

# STATE OF NEW YORK

2438

2019-2020 Regular Sessions

## IN SENATE

January 24, 2019

Introduced by Sens. KAPLAN, KAVANAGH, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KRUEGER, LIU, MAYER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, SALAZAR, SAVINO, SEPULVEDA, SERRANO, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to access to foreign state records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 4 of section 400.00 of the penal law, as  
2 amended by chapter 1 of the laws of 2013, is amended to read as follows:  
3 4. Investigation. Before a license is issued or renewed, there shall  
4 be an investigation of all statements required in the application by the  
5 duly constituted police authorities of the locality where such applica-  
6 tion is made, including but not limited to such records as may be acces-  
7 sible to the division of state police or division of criminal justice  
8 services pursuant to section 400.02 of this article. For that purpose,  
9 the records of the appropriate office of the department of mental  
10 hygiene concerning previous or present mental illness of the applicant  
11 shall be available for inspection by the investigating officer of the  
12 police authority. Where the applicant is domiciled in a foreign state,  
13 the investigation shall include inquiry of the foreign state for records  
14 concerning the previous or present mental illness of the applicant, and,  
15 to the extent necessary for inspection by the investigating officer, the  
16 applicant shall execute a waiver of confidentiality of such record in  
17 such form as may be required by the foreign state. In order to ascertain  
18 any previous criminal record, the investigating officer shall take the  
19 fingerprints and physical descriptive data in quadruplicate of each  
20 individual by whom the application is signed and verified. Two copies of  
21 such fingerprints shall be taken on standard fingerprint cards eight

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

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1 inches square, and one copy may be taken on a card supplied for that  
2 purpose by the federal bureau of investigation; provided, however, that  
3 in the case of a corporate applicant that has already been issued a  
4 dealer in firearms license and seeks to operate a firearm dealership at  
5 a second or subsequent location, the original fingerprints on file may  
6 be used to ascertain any criminal record in the second or subsequent  
7 application unless any of the corporate officers have changed since the  
8 prior application, in which case the new corporate officer shall comply  
9 with procedures governing an initial application for such license. When  
10 completed, one standard card shall be forwarded to and retained by the  
11 division of criminal justice services in the executive department, at  
12 Albany. A search of the files of such division and written notification  
13 of the results of the search to the investigating officer shall be made  
14 without unnecessary delay. Thereafter, such division shall notify the  
15 licensing officer and the executive department, division of state  
16 police, Albany, of any criminal record of the applicant filed therein  
17 subsequent to the search of its files. A second standard card, or the  
18 one supplied by the federal bureau of investigation, as the case may be,  
19 shall be forwarded to that bureau at Washington with a request that the  
20 files of the bureau be searched and notification of the results of the  
21 search be made to the investigating police authority. Of the remaining  
22 two fingerprint cards, one shall be filed with the executive department,  
23 division of state police, Albany, within ten days after issuance of the  
24 license, and the other remain on file with the investigating police  
25 authority. No such fingerprints may be inspected by any person other  
26 than a peace officer, who is acting pursuant to his or her special  
27 duties, or a police officer, except on order of a judge or justice of a  
28 court of record either upon notice to the licensee or without notice, as  
29 the judge or justice may deem appropriate. Upon completion of the inves-  
30 tigation, the police authority shall report the results to the licensing  
31 officer without unnecessary delay.

32 § 2. This act shall take effect on the sixtieth day after it shall  
33 have become a law.