

STATE OF NEW YORK

1029--C

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 -- 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."

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

LBD01987-06-3

1 He also noted that the legislation in no way required the hiring of
2 someone with a criminal record but provided reasonable standards to be
3 applied when considering the employment of such an individual, and that
4 merely having a criminal record could not be the sole basis for denying
5 employment. While New York has made great strides in fighting discrimi-
6 nation - on the basis of many attributes, experiences, and circumstances
7 of New Yorkers - discrimination on the basis of past convictions still
8 persists.

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

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

30 § 2. The criminal procedure law is amended by adding a new section
31 160.57 to read as follows:

32 § 160.57 Automatic sealing of convictions.

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

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

38 (b) Criminal convictions shall be sealed upon satisfaction of the
39 following conditions:

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

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

1 of time for such prior conviction shall start upon the same date as the
2 time calculation starts for the subsequent criminal conviction;

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

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

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

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

13 (vii) the defendant is a natural person;

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

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

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

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

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

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

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

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

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

1 (vi) when an individual is a defendant in a criminal proceeding or
2 proceedings brought in a criminal court pursuant to article six-C of the
3 correction law and the sealed records of conviction of a third party are
4 integral to their defense. In such instances, use of sealed records of
5 conviction shall be requested upon ex parte motion in any superior
6 court, or in any district court, city court or the criminal court of the
7 city of New York provided that such court is where the action is pend-
8 ing. The applicant must demonstrate to the satisfaction of the court
9 that the records will be used for the purpose of this subparagraph;

10 (vii) individuals or entities that are required by a local law in
11 effect one year prior to the chapter of the laws of two thousand twen-
12 ty-three that added this section, a state law, or a federal law or regu-
13 lation to request and receive a fingerprint-based check of criminal
14 history information. Nothing herein shall prohibit the commissioner of
15 education or the office of school personnel review and accountability
16 from receiving or using convictions sealed pursuant to this section for
17 purposes of subdivisions seven, seven-a and seven-b of section three
18 hundred five of the education law;

19 (viii) individuals or entities that are authorized by a local law in
20 effect one year prior to the chapter of the laws of two thousand twen-
21 ty-three that added this section, a state law, or a federal law or regu-
22 lation to request and receive a fingerprint-based check of criminal
23 history information in relation to the individual's fitness to have
24 responsibility for the safety and well-being of children or adolescents,
25 elderly individuals, individuals with disabilities, or otherwise vulner-
26 able populations. The division of criminal justice services shall main-
27 tain an up to date list of citations of the local, state, and federal
28 statutes or federal regulations authorizing the access described herein;

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

36 (x) any federal, state or local officer or agency with responsibility
37 for the issuance of licenses to possess a firearm, rifle or shotgun or
38 with responsibility for conducting background checks before transfer or
39 sale of a firearm or explosive, when the officer or agency is acting
40 pursuant to such responsibility. This includes the criminal justice
41 information services division of the federal bureau of investigation,
42 for the purposes of responding to queries to the national instant back-
43 ground check system regarding attempts to purchase or otherwise take
44 possession of firearms, rifles or shotguns, as defined in 18 U.S.C. §
45 921 (A)(3);

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

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

1 (xiii) when an individual seeks to avail themselves of a public
2 program or benefit, including but not limited to an immigration benefit,
3 for which the sealed records of conviction of a third party are other-
4 wise authorized by law or legal process to be disclosed in furtherance
5 of their application for such program or benefit. In such instances, the
6 individual or their attorney shall request the use of sealed records
7 pursuant to a form as prescribed by the chief administrator of the
8 courts pursuant to paragraph (ee) of subdivision two of section two
9 hundred twelve of the judiciary law;

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

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

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

53 (xvii) the office of mental health and the office for people with
54 developmental disabilities, where such agencies are statutorily author-
55 ized to receive such information, provided further, that such informa-
56 tion may also be made available for case review under section 10.05 of

1 the mental hygiene law, as well as to providers licensed, funded, desig-
2 nated, certified or otherwise authorized by the office of mental health
3 or the office for people with developmental disabilities, where such
4 information is included in the clinical record of any person under the
5 care of or receiving services from such provider or program.

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

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

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

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

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

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

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

54 (d) Nothing in this section shall be construed to interfere with the
55 applicable laws, rules and regulations requiring the division of crimi-

1 nal justice services to administer and maintain criminal history records
2 as set forth in article thirty-five of the executive law.

3 3. (a) Nothing in this section requires the sealing or destruction of
4 DNA information maintained in the New York state DNA database, in
5 accordance with article forty-nine-B of the executive law, of an indi-
6 vidual whose conviction is sealed under this section.

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

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

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

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

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

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

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

1 6. The office of court administration shall make diligent efforts to
2 promptly seal all conviction records eligible for sealing under this
3 section where such convictions were entered on or before the effective
4 date of this section and, in any event, shall ensure sealing of such
5 convictions is complete no later than three years after such effective
6 date.

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

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

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

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

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

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

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

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

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

45 (ee) Promulgate a standardized form and process for individuals
46 authorized to request sealed records pursuant to subparagraph (xiii) of
47 paragraph (d) of subdivision one of section 160.57 of the criminal
48 procedure law.

