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

7410--A

Cal. No. 1367

I N S E N A T E

April 29, 2016

Introduced by Sen. CARLUCCI -- (at request of the Office for People with Developmental Disabilities) -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the mental hygiene law, in relation to authorizing the commissioner of the office for people with developmental disabilities to have access to certain criminal history information

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

Section 1. Section 13.09 of the mental hygiene law is amended by adding a new subdivision (h) to read as follows:

(H) THE COMMISSIONER SHALL BE AUTHORIZED TO HAVE ACCESS TO CRIMINAL HISTORY INFORMATION, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED FORTY-FIVE-B OF THE EXECUTIVE LAW, CONTAINED IN THE CENTRAL DATA FACILITY ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES, UPON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER AND THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL AGREE. THE REPORT CONTAINING SUCH CRIMINAL HISTORY INFORMATION MAY BE SUMMARIZED FOR INCLUSION IN THE INDIVIDUAL'S CLINICAL RECORD, HOWEVER, SUCH REPORT SHALL BE DESTROYED WITHIN FOURTEEN DAYS OF ITS RECEIPT. SUCH INFORMATION SHALL BE USED FOR PURPOSES OF MAKING DECISIONS REGARDING CARE AND TREATMENT, HEALTH AND SAFETY, PRIVILEGES AND DISCHARGE PLANNING FOR INDIVIDUALS ADMITTED TO OR RETAINED IN A SCHOOL, AS DEFINED IN SECTION 15.03 OF THIS TITLE, OPERATED BY THE OFFICE. THE COMMISSIONER SHALL PROMULGATE STANDARDS REGARDING THE USE OF SUCH INFORMATION, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, CONSIDERATION OF THE TYPE OF OFFENSE AND THE DATE OF CONVICTION, AND ITS RELEVANCE, IF ANY, TO CARE AND TREATMENT, HEALTH AND SAFETY AND DISCHARGE PLANNING. INDIVIDUALS SHALL BE GIVEN WRITTEN NOTICE THAT THEIR CRIMINAL HISTORY INFORMATION WILL BE OBTAINED BY THE SCHOOL, THAT THE OPPORTUNITY EXISTS TO REQUEST SUCH CRIMINAL HISTORY INFORMATION AND SEEK THE CORRECTION OF ANY INACCURATE

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

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CRIMINAL HISTORY INFORMATION IN ACCORDANCE WITH THE REGULATIONS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, AND THAT THE OPPORTUNITY EXISTS TO CHALLENGE THE ACCURACY OF SUCH INFORMATION MAINTAINED IN THE INDIVIDUAL'S CLINICAL RECORD TO THE EXTENT AUTHORIZED BY SECTION 33.16 OF THIS CHAPTER. SUCH INFORMATION SHALL BE KEPT CONFIDENTIAL TO THE EXTENT REQUIRED UNDER APPLICABLE FEDERAL AND STATE LAW, INCLUDING SECTION 33.13 OF THIS CHAPTER.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.