ORDINANCES

25.91.21  AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING THE ZONING MAP ACCORDINGLY

26.91.21  AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)

27.91.21  AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-OWNED PROPERTY AT 59 FIRST STREET (Tax Map Parcel Number 65.82-1-64)

RESOLUTIONS

73.91.21R  A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY SUPPORTING THE CLEAN SLATE ACT
Council Member Love introduced the following:

ORDINANCE 25.91.21

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO-FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING THE ZONING MAP ACCORDINGLY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 375 of the Code of the City of Albany (Unified Sustainable Development Ordinance) and the Official Zoning Map are hereby amended to change the zoning classifications of 77, 79, 81, 83, 83.5, and 85 Sherman Street from Two-Family (R-2) to Mixed-Use Community Urban (MU-CU), said properties being more particularly described as follows:

All those parcels of land situated in the City of Albany, County of Albany and State of New York, identified on the tax map as follows:

Parcel 1
Section: 65
Block: 72
Lot: 3
Sub Lot: 37

Said premises more commonly known as 77 Sherman Street measuring approximately 29.6’ by 70’.

Parcel 2
Section: 65
Block: 72
Lot: 3
Sub Lot: 38

Said premises more commonly known as 79 Sherman Street measuring approximately 28.6’ by 70’.

Parcel 3
Section: 65
Block: 72
Lot: 3
Sub Lot: 39

Said premises more commonly known as 81 Sherman Street measuring approximately 21.85’ by 70’.
Parcel 4
Section: 65
Block: 72
Lot: 3
Sub Lot: 40

Said premises more commonly known as 83 Sherman Street measuring approximately 18.86’ by 70’

Parcel 5
Section: 65
Block: 72
Lot: 3
Sub Lot: 41

Said premises more commonly known as 83.5 Sherman Street measuring approximately 19.28’ by 70’

Parcel 6
Section: 65
Block: 72
Lot: 3
Sub Lot: 42

Said premises more commonly known as 85 Sherman Street measuring approximately 29.32’ by 70’

Section 2. This ordinance shall take effect immediately.

APPROVED AS TO FORM THIS
24TH DAY OF AUGUST, 2021

________________________________
Corporation Counsel
TO: Danielle Gillespie, City Clerk
FROM: John-Raphael Pichardo, Esq., Research Counsel
       Zach Powell, Senior Planner, AICP
RE: COMMON COUNCIL SUPPORTING MEMORANDUM
DATE: August 24, 2021
SPONSOR: Council Member Love

Ordinance 25.91.21

TITLE
AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY
(UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING
CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO-
FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING
THE ZONING MAP ACCORDINGLY

GENERAL PURPOSE OF LEGISLATION
The proposed zoning map amendment is necessary to allow the Legal Aid Society of Northeastern
New York to construct adequate parking for its staff and low income clients at the Center for Civil
Legal Services, 95 Central Avenue. Legal Aid provides free urgent civil legal services to low
income and vulnerable clients. Effective mid-June, the staff at the Center will total 51 people and
there are currently only 28 spaces.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW:
Legal Aid Society of Northeastern New York currently has a total of 28 spaces (16 located directly
behind the building and 12 across Sherman Street. Legal Aid Society of Northeastern New York
has acquired lots 85, 79, 77, 73, 71, and 69 Sherman Street to create one continuous parking lot on
the opposite side of Sherman Street. The proposed parking lot will create 44 parking spaces. With
the closure of Legal Aid Society’s rental space in mid-town, a total of 15 more employees will be
returning to the office as soon as possible. Current plans call for return by mid-June; if adequate
parking is not available, staff would be forced to work from home during construction.

TIME FRAME FOR PASSAGE:
As soon as possible.