49 § 5. Subdivision 16 of section 296 of the executive law, as amended by
50 section 2 of subpart O of part II of chapter 55 of the laws of 2019, is
51 amended to read as follows:

52 16. It shall be an unlawful discriminatory practice, unless specif-
53 ically required or permitted by statute, for any person, agency, bureau,
54 corporation or association, including the state and any political subdi-
55 vision thereof, to make any inquiry about, whether in any form of appli-
56 cation or otherwise, or to act upon adversely to the individual

1 involved, any arrest or criminal accusation of such individual not then
2 pending against that individual which was followed by a termination of
3 that criminal action or proceeding in favor of such individual, as
4 defined in subdivision two of section 160.50 of the criminal procedure
5 law, or by an order adjourning the criminal action in contemplation of
6 dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10
7 of the criminal procedure law, or by a youthful offender adjudication,
8 as defined in subdivision one of section 720.35 of the criminal proce-
9 dure law, or by a conviction for a violation sealed pursuant to section
10 160.55 of the criminal procedure law or by a conviction which is sealed
11 pursuant to section 160.59 or 160.58 of the criminal procedure law, or
12 by a conviction which is sealed pursuant to section 160.57 of the crimi-
13 nal procedure law, except where such conviction record is accessed
14 pursuant to subparagraph (vii), (viii), or (xvi) of paragraph (d) of
15 subdivision one of section 160.57 of the criminal procedure law, in
16 connection with the licensing, housing, employment, including volunteer
17 positions, or providing of credit or insurance to such individual;
18 provided, further, that no person shall be required to divulge informa-
19 tion pertaining to any arrest or criminal accusation of such individual
20 not then pending against that individual which was followed by a termi-
21 nation of that criminal action or proceeding in favor of such individ-
22 ual, as defined in subdivision two of section 160.50 of the criminal
23 procedure law, or by an order adjourning the criminal action in contem-
24 plation of dismissal, pursuant to section 170.55 or 170.56, 210.46,
25 210.47 or 215.10 of the criminal procedure law, or by a youthful offen-
26 der adjudication, as defined in subdivision one of section 720.35 of the
27 criminal procedure law, or by a conviction for a violation sealed pursu-
28 ant to section 160.55 of the criminal procedure law, or by a conviction
29 which is sealed pursuant to section 160.58 or 160.59 of the criminal
30 procedure law, or by a conviction which is sealed pursuant to section
31 160.57 of the criminal procedure law, except where such conviction
32 record is accessed pursuant to subparagraph (vii), (viii), or (xvi) of
33 paragraph (d) of subdivision one of section 160.57 of the criminal
34 procedure law. An individual required or requested to provide informa-
35 tion in violation of this subdivision may respond as if the arrest,
36 criminal accusation, or disposition of such arrest or criminal accusa-
37 tion did not occur. The provisions of this subdivision shall not apply
38 to the licensing activities of governmental bodies in relation to the
39 regulation of guns, firearms and other deadly weapons or in relation to
40 an application for employment as a police officer or peace officer as
41 those terms are defined in subdivisions thirty-three and thirty-four of
42 section 1.20 of the criminal procedure law; provided further that the
43 provisions of this subdivision shall not apply to an application for
44 employment or membership in any law enforcement agency with respect to
45 any arrest or criminal accusation which was followed by a youthful
46 offender adjudication, as defined in subdivision one of section 720.35
47 of the criminal procedure law, or by a conviction for a violation sealed
48 pursuant to section 160.55 of the criminal procedure law, or by a
49 conviction which is sealed pursuant to section 160.58 or 160.59 of the
50 criminal procedure law, or by a conviction which is sealed pursuant to
51 section 160.57 of the criminal procedure law. For purposes of this
52 subdivision, an action which has been adjourned in contemplation of
53 dismissal, pursuant to section 170.55 or 170.56, 210.46, 210.47 or
54 215.10 of the criminal procedure law, shall not be considered a pending
55 action, unless the order to adjourn in contemplation of dismissal is

1 revoked and the case is restored to the calendar for further prose-
2 cution.

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

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

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

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

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

45 § 8. Paragraph (a) of subdivision 1 of section 837-n of the executive
46 law, as added by chapter 3 of the laws of 1998, is amended to read as
47 follows:

48 (a) "Caregiver" shall mean a person employed to provide [~~fifteen or~~
49 ~~more hours of~~] care [~~per week~~] to a child or children, or an elderly or
50 vulnerable adult in the home of such a child [~~or~~], children, or elderly
51 or vulnerable adult.

52 § 9. Severability. If any provision of this act or the application
53 thereof to any person, corporation or circumstances is held invalid,
54 such invalidity shall not affect other provisions or applications of the
55 act which can be given effect without the invalid provision or applica-

1 tion, and to this end the provisions of this act are declared to be
2 severable.
3 § 10. This act shall take effect one year after it shall have become a
4 law. Effective immediately, the addition, amendment and/or repeal of
5 any rule or regulation necessary for the implementation of this act on
6 its effective date are authorized to be made and completed on or before
7 such date.