

STATE OF NEW YORK

1029--B

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. CRUZ, PRETLOW, GONZALEZ-ROJAS, MEEKS, BURGOS, MAMDANI, WALKER, JACKSON, SEAWRIGHT, SIMON, DICKENS, HYNDMAN, EPSTEIN, ANDERSON, KELLES, BURDICK, GALLAGHER, CARROLL, SEPTIMO, L. ROSENTHAL, ZINERMAN, REYES, HEVESI, DARLING, AUBRY, MITAYNES, WEPRIN, LAVINE, JOYNER, BICHOTTE HERMELYN, JEAN-PIERRE, KIM, HUNTER, CLARK, RIVERA, BRONSON, GIBBS, DE LOS SANTOS, DAVILA, TAYLOR, COOK, VANEL, FAHY, TAPIA, CUNNINGHAM, GLICK, LUCAS, CHANDLER-WATERMAN, DINOWITZ, OTIS, ARDILA, BORES, O'DONNELL, RAGA, SHRESTHA, SHIMSKY, SIMONE, ALVAREZ, LEVENBERG, FORREST, ZACCARO, McDONALD, LEE, SOLAGES, STIRPE, LUPARDO, DILAN -- Multi-Sponsored by -- M. of A. RAMOS -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the executive law, the correction law, the judiciary law and the civil rights law, in relation to automatic sealing of certain convictions

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

1 Section 1. Legislative intent. Almost fifty years ago, New York
2 enacted anti-discrimination protections for individuals with a prior
3 criminal conviction. In his approval message, Governor Carey noted that
4 the expense and time involved in prosecuting and incarcerating an indi-
5 vidual is largely wasted "if upon the individual's return to society his
6 willingness to assume a law abiding and productive role is frustrated by
7 senseless discrimination" and further noted that providing a formerly
8 incarcerated individual "a fair opportunity for a job is a matter of
9 basic human fairness as well as one of the surest ways to reduce crime."
10 He also noted that the legislation in no way required the hiring of
11 someone with a criminal record but provided reasonable standards to be
12 applied when considering the employment of such an individual, and that

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

LBD01987-05-3

1 merely having a criminal record could not be the sole basis for denying
2 employment. While New York has made great strides in fighting discrimi-
3 nation - on the basis of many attributes, experiences, and circumstances
4 of New Yorkers - discrimination on the basis of past convictions still
5 persists.

6 Therefore, it is the intent of the legislature to further curb this
7 discrimination by sealing from public access the conviction records of
8 individuals for certain state convictions only after an individual has
9 satisfied their sentence and the required period of time has passed,
10 within which the individual has remained a law abiding citizen while
11 ensuring that this otherwise sealed conviction information will remain
12 accessible for law enforcement and other relevant and necessary
13 purposes. These relevant and necessary purposes include but are not
14 limited to determining suitability for licensing, employment and similar
15 activities where federal or state law requires a criminal background
16 check be performed prior to granting licenses to or employing individ-
17 uals in certain jobs, such as employment with children, elderly popu-
18 lations, or other vulnerable populations, as well as where federal or
19 state law authorizes a criminal background check to be performed prior
20 to the same type of employment or similar activity.

21 It is further the intent of the legislature that this legislation
22 shall not have any impact on, nor will it change the access to, informa-
23 tion regarding out of state or federal conviction information for law
24 enforcement purposes or any other person or entity, including prospec-
25 tive employers, accessing an individual's criminal history through crim-
26 inal background checks or through publicly accessible records.

27 § 2. The criminal procedure law is amended by adding a new section
28 160.57 to read as follows:

29 § 160.57 Automatic sealing of convictions.

30 1. Convictions for certain traffic infractions or a crime defined in
31 the laws of this state shall be sealed in accordance with this section
32 as follows:

33 (a) Convictions for subdivision one of section eleven hundred ninety-
34 two of the vehicle and traffic law shall be sealed after three years.

