

## **Proposal to Amend the Correction Law So That Applicants and their Attorneys Can Obtain Copies of Reports Prepared Pursuant to Applications for Certificates of Relief from Disabilities**

### **Proposed Amendment**

Under § 702.6 of the Correction Law, reports prepared at the request of courts by probation departments pursuant to an application for a certificate of relief from disabilities are supposed to be available to the applicant's attorney or the applicant if he or she has no attorney. However, for reasons explained below, these reports are frequently unavailable despite the law's clear language. Thus, we propose that § 702.6 of the Correction Law be amended to achieve the law's original intent as follows:

6. Any written report submitted to the court pursuant to this section is confidential and may not be made available to any person or public or private agency except where specifically required or permitted by statute or upon specific authorization of the court. However, it shall be made available by or at the direction of the court [for examination by] to the applicant's attorney, or the applicant himself, if he has no attorney, upon the court's issuance of a decision on the application.

### **Need for Amendment**

When attorneys try to examine reports written by a probation department at the request of the court pursuant to an application for a certificate of relief from disabilities, as provided in § 702.6 of the Correction Law, they are often informed by the court that the reports are unavailable. In some situations, the courts have stated that the reports have been shredded. The courts suggest that the attorneys get copies from the probation departments that wrote the reports. (See attached letter as an example of such a response.) However, probation departments interpret the current law as allowing only the courts to provide access to the reports. (See attached letter as example of such a response.) Thus, attorneys and applicants are left without a way to review the reports even though that right is afforded by the statute. They have no way to determine if the reports contain any inaccuracies or if there are steps that an applicant can take to improve his or her chances of obtaining a certificate on another occasion.

This amendment ensures reports will be available by 1) requiring that reports be given to applicants' attorneys or the applicants themselves if they have no attorneys, when a decision is issued, rather than merely making the reports available for inspection, and 2) allowing courts or their designees, such as probation departments, to make the reports available. Courts continue to have the authority to redact parts of the reports that they determine should not be released.

Certificates of relief from disabilities provide a valuable way for eligible people with criminal records to demonstrate rehabilitation and lift statutory bars to jobs or licenses that result from a conviction history. These certificates thus are an essential resource to support the employment of individuals with criminal histories, thereby promoting public safety. Amending correction law section 702.6 will achieve the original intent of the law and help facilitate the successful reintegration of individuals with criminal records.