FISCAL IMPACTS:
None.
Council Member Love introduced the following:

ORDINANCE 26.91.21

AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. It is hereby ordered and directed that all the right, title and interest of the City of Albany in and to the vacant, 0.05± acre parcel at 142 Livingston Avenue (tax map parcel number 65.74-4-13) be sold at private sale, pursuant to the provisions of Local Law No. 4 of 1984, to Rocio Villa,

SUBJECT to all easements, restrictions, and rights of way of record.

Section 2. It is hereby determined that the aforesaid property has been abandoned for municipal or public purposes.

Section 3. The form, content, terms, and conditions of such conveyance shall be approved by the Corporation Counsel and shall be subject to the approval of the Board of Estimate and Apportionment, and if approved by said Board, the Mayor is hereby authorized and directed to execute a proper deed of conveyance for valuable consideration.

Section 4. This ordinance shall take effect immediately.

APPROVED AS TO FORM THIS
26TH DAY OF AUGUST, 2021

________________________________
Corporation Counsel
To: Danielle Gillespie, City Clerk

From: Brett Williams, Esq., Sr. Assistant Corporation Counsel

Re: Request for Common Council Legislation
   Supporting Memorandum

Date: August 26, 2021

SPONSOR Council Member Love

ORDINANCE 26.91.21

TITLE
AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)

GENERAL PURPOSE OF LEGISLATION
Rocio Villa, who owns and resides at 23 North Swan Street, wishes to purchase this vacant parcel, which abuts the rear of her existing property, to use as parking. Ms. Rocio has informed us that “our family currently parking our vehicles on North Swan St. and Livingston. We were victims of several accidents on Swan St. due to the high traffic and parking issues in the area.” Ms. Rocio added that she wants to “keep the lot clean and secure to improve the area.”

The TRC expressed no concerns that would prevent the sale of this property.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW
The sale of City-owned property requires Common Council approval.

FISCAL IMPACT(S)
The property is assessed for $1,500 and will be sold for that amount.
Council Member Love introduced the following:

ORDINANCE 27.91.21

AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-OWNED PROPERTY LOCATED AT 59 FIRST STREET (Tax Map Parcel Number 65.82-1-64)

The City of Albany, in Common Council convened, does hereby ordain and enact:

**Section 1.** It is hereby ordered and directed that all the right, title and interest of the City of Albany in and to the vacant, 0.08± acre parcel at 59 First Street (tax map parcel number 65.82-1-64) be sold at private sale, pursuant to the provisions of Local Law No. 4 of 1984, to Kim Champion,

**SUBJECT** to all easements, restrictions, and rights of way of record.

**Section 2.** It is hereby determined that the aforesaid property has been abandoned for municipal or public purposes.

**Section 3.** The form, content, terms, and conditions of such conveyance shall be approved by the Corporation Counsel and shall be subject to the approval of the Board of Estimate and Apportionment, and if approved by said Board, the Mayor is hereby authorized and directed to execute a proper deed of conveyance for valuable consideration.

**Section 4.** This ordinance shall take effect immediately.

APPROVED AS TO FORM THIS 26TH DAY OF AUGUST, 2021

________________________________
Corporation Counsel
To: Danielle Gillespie, City Clerk
From: Brett Williams, Esq., Sr. Assistant Corporation Counsel
Re: Request for Common Council Legislation
   Supporting Memorandum
Date: August 26, 2021

SPONSOR Council Member Love

ORDINANCE 27.91.21

TITLE
AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-
OWNED PROPERTY LOCATED AT 59 FIRST STREET (Tax Map Parcel Number 65.82-
1-64)

GENERAL PURPOSE OF LEGISLATION
Kim Champion, who also owns 6 Cuyler Street, 139 4th Avenue, 77 Elizabeth Street, 41 Judson
Street, and 57 and 61 First Street wishes to purchase 59 First Street to “utilize the space for
gardening.”

The TRC expressed no concerns that would prevent the sale of this property.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW
The sale of City-owned property requires Common Council approval.