35 (b) Criminal convictions shall be sealed upon satisfaction of the
36 following conditions:

37 (i) for a misdemeanor conviction, at least three years have passed
38 from the defendant's release from incarceration or the imposition of
39 sentence if there was no sentence of incarceration. If the defendant is
40 subsequently convicted of a crime before a prior conviction is sealed
41 pursuant to this section, the calculation of time for such prior
42 conviction shall start upon the same date as the time calculation starts
43 for the subsequent criminal conviction;

44 (ii) for a felony conviction, at least eight years have passed from
45 the date the defendant was last released from incarceration for the
46 sentence of the conviction eligible for sealing or from the imposition
47 of sentence if there was no sentence of incarceration. A defendant's
48 detention for an alleged violation of parole or post-release supervision
49 shall not interfere with the time calculation prescribed herein unless
50 and until supervision is revoked resulting in the defendant's reincar-
51 ceration. If the defendant is subsequently convicted of a crime before
52 a prior conviction is sealed pursuant to this section, the calculation
53 of time for such prior conviction shall start upon the same date as the
54 time calculation starts for the subsequent criminal conviction;

55 (iii) the defendant does not have a subsequent criminal charge pending
56 in this state;

1 (iv) the defendant is not currently under the supervision of any
2 probation or parole department for the conviction eligible for sealing;

3 (v) the conviction is not for an offense defined as a sex offense or
4 sexually violent offense under section one hundred sixty-eight-a of the
5 correction law;

6 (vi) the conviction is not for a class A felony offense defined in the
7 penal law, other than class A felony offenses defined in article two
8 hundred twenty of the penal law;

9 (vii) the defendant is a natural person;

10 (viii) the defendant does not have a subsequent felony charge pending
11 in another jurisdiction that is not a felony charge related to reproduc-
12 tive or gender affirming care or the possession of cannabis which would
13 not constitute a felony in New York. This subparagraph shall apply if
14 and when appropriate federal authorities grant access to records neces-
15 sary to query to effectuate the purposes of this subparagraph in an
16 automated manner; and

17 (ix) the defendant does not have a subsequent felony conviction in
18 another jurisdiction in the preceding eight years that is not a felony
19 conviction related to reproductive or gender affirming care or the
20 possession of cannabis which would not constitute a felony in New York.
21 This subparagraph shall apply if and when appropriate federal authori-
22 ties grant access to records necessary to query to effectuate the
23 purposes of this subparagraph in an automated manner.

24 (c) If, after the applicable period of time for the sealing of a
25 conviction has been satisfied, the conviction remains ineligible for
26 sealing pursuant to subparagraphs (iii), (iv), (viii) or (ix) of para-
27 graph (b) of this subdivision, the office of court administration shall
28 subsequently check for eligibility no less than quarterly and upon
29 subsequent checks, or the receipt of a form in accordance with paragraph
30 (dd) of subdivision two of section two hundred twelve of the judiciary
31 law, the conviction shall be sealed if all other conditions for sealing
32 under this section are satisfied.

33 (d) In accordance with all other applicable laws, rules, and regu-
34 lations regarding the scope, access, use, disclosure, confidentiality
35 and retention of criminal history information, records of convictions
36 sealed pursuant to this section including photographs, photographic
37 plates or proofs, palmprints, fingerprints or retina scans shall not be
38 accessed by or made available to any person or public or private agency,
39 except for:

40 (i) the defendant and such defendant's counsel;

41 (ii) any court, defense counsel or prosecutor for the purposes of a
42 pending criminal proceeding or proceedings brought in a criminal court
43 pursuant to article six-C of the correction law;

44 (iii) qualified agencies, as defined in subdivision nine of section
45 eight hundred thirty-five of the executive law, federal and state law
46 enforcement agencies, and interstate and international authorities as
47 defined in subdivision three of section two of the public authorities
48 law, when acting within the scope of their law enforcement duties;

49 (iv) the court, prosecutor, and defense counsel if the defendant
50 becomes a witness in a criminal proceeding;

51 (v) the court and parties if the defendant becomes a witness or party
52 in a civil proceeding;

53 (vi) when an individual is a defendant in a criminal proceeding or
54 proceedings brought in a criminal court pursuant to article six-C of the
55 correction law and the sealed records of conviction of a third party are
56 integral to their defense. In such instances, use of sealed records of

1 conviction shall be requested upon ex parte motion in any superior
2 court, or in any district court, city court or the criminal court of the
3 city of New York provided that such court is where the action is pend-
4 ing. The applicant must demonstrate to the satisfaction of the court
5 that the records will be used for the purpose of this subparagraph;

6 (vii) individuals or entities that are required by state law, federal
7 law or regulation, or a local law in effect one year prior to the chap-
8 ter of the laws of two thousand twenty-three that added this section, to
9 request and receive a fingerprint-based check of criminal history infor-
10 mation. Nothing herein shall prohibit the commissioner of education or
11 the office of school personnel review and accountability from receiving
12 or using convictions sealed pursuant to this section for purposes of
13 subdivisions seven, seven-a and seven-b of section three hundred five of
14 the education law;

