

5640

2015-2016 Regular Sessions

I N S E N A T E

May 21, 2015

Introduced by Sen. NOZZOLIO -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to unsealing criminal records

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

1 Section 1. Paragraph (d) of subdivision 1 of section 160.50 of the
2 criminal procedure law, as amended by section 73 of subpart B of part C
3 of chapter 62 of the laws of 2011, is amended to read as follows:
4 (d) such records shall be made available to the person accused or to
5 such person's designated agent, and shall be made available to (i) a
6 prosecutor in any proceeding in which the accused has moved for an order
7 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
8 enforcement agency upon ex parte motion in any superior court, OR IN ANY
9 DISTRICT COURT, CITY COURT OR THE CRIMINAL COURT OF THE CITY OF NEW YORK
10 PROVIDED THAT SUCH COURT SEALED THE RECORD, if such agency demonstrates
11 to the satisfaction of the court that justice requires that such records
12 be made available to it, or (iii) any state or local officer or agency
13 with responsibility for the issuance of licenses to possess guns, when
14 the accused has made application for such a license, or (iv) the New
15 York state department of corrections and community supervision when the
16 accused is on parole supervision as a result of conditional release or a
17 parole release granted by the New York state board of parole, and the
18 arrest which is the subject of the inquiry is one which occurred while
19 the accused was under such supervision, or (v) any prospective employer
20 of a police officer or peace officer as those terms are defined in
21 subdivisions thirty-three and thirty-four of section 1.20 of this chap-
22 ter, in relation to an application for employment as a police officer or
23 peace officer; provided, however, that every person who is an applicant
24 for the position of police officer or peace officer shall be furnished

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

LBD09287-02-5

1 with a copy of all records obtained under this paragraph and afforded an
2 opportunity to make an explanation thereto, or (vi) the probation
3 department responsible for supervision of the accused when the arrest
4 which is the subject of the inquiry is one which occurred while the
5 accused was under such supervision; and

6 S 2. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
7 procedure law, as amended by section 74 of subpart B of part C of chap-
8 ter 62 of the laws of 2011, is amended to read as follows:

9 (d) the records referred to in paragraph (c) of this subdivision shall
10 be made available to the person accused or to such person's designated
11 agent, and shall be made available to (i) a prosecutor in any proceeding
12 in which the accused has moved for an order pursuant to section 170.56
13 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex
14 parte motion in any superior court, OR IN ANY DISTRICT COURT, CITY COURT
15 OR THE CRIMINAL COURT OF THE CITY OF NEW YORK PROVIDED THAT SUCH COURT
16 SEALED THE RECORD, if such agency demonstrates to the satisfaction of
17 the court that justice requires that such records be made available to
18 it, or (iii) any state or local officer or agency with responsibility
19 for the issuance of licenses to possess guns, when the accused has made
20 application for such a license, or (iv) the New York state department of
21 corrections and community supervision when the accused is under parole
22 supervision as a result of conditional release or parole release granted
23 by the New York state board of parole and the arrest which is the
24 subject of the inquiry is one which occurred while the accused was under
25 such supervision, or (v) the probation department responsible for super-
26 vision of the accused when the arrest which is the subject of the
27 inquiry is one which occurred while the accused was under such super-
28 vision, or (vi) a police agency, probation department, sheriff's office,
29 district attorney's office, department of correction of any municipality
30 and parole department, for law enforcement purposes, upon arrest in
31 instances in which the individual stands convicted of harassment in the
32 second degree, as defined in section 240.26 of the penal law, committed
33 against a member of the same family or household as the defendant, as
34 defined in subdivision one of section 530.11 of this chapter, and deter-
35 mined pursuant to subdivision eight-a of section 170.10 of this title;
36 and

37 S 3. This act shall take effect immediately.