STATE OF NEW YORK

6834

2019-2020 Regular Sessions

IN SENATE

November 6, 2019

Introduced by Sen. JACOBS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to protecting the personal and private information of persons granted a pistol permit

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

Section 1. Subdivision 5 of section 400.00 of the penal law, as amended by chapter 1 of the laws of 2013 and subparagraph (iii) of paragraph (e) as amended by chapter 244 of the laws of 2019, is amended to read as follows:

5. Filing of approved applications. (a) The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. Except as provided in paragraphs (b) through (f) of this subdivision, the name and address of any person to whom an application for any license has been granted shall **not** be a public record. Upon application by a licensee who has changed his **or her** place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by

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

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the appropriate clerk, department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address, social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall **only** be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this chapter shall not be subject to disclosure pursuant to article six of the public officers law. **Notwithstanding the foregoing provisions of this paragraph, local and state law enforcement shall, upon request, be granted access to and copies of such application information provided that such information obtained by law enforcement pursuant to this paragraph shall not be considered a public record of such law enforcement agency.**

(b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police within thirty days of the effective date of the chapter of the laws of two thousand [~~thirteen~~] **nineteen**, which amended this section, and provided to the applicant at the same time and in the same manner as the application for a license, an opportunity for the applicant to request [~~an exception from~~] his or her application information [~~becoming~~] **become** public record pursuant to paragraph (a) of this subdivision. [~~Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of the chapter of the laws of two thousand thirteen which amended this section, shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the application with a box beside each for checking, as applicable, by the applicant, shall be as follows:~~

~~(i) the applicant's life or safety may be endangered by disclosure because:~~

~~(A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;~~

~~(B) the applicant is a protected person under a currently valid order of protection;~~

~~(C) the applicant is or was a witness in a criminal proceeding involving a criminal charge;~~

~~(D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or~~

~~(E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this~~

~~paragraph, specifying which subparagraph or subparagraphs and clauses apply.~~

~~(ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant.~~

~~(iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information.~~]

(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request [~~an exception from~~] the information provided on such form [~~becoming~~] **become** public record pursuant to paragraph (a) of this subdivision. Such forms shall [~~notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision.~~] **provide each applicant the opportunity to specify that he or she would like his or her information publicly disclosed and to be a part of the public record.**

(d) Information submitted on the forms described in paragraph (b) of this subdivision shall be [~~excepted from disclosure and~~] maintained by the entity retaining such information separate and apart from all other records.

(e) (i) Upon receiving a request for [~~exception from~~] **public** disclosure, the licensing officer shall [~~grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision~~] **make such application part of the public record**.

(ii) A request for [~~an exception from~~] **public** disclosure may be submitted at any time, including after a license or recertification has been granted.

(iii) If [~~an exception~~] **public disclosure** is sought and granted pursuant to paragraph (b) **or (c)** of this subdivision, the application information shall [~~not~~] be public record[~~, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void. Notwithstanding the foregoing provisions of this subparagraph, local and state law enforcement shall, upon request, be granted access to and copies of such application information provided that such information obtained by law enforcement pursuant to this subparagraph shall not be considered a public record of such law enforcement agency~~].

(f) The information of licensees or applicants for a license shall not be disclosed to the public during the first one hundred twenty days following the effective date of the chapter of the laws of two thousand [~~thirteen~~] **nineteen**, which amended this section. After such period, the information of those who had applied for or been granted a license prior to the preparation of the form for requesting [~~an exception~~] **public disclosure**, pursuant to paragraph (b) of this subdivision, may be released only if such individuals did [~~not~~] file a request for such [~~an~~

~~exception~~] **public disclosure** during the first sixty days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such sixty days.

(g) [~~If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article seventy-eight of the civil practice laws and rules. Such proceeding must commence within thirty days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review.~~] **Within thirty days of the effective date of the chapter of the laws of two thousand nineteen which amended this section, all information which was part of the public record under paragraph (a) of this subdivision for any applicant who requested that his or her information be exempted from the public record will be removed from the public record.**

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.