FISCAL IMPACT(S)
The property is assessed for $2,300 and will be sold for that amount.
RESOLUTION NUMBER 73.91.21R

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY SUPPORTING THE CLEAN SLATE ACT

WHEREAS, it is estimated that 2.3 million people in New York State have criminal conviction records; and

WHEREAS, people with criminal conviction records face thousands of civil barriers to employment, licensing, housing and educational opportunities long after they have completed their sentences; and

WHEREAS, racial disparities and socio-economic discrimination are rampant throughout the criminal legal system, and statistics and anecdotal evidence show that convictions for even low-level offenses result in cyclical harm and structural instability for individuals, families and communities; and

WHEREAS, excluding individuals with criminal records from full participation in society through a system of perpetual punishment creates intergenerational trauma and exacerbates racial and economic inequality; and

WHEREAS, Black and Latinx New Yorkers are far more likely to be stopped, arrested, prosecuted, convicted and incarcerated by the criminal legal system than white New Yorkers; and

WHEREAS, people of color are far more likely to be discriminated against based on a conviction record; and

WHEREAS, it has been estimated that people who have been to prison lose an average of $484,400 in earnings over their lifetime; and

WHEREAS, it has been estimated that excluding individuals with conviction histories from the workforce costs the economy between $78 billion and $87 billion in lost gross domestic product; and

WHEREAS, approximately 95% of incarcerated people return to their communities after serving their sentences; and

WHEREAS, giving people access to jobs, housing, education and licenses to practice a trade increases their participation in the economy and reduces the likelihood they will return to prison, thereby making our communities safer; and

WHEREAS, only approximately 2,500 of an estimated 600,000 eligible people — or less than 0.5% — have had their records sealed since New York’s current application-based sealing law went into effect in 2017; and

WHEREAS, A system of automatic sealing and expungement of criminal records is essential to provide relief to those who need it most; and

WHEREAS, the “Clean Slate Act” (S1553B/A6399A), sponsored by Senator Zellnor Myrie and Assembly Member Catalina Cruz, would require that most criminal records be sealed automatically after a specified period of time; and
WHEREAS, the Clean Slate Act would remove systemic barriers to stable housing, employment and education and allow millions of New Yorkers to participate fully in civic life and in their communities; and

WHEREAS, numerous other states, including Pennsylvania, Michigan, Utah and Connecticut, have already passed “Clean Slate” legislation.

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Albany calls on the New York State Legislature to pass, and the Governor to sign, the Clean Slate Act.
To: Danielle Gillespie, City Clerk
From: John-Raphael Pichardo, Esq., Research Counsel
Re: Request for Common Council Legislation Supporting Memorandum
Date: August 25, 2021
Sponsors: Council Members Anane & Johnson

RESOLUTION NUMBER 73.91.21R

TITLE
A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY SUPPORTING THE CLEAN SLATE ACT

GENERAL PURPOSE OF LEGISLATION
Supporting the passage of the Clean Slate Act

FISCAL IMPACT(S)
None.
STATE OF NEW YORK

1553--B

2021-2022 Regular Sessions

IN SENATE

January 13, 2021

Introduced by Sens. MYRIE, BAILEY, BENJAMIN, BIAGGI, BRISPORT, BROUK, CONRIE, COONEY, GIANARIS, HINCHEY, HOYMAN, JACKSON, KAVANAGH, MAY, RAMES, RIVERA, SALAZAR, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee.

AN ACT to amend the criminal procedure law, the executive law and the correction 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:

Section 1. The criminal procedure law is amended by adding a new section 160.57 to read as follows:

§ 160.57 Automatic sealing of convictions.