15 (viii) pursuant to regulations promulgated by the commissioner of the
16 division of criminal justice services, individuals or entities author-
17 ized by state law, federal law or regulation, or a local law in effect
18 one year prior to the chapter of the laws of two thousand twenty-three
19 that added this section to request and receive a fingerprint-based check
20 of criminal history information. Such regulations shall include enti-
21 ties authorized to request and receive such information in relation to
22 the individual's fitness to have responsibility for the safety and well-
23 being of children or adolescents, elderly individuals, individuals with
24 disabilities, or otherwise vulnerable populations;

25 (ix) any prospective employer of a police officer or peace officer as
26 those terms are defined in subdivisions thirty-three and thirty-four of
27 section 1.20 of this chapter, in relation to an application for employ-
28 ment as a police officer or peace officer, provided, however, that every
29 person who is an applicant shall be furnished with a copy of all records
30 obtained under this paragraph and afforded an opportunity to make an
31 explanation thereto;

32 (x) any federal, state or local officer or agency with responsibility
33 for the issuance of licenses to possess a firearm, rifle or shotgun or
34 with responsibility for conducting background checks before transfer or
35 sale of a firearm or explosive, when the officer or agency is acting
36 pursuant to such responsibility. This includes the criminal justice
37 information services division of the federal bureau of investigation,
38 for the purposes of responding to queries to the national instant back-
39 ground check system regarding attempts to purchase or otherwise take
40 possession of firearms, rifles or shotguns, as defined in 18 U.S.C. §
41 921 (A)(3);

42 (xi) for the purposes of civilian investigation or evaluation of a
43 civilian complaint or civil action concerning law enforcement or prose-
44 cution actions, upon ex parte motion in any superior court, or in any
45 district court, city court or the criminal court of the city of New York
46 provided that such court sealed the record; the applicant must demon-
47 strate to the satisfaction of the court that the records will be used
48 for the purposes of this subparagraph;

49 (xii) for information provided to an individual or entity pursuant to
50 paragraph (e) of subdivision four of section eight hundred thirty-seven
51 of the executive law or for bona fide research purposes provided all
52 identifying information is removed;

53 (xiii) when an individual seeks to avail themselves of a public
54 program or benefit, including but not limited to an immigration benefit,
55 for which the sealed records of conviction of a third party are other-
56 wise authorized by law or legal process to be disclosed in furtherance

1 of their application for such program or benefit. In such instances, the
2 individual or their attorney shall request the use of sealed records
3 pursuant to a form as prescribed by the chief administrator of the
4 courts pursuant to paragraph (ee) of subdivision two of section two
5 hundred twelve of the judiciary law;

6 (xiv) for the purpose of collection of restitution, reparation, fines,
7 surcharges, or fees imposed. In such instances, use of sealed records
8 shall be requested upon ex parte motion in any superior court, or in any
9 district court, city court, town court, village court, or criminal court
10 of the city of New York provided that such court is where the action is
11 pending. The applicant must demonstrate to the satisfaction of the court
12 that the records will be used for the purpose of this subparagraph;

13 (xv) transportation network companies that are required or authorized
14 by state law to request criminal history information pursuant to section
15 sixteen hundred ninety-nine of the vehicle and traffic law;

