIMINAL OFFENSES" MEANS A PERSON WHOSE  
7     CONVICTION OR CONVICTIONS HAS OR HAVE NOT BEEN SEALED PURSUANT TO SUCH  
8     ARTICLE. PROVIDED, HOWEVER, THIS SUBDIVISION SHALL NOT APPLY TO A  
9     CONVICTION WHERE USE OF SUCH CONVICTION FOR A PURPOSE SPECIFIED IN  
10    SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE  
11    LAW WOULD NOT CONSTITUTE AN UNLAWFUL DISCRIMINATORY PRACTICE PURSUANT TO  
12    SUCH SUBDIVISION.  
13    S 2. The opening paragraph of subdivision 1 of section 160.55 of the  
14    criminal procedure law, as amended by chapter 169 of the laws of 1994,  
15    is amended to read as follows:  
16    Upon the termination of a criminal action or proceeding CHARGING AN  
17    OFFENSE against a person by the conviction of such person of a traffic  
18    infraction or a violation, other than a violation of loitering as  
19    described in paragraph (d) [or (e)] of subdivision one of section 160.10  
20    of this [chapter] ARTICLE or the violation of operating a motor vehicle  
21    while ability impaired as described in subdivision one of section eleven  
22    hundred ninety-two of the vehicle and traffic law, unless the district  
23    attorney upon motion with not less than five days notice to such person  
24    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

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

10 S 3. The criminal procedure law is amended by adding a new section  
11 160.65 to read as follows:

12 S 160.65 SEALING THE RECORD OF A CONVICTION.

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

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

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

49 FOR PURPOSES OF THIS SECTION, A PERSON SHALL HAVE COMPLETED A SENTENCE  
50 WHEN HE OR SHE HAS SERVED IN FULL ANY TERM OF IMPRISONMENT AND FINISHED  
51 ANY TERM OR PERIOD OF PAROLE, PROBATION, CONDITIONAL RELEASE AND  
52 POST-RELEASE SUPERVISION; MADE ALL REQUIRED RESTITUTION; COMPLETED ALL  
53 REQUIRED COMMUNITY SERVICE; PAID ALL FINES AND SURCHARGES ASSESSED,  
54 INCLUDING THOSE THAT WERE DEFERRED AND MADE SUBJECT TO COLLECTION IN THE  
55 SAME MANNER AS A CIVIL JUDGMENT PURSUANT TO SUBDIVISION FIVE OF SECTION  
56 420.40 OF THIS CHAPTER; AND OTHERWISE SATISFIED ALL CONDITIONS IMPOSED

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

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

10 2. COURT TO WHICH PETITION UNDER THIS SECTION MUST BE BROUGHT; FILING  
11 FEE; RESPONSIBILITIES OF THE COURT. (A) A PETITION TO SEAL THE RECORD OF  
12 A CONVICTION FOR A CRIMINAL OFFENSE SPECIFIED IN PARAGRAPH (A) OF SUBDI-  
13 VISION ONE OF THIS SECTION MUST BE BROUGHT IN THE SUPERIOR COURT IN  
14 WHICH THE CONVICTION WAS ENTERED. A PETITION TO SEAL THE RECORD OF A  
15 CONVICTION FOR A CRIMINAL OFFENSE SPECIFIED IN PARAGRAPH (B) OF SUBDIVI-  
16 SION ONE OF THIS SECTION MUST BE BROUGHT IN A SUPERIOR COURT OF THE  
17 COUNTY IN WHICH THE COURT IN WHICH THE CONVICTION WAS ENTERED IS LOCATED  
18 OR, IF THE PETITION IS TO SEAL THE RECORDS OF MORE THAN ONE SUCH  
19 CONVICTION, THE PETITION MAY BE BROUGHT IN THE SUPERIOR COURT OF ANY  
20 COUNTY IN WHICH A COURT IN WHICH ONE OR MORE OF SUCH CONVICTIONS WAS  
21 ENTERED IS LOCATED. NO COURT MAY ACCEPT A PETITION UNDER THIS SECTION  
22 UNLESS IT IS ACCOMPANIED BY A FILING FEE OF NINETY-FIVE DOLLARS PAYABLE  
23 TO THE CLERK OF THE COURT; PROVIDED, HOWEVER, SUCH FEE MAY BE WAIVED  
24 WHERE, DUE TO THE PETITIONER'S INDIGENCE, PAYMENT OF THE FILING FEE  
25 WOULD WORK AN UNREASONABLE HARDSHIP ON THE PERSON OR HIS OR HER IMMEDI-  
26 ATE FAMILY.

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

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

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

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

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

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

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

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

1 AND FURTHER OFFICERS, INDIVIDUALS, INSTITUTIONS AND AGENCIES, PUBLIC OR  
2 PRIVATE, THAT EMPLOY PERSONS WHO THEREBY HAVE REGULAR CONTACT WITH CHIL-  
3 DREN OR OTHER VULNERABLE PERSONS AS THE CHIEF ADMINISTRATOR OF THE  
4 COURTS MAY DESIGNATE, INCLUDING ALL OFFICERS, INDIVIDUALS, INSTITUTIONS  
5 AND AGENCIES SUBJECT TO OPERATION, LICENSURE OR CERTIFICATION BY A STATE  
6 OVERSIGHT AGENCY AS DEFINED IN SUBDIVISION FOUR OF SECTION FIVE HUNDRED  
7 FIFTY OF THE EXECUTION LAW OR OTHERWISE SUBJECT TO OVERSIGHT OR REGU-  
8 LATION BY THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL  
9 NEEDS.