1. Convictions for certain traffic infractions and violations or any crime defined in the laws of this state shall be sealed in accordance with paragraph (a) of this subdivision as follows:

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

(b) Criminal convictions for misdemeanors and felonies shall be sealed upon satisfaction of the following conditions:

(i) at least three years have passed from the imposition of sentence on the defendant's most recent misdemeanor conviction in this state and at least seven years have passed since the imposition of sentence on the defendant's most recent felony conviction in this state;

(ii) the defendant does not have a criminal charge pending in this state;

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

LBD07615-07-1
(iii) the defendant is not currently under the supervision of any probation or parole department for the eligible conviction; and
(iv) the conviction is not defined as a sex offense under section one hundred sixty-eight-a of the correction law.
(c) Where a conviction is eligible for sealing pursuant to this paragraph before, on, or after the effective date of this section, the division of criminal justice services shall immediately notify the office of court administration, the court of conviction, and the heads of all appropriate police and sheriff departments that the conviction is sealed.
(d) Records of convictions sealed pursuant to this paragraph shall not be accessed, made available to any person or public or private agency, or used by any state agency covered by subdivision three of this section except for:
(i) the defendant and such defendant's attorney;
(ii) any court or prosecutor for the purposes of a pending criminal action;
(iii) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law and federal and state law enforcement agencies, when acting within the scope of their law enforcement duties;
(iv) the court, prosecutor, and defense counsel if the defendant becomes a witness in a criminal proceeding, or the claimant and respondent if the defendant becomes a witness in a civil proceeding;
(v) when an individual is a defendant in a criminal action and the sealed records of conviction of a third-party are integral to their defense. In such instances, use of sealed records shall be requested upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court is where the action is pending. The applicant must demonstrate to the satisfaction of the court that the records will be used for the purpose of this subparagraph;
(vi) entities that are required by state or federal law to request a fingerprint-based check of criminal history information, provided, however, that every person whose information is retrieved pursuant to this paragraph shall be furnished with a copy of such information and afforded an opportunity to explain or contest the information to the entity;
(vii) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer, provided, however, that every person who is an applicant shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation therefor;
(viii) any federal, state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun or with responsibility for conducting background checks before transfer or sale of a firearm or explosive, when the officer or agency is acting pursuant to such responsibility. This includes the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant background check system regarding attempts to purchase or otherwise take possession of firearms, rifles or shotguns, as defined in 18 U.S.C. § 921 (A)(3);
(ix) for the purposes of civilian investigation or evaluation of a
civilian complaint or civil action concerning law enforcement or prose-
cution actions, upon ex parte motion in any superior court, or in any
district court, city court or the criminal court of the city of New York
provided that such court sealed the record; the applicant must demon-
strate to the satisfaction of the court that the records will be used
for the purposes of this subparagraph; and
(x) for information provided to an individual or entity pursuant to
paragraph (e) of subdivision four of section eight hundred thirty-seven
of the executive law or for bona fide research purposes provided all
identifying information is removed.
(e) Where the sealing required by this paragraph has not taken place,
or where supporting court records cannot be located or have been
destroyed, and a defendant or his attorney submits notification of
such fact to the division of criminal justice services, as prescribed in
subdivision twenty-three of section eight hundred thirty-seven of the
executive law, within thirty days of such notice to the division, the
conviction shall be sealed as set forth in this subdivision.
2. In calculating the time periods under this section, any period of
time during which the defendant was incarcerated shall be excluded and
such time period shall be extended by a period equal to the time served
under such incarceration.
3. Where a conviction is eligible for sealing pursuant to this section
before, on, or after the effective date of this section, the commission-
er of the division of criminal justice services shall immediately notify
the office of court administration, the court of conviction and the
heads of all appropriate police departments, prosecutors' offices and
law enforcement agencies that the conviction is sealed. Upon receipt of
such notification, records of or relating to such conviction shall be
immediately sealed.
(a) Any state agency that possesses information, records, documents or
papers related to the eligible conviction shall seal them as follows:
(i) Every photograph of such defendant and photographic plates or
proof, and all palmprints, fingerprints and retina scans taken or made
of such individual pursuant to the provisions of this article in regard
to the eligible conviction, and all duplicates, reproductions, and
copies thereof, except a digital fingerprint that is on file with the
division of criminal justice services for a conviction that has not been
sealed pursuant to this section or section 160.50 of this article, shall
forthwith be destroyed by the division of criminal justice services and
by any police department, prosecutor's office or law enforcement agency
having any such photograph, photographic plate or proof, palmprint,
fingerprints or retina scan in its possession or under its control.
Where fingerprints subject to the provisions of this section have been
received by the division of criminal justice services and have been
filed by the division as digital images, such images may be retained,
provided that a fingerprint card of the individual is on file with the
division which was not destroyed pursuant to this section.
(ii) Every official record and paper and duplicates and copies there-
of, including, but not limited to, judgments and orders of a court but
not including published court decisions or opinions or records and
briefs on appeal, relating to the conviction, on file with the agency
shall be marked as sealed by conspicuously indicating on the face of the
record or at the beginning of the digitized file of the record that the
record has been designated as sealed.
(b) Third-party agencies shall seal information and all records, documents and papers relating to the eligible conviction as follows:

(i) Every police department, prosecutor's office or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise forwarded to any agency of the United States or of any other state or jurisdiction outside of this state copies of any such photographs, photographic plates or proofs, palmprints, fingerprints or retina scans, shall forthwith formally inform such agency in writing that the matter has been sealed and request in writing that all such copies be destroyed.

(ii) Every official record and paper and duplicates and copies thereof, including, but not limited to, judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the conviction, on file with the agency shall be marked as sealed by conspicuously indicating on the face of the record or at the beginning of the digitized file of the record that the record has been designated as sealed.

4. (a) Nothing in this section requires the destruction of DNA information maintained in the New York state DNA database of such individual pursuant to the provisions of the executive law in regard to the eligible conviction.

(b) Nothing in this section requires the sealing or destruction of records maintained by the department of motor vehicles, and nothing in this section shall be construed to contravene the vehicle and traffic law, the federal driver's privacy protection act (18 U.S.C. 2721 et. seq.), or the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31311).

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

(d) Nothing in this section shall prohibit entities required by federal law, or by rules and regulations promulgated by a self-regulatory organization that has been created under federal law, from making an inquiry about or considering an applicant's criminal history for purposes of employment, licensing, or clearance from inquiring into convictions sealed pursuant to this section.

(e) In any civil action, an official record of a conviction that has been sealed pursuant to this section may not be introduced as evidence of negligence against a person or entity that provided employment, contract labor or services, volunteer work, licensing, tenancy, a home purchase, a mortgage, an education, a loan, or insurance if such record was sealed and was not provided to the person or entity by or on behalf of a governmental entity in accordance with this section in response to such person's or entity's authorized and timely request for conviction history information.
(f) A person or entity described in this subdivision, acting reasonably and in good faith, may not have a duty to investigate the fact of a prior conviction that has been sealed pursuant to this section.

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

6. Sealing as set forth in subdivision three of this section is without prejudice to a defendant or their attorney seeking further relief pursuant to section 440.10 of this chapter. Nothing in this section shall diminish or abrogate any rights or remedies otherwise available to the defendant.

7. All records for a conviction subject to sealing under this section where the conviction was entered on or before the effective date of this section shall receive the appropriate relief promptly and, in any event, no later than two years after such effective date.

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

9. Any defendant claiming to be aggrieved by a violation of this section shall have a cause of action in any court of appropriate jurisdiction for damages, including punitive damages, and such other remedies as may be appropriate. The provisions of this article shall also be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law.

§ 2. Subdivision 3 of section 845-d of the executive law, as added by section 1 of subpart N of part II of chapter 55 of the laws of 2019, is amended to read as follows:

3. Nothing in this section shall authorize the division to provide criminal history information that is not otherwise authorized by law or that is sealed pursuant to section 160.50, 160.55, 160.57, 160.58 or 160.59 of the criminal procedure law.