16 (xvi) the state education department for the purposes of investigating
17 professional misconduct as defined in subparagraph (i) of paragraph (a)
18 of subdivision five of section sixty-five hundred nine of the education
19 law, consideration of restoration of a professional license pursuant to
20 section sixty-five hundred eleven of the education law, or determi-
21 nations for issuing a license to practice a profession or issuing
22 certificates and privileges for which prior licensure is required, for
23 the professions under articles one hundred thirty-one, one hundred thir-
24 ty-one-b, one hundred thirty-two, one hundred thirty-three, one hundred
25 thirty-four, one hundred thirty-five, one hundred thirty-six, one
26 hundred thirty-seven, one hundred thirty-nine, one hundred forty, one
27 hundred forty-one, one hundred forty-three, one hundred forty-four, one
28 hundred forty-five, one hundred forty-seven, one hundred forty-nine, one
29 hundred fifty-three, one hundred fifty-four, one hundred fifty-five, one
30 hundred fifty-six, one hundred fifty-seven, one hundred fifty-eight, one
31 hundred sixty, one hundred sixty-three, one hundred sixty-four, and one
32 hundred sixty-seven as such professions are defined in title eight of
33 the education law, provided that the state education department certi-
34 fies to the division of criminal justice services that it is investigat-
35 ing an individual licensed to practice a profession pursuant to article
36 one hundred thirty of the education law for professional misconduct as
37 defined in paragraph (a) of subdivision five of section sixty-five
38 hundred nine of the education law, considering restoration of a profes-
39 sional license pursuant to section sixty-five hundred eleven of the
40 education law, or making a determination for issuing a license to prac-
41 tice a profession or issuing certificates and privileges for which prior
42 licensure is required as appropriate. Provided, further, that the board
43 of regents may consider any prior conviction that formed the basis of a
44 determination of the board of regents in a disciplinary proceeding
45 pursuant to section sixty-five hundred ten of the education law and the
46 rules and regulations promulgated pursuant thereto in an application for
47 reconsideration, even if such conviction later becomes sealed pursuant
48 to this section; and

49 (xvii) the office of mental health and the office for people with
50 developmental disabilities, where such agencies are statutorily author-
51 ized to receive such information, provided further, that such informa-
52 tion may also be made available for case review under section 10.05 of
53 the mental hygiene law, as well as to providers licensed, funded, desig-
54 nated, certified or otherwise authorized by the office of mental health
55 or the office for people with developmental disabilities, where such

1 information is included in the clinical record of any person under the
2 care of or receiving services from such provider or program.

3 (e) Where the sealing required by this section has not taken place,
4 including where supporting court records cannot be located or have been
5 destroyed, and a defendant or their attorney submits a valid form in
6 accordance with paragraph (dd) of subdivision two of section two hundred
7 twelve of the judiciary law of such fact to the office of court admin-
8 istration, such conviction shall be sealed as set forth in this subdivi-
9 sion within thirty days of the receipt of such form.

10 (f) The department of corrections and community supervision, in coor-
11 ordination with the division of criminal justice services, shall provide
12 the office of court administration with the data necessary to determine
13 appropriate records to be sealed pursuant to this section, including but
14 not limited to (i) the date or dates of release from state incarceration
15 of individuals who have a sentence of incarceration for a felony
16 conviction, and (ii) the date or dates of initial parole or post-release
17 supervision and corresponding date or dates of discharge, as applicable.

18 (g) The chief administrative officer of each local correctional facil-
19 ity shall provide the office of court administration with the data
20 necessary to determine appropriate records to be sealed pursuant to this
21 section, including but not limited to the date or dates of release of
22 individuals who have satisfied a definite sentence of imprisonment.

23 2. Upon the sealing of a conviction pursuant to this section the
24 office of court administration shall immediately notify the division of
25 criminal justice services, the court of conviction, county clerks and
26 the heads of all appropriate police and sheriff departments, prosecu-
27 tors' offices and law enforcement agencies that the conviction is
28 sealed. Upon receipt of such notification, records of or relating to
29 such conviction shall be immediately sealed as follows:

30 (a) Every photograph of the defendant and photographic plates or
31 proof, and all palmprints, fingerprints and retina scans taken or made
32 of the defendant in regard to the sealed conviction, and all duplicates,
33 reproductions, and copies thereof, except a digital fingerprint that is
34 on file with the division of criminal justice services for a conviction
35 that has not been sealed pursuant to this section, shall be marked as
36 sealed by any entity notified under this subdivision having any such
37 photograph, photographic plate or proof, palmprint, fingerprints or
38 retina scan in its possession or under its control by conspicuously
39 indicating on the face of the record or at the beginning of the digi-
40 tized file of the record that the record has been designated as sealed.

41 (b) Every official record and paper and duplicates and copies thereof,
42 including, but not limited to, judgments and orders of a court but not
43 including published court decisions or opinions or records and briefs on
44 appeal, relating to the sealed conviction, on file with the entity noti-
45 fied under this subdivision shall be marked as sealed by conspicuously
46 indicating on the face of the record or at the beginning of the digi-
47 tized file of the record that the record has been designated as sealed.

48 (c) Entities subject to the requirements of this subdivision shall not
49 use or access such sealed information unless otherwise authorized pursu-
50 ant to this section or any other section of law.

