

STATE OF NEW YORK

4718

2019-2020 Regular Sessions

IN ASSEMBLY

February 5, 2019

Introduced by M. of A. MALLIOTAKIS -- read once and referred to the
Committee on Codes

AN ACT to amend the executive law, in relation to inquiries about
certain sealed convictions; and to repeal section 160.58 of the criminal
procedure law relating to conditional sealing of certain
controlled substances, marihuana or specified offense convictions

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

1 Section 1. Section 160.58 of the criminal procedure law is REPEALED.
2 § 2. Subdivision 16 of section 296 of the executive law, as amended by
3 section 48-a of part WWW of chapter 59 of the laws of 2017, is amended
4 to read as follows:
5 16. It shall be an unlawful discriminatory practice, unless specifically
6 required or permitted by statute, for any person, agency, bureau,
7 corporation or association, including the state and any political subdivision
8 thereof, to make any inquiry about, whether in any form of application
9 or otherwise, or to act upon adversely to the individual
10 involved, any arrest or criminal accusation of such individual not then
11 pending against that individual which was followed by a termination of
12 that criminal action or proceeding in favor of such individual, as
13 defined in subdivision two of section 160.50 of the criminal procedure
14 law, or by a youthful offender adjudication, as defined in subdivision
15 one of section 720.35 of the criminal procedure law, or by a conviction
16 for a violation sealed pursuant to section 160.55 of the criminal procedure
17 law or by a conviction which is sealed pursuant to section 160.59
18 [~~or 160.58~~] of the criminal procedure law, in connection with the
19 licensing, employment or providing of credit or insurance to such individual;
20 provided, further, that no person shall be required to divulge
21 information pertaining to any arrest or criminal accusation of such
22 individual not then pending against that individual which was followed
23 by a termination of that criminal action or proceeding in favor of such

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

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1 individual, as defined in subdivision two of section 160.50 of the crim-
2 inal procedure law, or by a youthful offender adjudication, as defined
3 in subdivision one of section 720.35 of the criminal procedure law, or
4 by a conviction for a violation sealed pursuant to section 160.55 of the
5 criminal procedure law, or by a conviction which is sealed pursuant to
6 section ~~[160.58-0x]~~ 160.59 of the criminal procedure law. The provisions
7 of this subdivision shall not apply to the licensing activities of
8 governmental bodies in relation to the regulation of guns, firearms and
9 other deadly weapons or in relation to an application for employment as
10 a police officer or peace officer as those terms are defined in subdivi-
11 sions thirty-three and thirty-four of section 1.20 of the criminal
12 procedure law; provided further that the provisions of this subdivision
13 shall not apply to an application for employment or membership in any
14 law enforcement agency with respect to any arrest or criminal accusation
15 which was followed by a youthful offender adjudication, as defined in
16 subdivision one of section 720.35 of the criminal procedure law, or by a
17 conviction for a violation sealed pursuant to section 160.55 of the
18 criminal procedure law, or by a conviction which is sealed pursuant to
19 section ~~[160.58-0x]~~ 160.59 of the criminal procedure law.

20 § 3. This act shall take effect on the sixtieth day after it shall
21 have become a law.