§ 3. Section 837 of the executive law is amended by adding a new subdivision 23 to read as follows:

23. Promulgate a standardized form for use by individuals to notify the division of criminal justice services of convictions subject to sealing under section 160.57 of the criminal procedure law, but for which the division has not taken the requisite action for related records.

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

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal proce-
dure law, or by a conviction for a violation sealed pursuant to section
160.55 of the criminal procedure law or by a conviction which is sealed
pursuant to section 160.59 or 160.58 of the criminal procedure law, or
by a conviction which is sealed pursuant to section 160.57 of the crim-
inal procedure law, in connection with the licensing, housing, employ-
ment, including volunteer positions, or providing of credit or insurance
to such individual; provided, further, that no person shall be required
to divulge information pertaining to any arrest or criminal accusation
of such individual not then pending against that individual which was
followed by a termination of that criminal action or proceeding in favor
of such individual, as defined in subdivision two of section 160.50 of
the criminal procedure law, or by an order adjourning the criminal
action in contemplation of dismissal, pursuant to section 170.55 or
170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, or by a
Youthful offender adjudication, as defined in subdivision one of section
720.35 of the criminal procedure law, or by a conviction for a violation
sealed pursuant to section 160.55 of the criminal procedure law, or by a
conviction which is sealed pursuant to section 160.58 or 160.59 of the
criminal procedure law, or by a conviction which is sealed pursuant to
section 160.57 of the criminal procedure law. An individual required or
requested to provide information in violation of this subdivision may
respond as if the arrest, criminal accusation, or disposition of such
arrest or criminal accusation did not occur. The provisions of this
subdivision shall not apply to the licensing activities of governmental
bodies in relation to the regulation of guns, firearms and other deadly
weapons or in relation to an application for employment as a police
officer or peace officer as those terms are defined in subdivisions
thirty-three and thirty-four of section 1.20 of the criminal procedure
law; provided further that the provisions of this subdivision shall not
apply to an application for employment or membership in any law enforce-
ment agency with respect to any arrest or criminal accusation which was
followed by a youthful offender adjudication, as defined in subdivision
one of section 720.35 of the criminal procedure law, or by a conviction
for a violation sealed pursuant to section 160.55 of the criminal proced-
ure law, or by a conviction which is sealed pursuant to section 160.58
or 160.59 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law. For
purposes of this subdivision, an action which has been adjourned in
contemplation of dismissal, pursuant to section 170.55 or 170.56,
210.46, 210.47 or 215.10 of the criminal procedure law, shall not be
considered a pending action, unless the order to adjourn in contem-
plation of dismissal is revoked and the case is restored to the calendar
for further prosecution.
§ 5. Section 9 of the correction law, as added by section 2 of part 00
of chapter 56 of the laws of 2010, is amended to read as follows:
§ 9. Access to inmate information via the internet. Notwithstanding
any provision of law to the contrary, any information relating to the
conviction of a person (except for a person convicted of an offense
that would make such person ineligible for merit time under section
eight hundred three of this chapter or an offense for which registration
as a sex offender is required in section two or three
of section one hundred sixty-eight of this chapter) that is posted on
a website maintained by or for the department, under article six of the
public officers law, may be posted on such website for a period not to
exceed [five] three years after the expiration of such person’s sentence
of imprisonment and at the conclusion of any period of parole or post-
release supervision[ provided, however, that in the case of a person
who has been committed to the department on more than one occasion, the
department may post conviction information relating to any prior commit-
ment on such website for a period not to exceed five years after the
expiration of such person's sentence of imprisonment and any period of
parole or post-release supervision arising from the most recent commit-
ment to the department].
§ 6. Severability. If any provision of this act or the application
thereof to any person, corporation or circumstances is held invalid,
such invalidity shall not affect other provisions or applications of the
act which can be given effect without the invalid provision or applica-
tion, and to this end the provisions of this act are declared to be
severable.
§ 7. This act shall take effect on the one hundred twentieth day after
it shall have become a law.
S1553B (ACTIVE) - SPONSOR MEMO

