STATE OF NEW YORK

9389

IN SENATE

May 14, 2024

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act, the penal law and the civil practice law and rules, in relation to allowing access to juvenile delinquency records for the purposes of a firearm background check and authorizing the denial of a firearm license for an applicant who is under the age of thirty and who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a felony or serious offense

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

Section 1. Subdivision 4 of section 380.1 of the family court act, as amended by chapter 37 of the laws of 2016, is amended to read as follows:

4. Notwithstanding any other provision of law, where a finding of juvenile delinquency has been entered, upon request, the records pertaining to such case shall be made available to the commissioner of mental health or the commissioner [~~of~~] **for people with** developmental disabilities, as appropriate; the case review panel; [~~and~~] the attorney general pursuant to section 10.05 of the mental hygiene law**; the National Instant Criminal Background Check System in connection with a background check conducted on a person under twenty-two years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(1); the division of state police in connection with a background check conducted on a person under thirty years of age pursuant to section two hundred twenty-eight of the executive law; a licensing officer pursuant to an investigation of an applicant who is under the age of thirty for a license to be issued or renewed under subdivision one of section 400.00 of the penal law; and a law enforcement agency directed by a court to conduct a background investigation in a proceeding under section sixty-three hundred forty-two of the civil practice law and rules regarding a respondent in such proceeding who is under the age of thirty**.

§ 2. Section 381.2 of the family court act is amended by adding a new subdivision 3 to read as follows:

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

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3. Notwithstanding the provisions of subdivision one of this section, a law enforcement agency directed by a court to conduct a background investigation in a proceeding under section sixty-three hundred forty-two of the civil practice law and rules regarding a respondent in such proceeding who is under the age of thirty, may receive and consider the records and information on file with the family court, unless such records and information have been sealed pursuant to section 375.1 of this article.

§ 3. Subdivision 2 of section 381.3 of the family court act, as added by chapter 920 of the laws of 1982 and paragraph (b) as amended by chapter 926 of the laws of 1982, is amended to read as follows:

2. Notwithstanding the provisions of subdivision one, the family court in the county in which the petition was adjudicated may, upon motion and for good cause shown, order such records open:

(a) to the respondent or [~~his~~] **the respondent's** parent or person responsible for [~~his~~] **the respondent's** care; [~~or~~]

(b) if the respondent is subsequently convicted of a crime, to a judge of the court in which [~~he~~] **the respondent** was convicted, unless such record has been sealed pursuant to section 375.1**; or**

(c) to the division of state police in connection with a background check conducted on a person under thirty years of age pursuant to section two hundred twenty-eight of the executive law.

§ 4. Subdivision 1 of section 400.00 of the penal law, as separately amended by chapters 371 and 669 of the laws of 2022, is amended to read as follows:

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character, which, for the purposes of this article, shall mean having the essential character, temperament and [~~judgement~~] **judgment** necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or others; (c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense; (d) **who is not an applicant who is under the age of thirty and who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a felony or serious offense; (e)** who is not a fugitive from justice; [~~(e)~~] **(f)** who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802; [~~(f)~~] **(g)** who being a noncitizen (i) is not illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); [~~(g)~~] **(h)** who has not been discharged from the Armed Forces under dishonorable conditions; [~~(h)~~] **(i)** who, having been a citizen of the United States, has not renounced [~~his or her~~] **such applicant's** citizenship; [~~(i)~~] **(j)** who has stated whether [~~he or she~~] **such applicant** has ever suffered any mental illness; [~~(j)~~] **(k)** who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure

law or substantially similar laws of any other state, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law, or has not been the subject of a report made pursuant to section 9.46 of the mental hygiene law; [~~(k)~~] **(l)** who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; [~~(l)~~] **(m)** in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in [~~his or her~~] **such applicant's** name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test, provided, however, persons with a license issued under paragraph (f) of subdivision two of this section prior to the effective date of **chapter three hundred seventy-one of** the laws of two thousand twenty-two [~~which amended this paragraph~~] shall be required to complete the training required by subdivision nineteen of this section prior to the recertification of such license; and (iii) persons applying for a license under paragraph (f) of subdivision two of this section on or after the effective date of [~~the~~] chapter [~~of~~] **three hundred seventy-one of** the laws of two thousand twenty-two [~~which amended this paragraph~~] who shall be required to complete the training required under subdivision nineteen of this section for such license; [~~(m)~~] **(n)** who has not had a guardian appointed for [~~him or her~~] **such applicant** pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incompetency, incapacity, condition or disease, [~~he or she~~] **such applicant** lacks the mental capacity to contract or manage [~~his or her~~] **such applicant's** own affairs; [~~(n)~~] **(o)** for a license issued under paragraph (f) of subdivision two of this section, that the applicant has not been convicted within five years of the date of the application of any of the following: (i) assault in the third degree, as defined in section 120.00 of this chapter; (ii) misdemeanor driving while intoxicated, as defined in section eleven hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as defined in section 120.15 of this chapter; and [~~(o)~~] **(p)** for a license issued under paragraph (f) of subdivision two of this section, the applicant shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information: (i) names and contact information for the applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicant's home; (ii) names and contact information of no less than four character references who can attest to the applicant's good moral character and that such applicant has not engaged in any acts, or made any statements that suggest they are likely

to engage in conduct that would result in harm to themselves or others; (iii) certification of completion of the training required in subdivision nineteen of this section; (iv) a list of former and current social media accounts of the applicant from the past three years to confirm the information regarding the [~~applicants~~] applicant's character and conduct as required in subparagraph (ii) of this paragraph; and (v) such other information required by the licensing officer that is reasonably necessary and related to the review of the licensing application.

§ 5. Subdivision 9 of section 6342 of the civil practice law and rules, as added by chapter 19 of the laws of 2019, is amended to read as follows:

9. (a) Upon issuance of a temporary extreme risk protection order, or upon setting a hearing for a final extreme risk protection order where a temporary order is denied or not requested, the court shall direct the law enforcement agency having jurisdiction to conduct a background investigation and report to the court and, subject to any appropriate redactions to protect any person, each party regarding whether the respondent:

[~~(a)~~] (i) has any prior criminal conviction for an offense involving domestic violence, use of a weapon, or other violence;

[~~(b)~~] (ii) has any criminal charge or violation currently pending against [~~him or her~~] the respondent;

[~~(c)~~] (iii) is currently on parole or probation;

[~~(d)~~] (iv) possesses any registered firearms, rifles or shotguns; and

[~~(e)~~] (v) has been, or is, subject to any order of protection or has violated or allegedly violated any order of protection.

(b) If the respondent is under the age of thirty, investigation required by paragraph (a) of this subdivision shall also report to the court and subject to any appropriate redactions to protect any person, each party regarding whether the respondent:

(i) as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute an offense involving domestic violence, use of a weapon, or other violence; and

(ii) has any juvenile delinquency proceeding currently pending against such respondent.

§ 6. This act shall take effect on the thirtieth day after it shall have become a law.