51 (d) Nothing in this section shall be construed to interfere with the
52 applicable laws, rules and regulations requiring the division of crimi-
53 nal justice services to administer and maintain criminal history records
54 as set forth in article thirty-five of the executive law.

55 3. (a) Nothing in this section requires the sealing or destruction of
56 DNA information maintained in the New York state DNA database, in

1 accordance with article forty-nine-B of the executive law, of an indi-
2 vidual whose conviction is sealed under this section.

3 (b) Nothing in this section requires the sealing or destruction of
4 records maintained by the department of motor vehicles, and nothing in
5 this section shall be construed to contravene the vehicle and traffic
6 law, the federal driver's privacy protection act (18 U.S.C 2721 et.
7 seq.), the REAL ID Act of 2005 (Public Law 109-13; 49 U.S.C. 30301
8 note), section 7209 of the Intelligence Reform and Terrorism Prevention
9 Act of 1986 (49 U.S.C. 31311), the Commercial Motor Vehicle Safety Act
10 of 1986 (Public Law 99-570; 49 U.S.C. 313), the Motor Carrier Safety
11 Improvement Act of 1999 (Public Law 106-159), or regulations promulgated
12 pursuant to any such chapter or act.

13 (c) The division of criminal justice services is authorized to
14 disclose a conviction that is sealed pursuant to this section to enti-
15 ties that are required by federal law, or by rules and regulations
16 promulgated by a self-regulatory organization created under federal law,
17 to consider sealed convictions. Such entities must certify to the divi-
18 sion that they are required by federal law, or by rules and regulations
19 promulgated by a self-regulatory organization that has been created
20 under federal law, to make an inquiry about or consider records sealed
21 pursuant to this section for purposes of employment, licensing, or
22 clearance. To the extent permitted by federal law, a record sealed
23 pursuant to this section may not be considered a conviction that would
24 prohibit the employment, licensing or clearance of the defendant.

25 (d) Nothing in this section shall prohibit entities required by feder-
26 al law to consider sealed convictions, or by rules and regulations
27 promulgated by a self-regulatory organization that has been created
28 under federal law, from making an inquiry about or considering an appli-
29 cant's criminal history for purposes of employment, licensing, or clear-
30 ance from inquiring into convictions sealed pursuant to this section.

31 (e) In any civil action, an official record of a conviction that has
32 been sealed pursuant to this section may not be introduced as evidence
33 of negligence against a person or entity that provided employment,
34 contract labor or services, volunteer work, licensing, tenancy, a home
35 purchase, a mortgage, an education, a loan, or insurance if such record
36 was sealed and was not provided to the person or entity by or on behalf
37 of a governmental entity in accordance with this section in response to
38 such person's or entity's authorized and timely request for conviction
39 history information.

40 (f) A person or entity described in this subdivision, acting reason-
41 ably and in good faith, may not have a duty to investigate the fact of a
42 prior conviction that has been sealed pursuant to this section.

43 4. No defendant shall be required or permitted to waive eligibility
44 for sealing pursuant to this section as part of a plea of guilty,
45 sentence or any agreement related to a conviction for a violation of the
46 laws of this state. Any such waiver is void and unenforceable.

47 5. Sealing as set forth in subdivision two of this section is without
48 prejudice to a defendant or their attorney seeking further relief pursu-
49 ant to article four hundred forty of this chapter. Nothing in this
50 section is intended or shall be interpreted to diminish or abrogate any
51 rights or remedies otherwise available to the defendant.

52 6. The office of court administration shall make diligent efforts to
53 promptly seal all conviction records eligible for sealing under this
54 section where such convictions were entered on or before the effective
55 date of this section and, in any event, shall ensure sealing of such

1 convictions is complete no later than three years after such effective
2 date.

3 7. A conviction which is sealed pursuant to this section is included
4 within the definition of a conviction for the purposes of any criminal
5 proceeding in which the fact of a prior conviction would enhance a
6 penalty or is an element of the offense charged.

7 8. Nothing in this section shall be construed to permit sealing of a
8 conviction before the expiration or termination of a sentence of incar-
9 ceration, parole, probation, or post-release supervision for such
10 conviction.

11 9. Nothing in this section shall be construed to affect or invalidate
12 any active order of protection issued in relation to a conviction sealed
13 under this section.