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

14 4. NO RELIEF OF DISABILITIES. A DETERMINATION GRANTING A PETITION  
15 PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT RELIEVE THE PETI-  
16 TIONER OF ANY FORFEITURE OR DISABILITY, OR REMOVE ANY BAR TO HIS OR HER  
17 EMPLOYMENT, AUTOMATICALLY IMPOSED BY LAW BY REASON OF HIS OR HER  
18 CONVICTION OF THE OFFENSE THE RECORDS OF WHICH ARE THEREBY SEALED  
19 PROVIDED, HOWEVER, A PETITION PURSUANT TO THIS SECTION FOR SEALING THE  
20 RECORD OF A CONVICTION MAY BE ACCOMPANIED BY AN APPLICATION FOR A  
21 CERTIFICATE OF RELIEF FROM DISABILITIES UNDER ARTICLE TWENTY-THREE OF  
22 THE CORRECTION LAW, IN WHICH EVENT THE COURT MUST DETERMINE SUCH APPLI-  
23 CATION AND SUCH DETERMINATION SHALL BE WITHOUT REGARD TO THE DETERMI-  
24 NATION OF THE PETITION FOR SEALING. NOTHING IN THIS SECTION SHALL  
25 PROHIBIT USE OF THE CONVICTION OF AN OFFENSE, THE RECORDS OF WHICH HAVE  
26 BEEN SEALED HEREUNDER, IN ANY SENTENCING PROCEEDING, OR AS AN ELEMENT OF  
27 AN OFFENSE IN ANY SUBSEQUENT CRIMINAL PROCEEDING OR REGULATORY ACTION  
28 COMMENCED AGAINST THE PETITIONER BY THE STATE OR ANY POLITICAL SUBDIVI-  
29 SION THEREOF.

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

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

50 16. It shall be an unlawful discriminatory practice, unless specif-  
51 ically required or permitted by statute, for any person, agency, bureau,  
52 corporation or association, including the state and any political subdivi-  
53 sion thereof, to make any inquiry about, whether in any form of appli-  
54 cation or otherwise, or to act upon adversely to the individual  
55 involved, any arrest or criminal accusation of such individual not then  
56 pending against that individual which was followed by a termination of

1 that criminal action or proceeding in favor of such individual, as  
2 defined in subdivision two of section 160.50 of the criminal procedure  
3 law, or by a youthful offender adjudication, as defined in subdivision  
4 one of section 720.35 of the criminal procedure law, or by a conviction  
5 for a violation sealed pursuant to section 160.55 of the criminal proce-  
6 dure law or by a conviction which is sealed pursuant to section 160.58  
7 of the criminal procedure law, OR BY A CONVICTION WHICH IS SEALED PURSU-  
8 ANT TO SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW, in connection with  
9 the licensing, employment or providing of credit or insurance to such  
10 individual; provided, further, that no person shall be required to  
11 divulge information pertaining to any arrest or criminal accusation of  
12 such individual not then pending against that individual which was  
13 followed by a termination of that criminal action or proceeding in favor  
14 of such individual, as defined in subdivision two of section 160.50 of  
15 the criminal procedure law, or by a youthful offender adjudication, as  
16 defined in subdivision one of section 720.35 of the criminal procedure  
17 law, or by a conviction for a violation sealed pursuant to section  
18 160.55 of the criminal procedure law, or by a conviction which is sealed  
19 pursuant to section 160.58 of the criminal procedure law, OR BY A  
20 CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.65 OF THE CRIMINAL  
21 PROCEDURE LAW. The provisions of this subdivision shall not apply to the  
22 licensing activities of governmental bodies in relation to the regu-  
23 lation of guns, firearms and other deadly weapons or in relation to an  
24 application for employment as a police officer or peace officer as those  
25 terms are defined in subdivisions thirty-three and thirty-four of  
26 section 1.20 of the criminal procedure law; provided further that the  
27 provisions of this subdivision shall not apply to an application for  
28 employment or membership in any law enforcement agency INCLUDING ANY  
29 OFFICER, INDIVIDUAL, INSTITUTION OR AGENCY SUBJECT TO OVERSIGHT OR  
30 REGULATION BY THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH  
31 SPECIAL NEEDS OR WITH ANY OTHER OFFICER, INDIVIDUAL, INSTITUTION OR  
32 AGENCY DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS PURSUANT TO  
33 CLAUSE (VI) OF SUBPARAGRAPH SIX OF PARAGRAPH (C) OF SUBDIVISION TWO OF  
34 SECTION 160.65 OF THE CRIMINAL PROCEDURE LAW with respect to any arrest  
35 or criminal accusation which was followed by a youthful offender adjudi-  
36 cation, as defined in subdivision one of section 720.35 of the criminal  
37 procedure law, or by a conviction for a violation sealed pursuant to  
38 section 160.55 of the criminal procedure law, or by a conviction which  
39 is sealed pursuant to section 160.58 of the criminal procedure law, OR  
40 BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.65 OF THE CRIMI-  
41 NAL PROCEDURE LAW.

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

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

1 or convictions, notwithstanding that such conviction or convictions may  
2 have been sealed pursuant to this act.  
3 S 7. This act shall take effect on the one hundred eightieth day after  
4 it shall have become a law and shall apply to all convictions occurring  
5 prior to, on, and after such effective date.