BILL NUMBER: S1553B

SPONSOR: MYRIE

TITLE OF BILL:
An act to amend the criminal procedure law, the executive law and the correction law, in relation to automatic sealing of certain convictions

PURPOSE:
This bill gives effect and meaning to the often repeated aphorism that people who have completed their sentences have "paid their debt to society." This bill will address some of the collateral consequences that follow a criminal conviction by requiring the automatic sealing and expungement of specified convictions. This will help to ensure that the continued punishment of those who have "paid their debt to society" will end subject to the conditions, limitations and exceptions set forth in the bill, which are summarized below.

SUMMARY OF PROVISIONS:
Section 1 amends the Criminal Procedure Law by adding a new § 160.57.

§ 160.57. Automatic sealing and expungement of certain convictions.
Applies to certain misdemeanors and felonies subject to certain conditions. Among these conditions are waiting periods for traffic infractions, misdemeanors and felonies. Other conditions require that the defendant not have a pending criminal charge in this state, not currently on probation or parole for the eligible conviction and that the defendant is not currently required to register as a sex offender. The section provides for notification of sealing to the Office of Court Administration, the court of conviction and the heads of all appropriate police and sheriff departments. The section further allows for nine exceptions. The section also sets forth the manner in which various records in the possession of any state agency and third-party agencies shall be expunged, including biometric information, photographs, fingerprints, official records and papers.
The section prohibits the release of expunged records by various entities pursuant to exceptions such as a state or local officer or agency with responsibility for the issuance of licenses to possess guns. Defendants cannot be required or permitted to waive eligibility for sealing or expungement as part of a plea bargain and such waivers are declared void and unenforceable. A defendant claiming to be aggrieved by a violation of the section shall have a cause of action for damages, including punitive damages, and such other remedies as may be appropriate. The Division of Human Rights shall also have powers of enforcement.

§ 2 amends Criminal Procedure Law § 1.20(45) to define the term "To expunge."

§ 3 amends Executive Law § 845-d(3) to include the expungement pursuant to Criminal Procedure Law § 160.57 of criminal history information that is not otherwise authorized by law or that is sealed pursuant to specific section of the Criminal Procedure Law.

§ 4 amends the Executive Law by adding a new subdivision 23 to require the promulgation of a standardized form for use by individuals to notify the Division of Criminal Justice Services of the need to take requisite action for related records.

§ 5 amends Executive Law § 26(16) to make it an unlawful discriminatory practice for any person or entity "to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual" in the case of a conviction which is sealed or expunged pursuant to CPL § 160.57 in connection with licensing, housing employment, volunteer positions or providing of credit or insurance to such individual, with certain exceptions, for example in connection with the licensing of firearms or in relation to employment as a police officer.

§ 6 amends section 9 of the correction law as added by section 2 of part 00 of chapter 56 of the laws of 2010 by requiring that an individual's information concerning their conviction that is posted on a website maintained by the department shall remain on such website no longer than three years past the maximum sentence of imprisonment has expired and at the conclusion of parole or post-release supervision.

§ 7 provides that the act shall take effect on 120 days after it shall have become a law.
JUSTIFICATION:
Once an individual's "debt to society" is paid, justice demands that the individual not be punished further in connection with employment, housing, obtaining credit, and many additional areas essential for successful participation in one's community. This Act will provide such individuals with a Clean Slate to move on with their lives and not be punished in perpetuity. It aims to end perpetual punishment by requiring the expungement of certain records subject to a variety of conditions and exceptions, making it illegal and a violation of Human Rights to unlawfully disseminate any information that has been expunged.

LEGISLATIVE HISTORY:
S8165 of 2020

FISCAL IMPLICATIONS:
Not yet determined.

EFFECTIVE DATE:
120 days after it shall have become a law.