14 10. Nothing in this section shall be construed to require or authorize
15 the discharge of the requirement to pay any restitution, reparation,
16 finances, surcharges, or fees imposed for a conviction sealed under this
17 section or the sealing of a criminal or civil proceeding for the
18 collection of any such amount due, unless such proceeding is otherwise
19 eligible for sealing under this section or any other provision of law.

20 § 3. Section 845-d of the executive law is amended by adding two new
21 subdivisions 4 and 5 to read as follows:

22 4. Nothing in this section shall authorize the division to provide
23 criminal history information that is sealed pursuant to section 160.57
24 of the criminal procedure law to an entity other than those authorized
25 by such section to receive such information.

26 5. Except as otherwise required by law, every entity that receives
27 criminal history information for civil purposes shall provide or ensure
28 the provision of a copy of such criminal history information to every
29 individual for whom such information is received with a copy of arti-
30 cle twenty-three-A of the correction law, and that such individual be
31 informed of their right to seek correction of any incorrect informa-
32 tion contained in such information pursuant to the regulations and
33 procedures established by the division of criminal justice services.

34 § 4. Subdivision 2 of section 212 of the judiciary law is amended by
35 adding two new paragraphs (dd) and (ee) to read as follows:

36 (dd) Promulgate a standardized form and process for individuals to
37 notify the office of court administration of convictions subject to
38 sealing under section 160.57 of the criminal procedure law, but for
39 which the office has not sealed or taken the requisite action for
40 related records.

41 (ee) Promulgate a standardized form and process for individuals
42 authorized to request sealed records pursuant to subparagraph (xiii) of
43 paragraph (d) of subdivision one of section 160.57 of the criminal
44 procedure law.

45 § 5. Subdivision 16 of section 296 of the executive law, as amended by
46 section 2 of subpart 0 of part II of chapter 55 of the laws of 2019, is
47 amended to read as follows:

48 16. It shall be an unlawful discriminatory practice, unless specif-
49 ically required or permitted by statute, for any person, agency, bureau,
50 corporation or association, including the state and any political subdi-
51 vision thereof, to make any inquiry about, whether in any form of appli-
52 cation or otherwise, or to act upon adversely to the individual
53 involved, any arrest or criminal accusation of such individual not then
54 pending against that individual which was followed by a termination of
55 that criminal action or proceeding in favor of such individual, as
56 defined in subdivision two of section 160.50 of the criminal procedure

1 law, or by an order adjourning the criminal action in contemplation of
2 dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10
3 of the criminal procedure law, or by a youthful offender adjudication,
4 as defined in subdivision one of section 720.35 of the criminal proce-
5 dure law, or by a conviction for a violation sealed pursuant to section
6 160.55 of the criminal procedure law or by a conviction which is sealed
7 pursuant to section 160.59 or 160.58 of the criminal procedure law, or
8 by a conviction which is sealed pursuant to section 160.57 of the crimi-
9 nal procedure law, except where such conviction record is accessed
10 pursuant to subparagraph (vii), (viii), or (xvi) of paragraph (d) of
11 subdivision one of section 160.57 of the criminal procedure law, in
12 connection with the licensing, housing, employment, including volunteer
13 positions, or providing of credit or insurance to such individual;
14 provided, further, that no person shall be required to divulge informa-
15 tion pertaining to any arrest or criminal accusation of such individual
16 not then pending against that individual which was followed by a termi-
17 nation of that criminal action or proceeding in favor of such individ-
18 ual, as defined in subdivision two of section 160.50 of the criminal
19 procedure law, or by an order adjourning the criminal action in contem-
20 plation of dismissal, pursuant to section 170.55 or 170.56, 210.46,
21 210.47 or 215.10 of the criminal procedure law, or by a youthful offen-
22 der adjudication, as defined in subdivision one of section 720.35 of the
23 criminal procedure law, or by a conviction for a violation sealed pursu-
24 ant to section 160.55 of the criminal procedure law, or by a conviction
25 which is sealed pursuant to section 160.58 or 160.59 of the criminal
26 procedure law, or by a conviction which is sealed pursuant to section
27 160.57 of the criminal procedure law, except where such conviction
28 record is accessed pursuant to subparagraph (vii), (viii), or (xvi) of
29 paragraph (d) of subdivision one of section 160.57 of the criminal
30 procedure law. An individual required or requested to provide informa-
31 tion in violation of this subdivision may respond as if the arrest,
32 criminal accusation, or disposition of such arrest or criminal accusa-
33 tion did not occur. The provisions of this subdivision shall not apply
34 to the licensing activities of governmental bodies in relation to the
35 regulation of guns, firearms and other deadly weapons or in relation to
36 an application for employment as a police officer or peace officer as
37 those terms are defined in subdivisions thirty-three and thirty-four of
38 section 1.20 of the criminal procedure law; provided further that the
39 provisions of this subdivision shall not apply to an application for
40 employment or membership in any law enforcement agency with respect to
41 any arrest or criminal accusation which was followed by a youthful
42 offender adjudication, as defined in subdivision one of section 720.35
43 of the criminal procedure law, or by a conviction for a violation sealed
44 pursuant to section 160.55 of the criminal procedure law, or by a
45 conviction which is sealed pursuant to section 160.58 or 160.59 of the
46 criminal procedure law, or by a conviction which is sealed pursuant to
47 section 160.57 of the criminal procedure law. For purposes of this
48 subdivision, an action which has been adjourned in contemplation of
49 dismissal, pursuant to section 170.55 or 170.56, 210.46, 210.47 or
50 215.10 of the criminal procedure law, shall not be considered a pending
51 action, unless the order to adjourn in contemplation of dismissal is
52 revoked and the case is restored to the calendar for further prose-
53 cution.

