

STATE OF NEW YORK

404

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BIAGGI, GOUNARDES, KAMINSKY, KAPLAN -- 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 sealed prior domestic violence cases

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 chapter 449 of the laws of 2015,
3 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 or a prosecutor upon ex parte motion in any superior
9 court, or in any district court, city court or the criminal court of the
10 city of New York provided that such court sealed the record, if such
11 agency or prosecutor demonstrates to the satisfaction of the court that
12 justice requires that such records be made available to it, or (iii) any
13 state or local officer or agency with responsibility for the issuance of
14 licenses to possess guns, when the accused has made application for such
15 a license, or (iv) the New York state department of corrections and
16 community supervision when the accused is on parole supervision as a
17 result of conditional release or a parole release granted by the New
18 York state board of parole, and the arrest which is the subject of the
19 inquiry is one which occurred while the accused was under such super-
20 vision, or (v) any prospective employer of a police officer or peace
21 officer as those terms are defined in subdivisions thirty-three and
22 thirty-four of section 1.20 of this chapter, in relation to an applica-
23 tion for employment as a police officer or peace officer; provided,

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

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1 however, that every person who is an applicant for the position of
2 police officer or peace officer shall be furnished with a copy of all
3 records obtained under this paragraph and afforded an opportunity to
4 make an explanation thereto, or (vi) the probation department responsi-
5 ble for supervision of the accused when the arrest which is the subject
6 of the inquiry is one which occurred while the accused was under such
7 supervision; and

8 § 2. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
9 procedure law, as amended by chapter 449 of the laws of 2015, is amended
10 to read as follows:

11 (d) the records referred to in paragraph (c) of this subdivision shall
12 be made available to the person accused or to such person's designated
13 agent, and shall be made available to (i) a prosecutor in any proceeding
14 in which the accused has moved for an order pursuant to section 170.56
15 or 210.46 of this chapter, or (ii) a law enforcement agency or a prose-
16 cutor upon ex parte motion in any superior court, or in any district
17 court, city court or the criminal court of the city of New York provided
18 that such court sealed the record, if such agency or prosecutor demon-
19 strates to the satisfaction of the court that justice requires that such
20 records be made available to it, or (iii) any state or local officer or
21 agency with responsibility for the issuance of licenses to possess guns,
22 when the accused has made application for such a license, or (iv) the
23 New York state department of corrections and community supervision when
24 the accused is under parole supervision as a result of conditional
25 release or parole release granted by the New York state board of parole
26 and the arrest which is the subject of the inquiry is one which occurred
27 while the accused was under such supervision, or (v) the probation
28 department responsible for supervision of the accused when the arrest
29 which is the subject of the inquiry is one which occurred while the
30 accused was under such supervision, or (vi) a police agency, probation
31 department, sheriff's office, district attorney's office, department of
32 correction of any municipality and parole department, for law enforce-
33 ment purposes, upon arrest in instances in which the individual stands
34 convicted of harassment in the second degree, as defined in section
35 240.26 of the penal law, committed against a member of the same family
36 or household as the defendant, as defined in subdivision one of section
37 530.11 of this chapter, and determined pursuant to subdivision eight-a
38 of section 170.10 of this title; and

39 § 3. This act shall take effect immediately.