54 § 6. Section 9 of the correction law, as added by section 2 of part 00
55 of chapter 56 of the laws of 2010, the section heading as amended by
56 chapter 322 of the laws of 2021, is amended to read as follows:

1 § 9. Access to information of incarcerated individuals via the inter-
2 net. Notwithstanding any provision of law to the contrary, any informa-
3 tion relating to the conviction of a person[~~, except for a person~~
4 ~~convicted of an offense that would make such person ineligible for merit~~
5 ~~time under section eight hundred three of this chapter or an offense for~~
6 ~~which registration as a sex offender is required as set forth in subdivi-~~
7 ~~sion two or three of section one hundred sixty eight a of this chap-~~
8 ~~ter,~~] that is posted on a website maintained by or for the department,
9 under article six of the public officers law, may be posted on such
10 website for a period not to exceed [~~five~~] three years after the expira-
11 tion of such person's sentence of imprisonment and at the conclusion of
12 any period of parole or post-release supervision[~~, provided, however,~~
13 ~~that in the case of a person who has been committed to the department on~~
14 ~~more than one occasion, the department may post conviction information~~
15 ~~relating to any prior commitment on such website for a period not to~~
16 ~~exceed five years after the expiration of such person's sentence of~~
17 ~~imprisonment and any period of parole or post-release supervision aris-~~
18 ~~ing from the most recent commitment to the department].~~

19 § 7. The civil rights law is amended by adding a new section 50-g to
20 read as follows:

21 § 50-g. Disclosure of convictions sealed pursuant to section 160.57 of
22 the criminal procedure law. 1. Any person who has had a conviction
23 sealed pursuant to section 160.57 of the criminal procedure law may
24 bring a cause of action for damages against a party who, without consent
25 of such person, discloses such sealed conviction where: (a) the respond-
26 ent owed such person a duty of care pursuant to such section; (b) the
27 respondent knowingly and willfully breached such duty; (c) the disclo-
28 sure caused injury to such person; and (d) respondent's breach of that
29 duty was a substantial factor in the events that caused the injury
30 suffered by such person. The provisions of this section are in addition
31 to, but shall not supersede, any other rights or remedies available in
32 law or equity.

33 2. For purposes of this section, a party owes a duty of care to a
34 person who has had a conviction sealed pursuant to section 160.57 of the
35 criminal procedure law when the party is under an obligation pursuant to
36 subdivision two of such section to seal information, records, documents
37 or papers related to such conviction, or when the party obtains access
38 to records of such conviction for a specified purpose pursuant to para-
39 graph (d) of subdivision one, or subdivision three of such section.

40 § 8. Severability. If any provision of this act or the application
41 thereof to any person, corporation or circumstances is held invalid,
42 such invalidity shall not affect other provisions or applications of the
43 act which can be given effect without the invalid provision or applica-
44 tion, and to this end the provisions of this act are declared to be
45 severable.

46 § 9. This act shall take effect one year after it shall have become a
47 law. Effective immediately, the addition, amendment and/or repeal of
48 any rule or regulation necessary for the implementation of this act on
49 its effective date are authorized to be made and completed on or before
50 such date.