

STATE OF NEW YORK

2074

2025-2026 Regular Sessions

IN ASSEMBLY

January 15, 2025

Introduced by M. of A. BERGER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the public officers law, in relation to the sealing of certain claims against law enforcement officers

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

1 Section 1. Legislative intent. The legislature finds and declares that
2 it is of critical importance that law enforcement officers who dutifully
3 serve our communities shall always have available to them the opportu-
4 nity to, among other things, secure loans for homeownership, pursue
5 further employment, and participate fully in the life of the community
6 in which they reside. The legislature further finds that the prospect of
7 their being able to do the aforementioned is dampened by the fact that
8 currently, an unfounded, unsubstantiated, or exonerated claim made
9 against a law enforcement officer remains in their respective personnel
10 record, and, absent language in their applicable collective bargaining
11 agreement, there exists no method of recourse for them to have such
12 claims removed from their record. Unfounded claims are those claims that
13 are made against law enforcement officers that, upon investigation, are
14 determined to lack factual basis and are dismissed without disciplinary
15 actions or criminal charges; unsubstantiated claims are claims that,
16 upon investigation, are shown not to have sufficient evidence to either
17 prove or disprove a complaint; exonerated claims are claims that are
18 made against a law enforcement officer where the alleged conduct
19 occurred but was determined to be lawful. It is, therefore, the intent
20 of the legislature to strike a delicate balance between maintaining
21 transparency regarding previous conduct of law enforcement officers, how
22 police departments investigate and adjudicate claims of misconduct, and
23 policing procedures more generally, and ensuring that unfounded, unsub-
24 stantiated, and exonerated claims made against law enforcement officers

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

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1 do not unjustly cast a permanent shadow over an otherwise admirable
2 career in public service.

3 § 2. The executive law is amended by adding a new section 845-f to
4 read as follows:

5 § 845-f. Sealing of certain claims against law enforcement officers.

6 1. Definitions. For purposes of this section, the following terms shall
7 have the following meanings:

8 (a) "Unfounded claim" shall mean any complaint or allegation made
9 against a law enforcement officer that, upon investigation, is deter-
10 mined to lack factual basis and is dismissed without disciplinary action
11 or criminal charges.

12 (b) "Unsubstantiated claim" shall mean any complaint or allegation
13 made against a law enforcement officer that, upon investigation, does
14 not have sufficient evidence to either prove or disprove such complaint
15 or allegation. For purposes of this section, "unsubstantiated claim"
16 shall include complaints or allegations referred to by municipalities or
17 other entities as "undetermined" or any other designation indicating
18 insufficient evidence to either prove or disprove such complaint or
19 allegation.

20 (c) "Exonerated claim" shall mean any complaint or allegation made
21 against a law enforcement officer where the alleged conduct occurred but
22 was deemed lawful and proper.

23 (d) "Law enforcement officer" shall mean a police officer as defined
24 in subdivision thirty-four of section 1.20 of the criminal procedure
25 law.

26 (e) "Seal" or "sealing" shall mean the process by which records of
27 unfounded claims are rendered inaccessible to the public, with limited
28 exceptions as set forth in this section.

29 (f) "Technical infraction" shall mean a minor rule violation by a
30 police officer, as defined in subdivision thirty-four of section 1.20 of
31 the criminal procedure law, solely related to the enforcement of admin-
32 istrative departmental rules that (i) do not involve interactions with
33 members of the public, (ii) are not of public concern, and (iii) are not
34 otherwise connected to such person's investigative, enforcement, train-
35 ing, supervision, or reporting responsibilities.

36 2. Sealing of unfounded claims, unsubstantiated claims, and exonerated
37 claims. (a) Any unfounded claim made against a law enforcement officer
38 shall be automatically sealed one year after the final determination of
39 unfounded status.

40 (b) Any exonerated claim made against a law enforcement officer shall
41 be automatically sealed upon final determination of exonerated status.

42 (c) Any unsubstantiated claim made against a law enforcement officer
43 shall be automatically sealed three years after the final determination
44 of unsubstantiated status, provided that within those three years, no
45 founded claims or disciplinary actions have occurred. Notwithstanding
46 any other provision of law, a technical infraction, as defined in para-
47 graph (f) of subdivision one of this section, shall not constitute a
48 claim or disciplinary action that delays, suspends, or otherwise
49 precludes the sealing of claims against law enforcement officers as
50 provided in this section.

51 3. Exceptions and access to sealed records. (a) Sealed records of
52 unfounded claims shall remain accessible to:

53 (i) law enforcement agencies for the purpose of internal investi-
54 gations or audits;

1 (ii) the New York state attorney general's office and district attor-
2 neys for prosecutorial purposes, if relevant to a criminal investi-
3 gation; and

4 (iii) the civilian complaint review board or other authorized over-
5 sight bodies during an active investigation involving an officer.

6 (b) Sealed records shall not be disclosed or made available to the
7 public, media, or any non-authorized entities.

8 4. Implementation and responsibilities. (a) The division shall be
9 responsible for overseeing the implementation of this section, including
10 but not limited to:

11 (i) ensuring that all eligible unfounded claims are sealed in accord-
12 ance with the timelines specified in this section; and

13 (ii) maintaining a secure and confidential system for storing and
14 accessing sealed records in accordance with this section.

15 (b) Law enforcement agencies shall be required to update their records
16 management systems to comply with the provisions of this section and to
17 report compliance to the division annually.

18 § 3. Paragraphs (c) and (d) of subdivision 2-b of section 89 of the
19 public officers law, as added by chapter 96 of the laws of 2020, are
20 amended and three new paragraphs (e), (f) and (g) are added to read as
21 follows:

22 (c) any social security numbers; [~~ex~~]

23 (d) disclosure of the use of an employee assistance program, mental
24 health service, or substance abuse assistance service by a person
25 employed by a law enforcement agency as defined in section eighty-six of
26 this article as a police officer, peace officer, or firefighter or
27 firefighter/paramedic, unless such use is mandated by a law enforcement
28 disciplinary proceeding that may otherwise be disclosed pursuant to this
29 article[~~+~~];

30 (e) unfounded claims, as defined in paragraph (a) of subdivision one
31 of section eight hundred forty-five-f of the executive law, made against
32 a police officer, as defined in subdivision thirty-four of section 1.20
33 of the criminal procedure law, one year after determination of unfounded
34 status;

35 (f) exonerated claims, as defined in paragraph (c) of subdivision one
36 of section eight hundred forty-five-f of the executive law, made against
37 a police officer, as defined in subdivision thirty-four of section 1.20
38 of the criminal procedure law; or

39 (g) unsubstantiated claims, as defined in paragraph (b) of subdivision
40 one of section eight hundred forty-five-f of the executive law, made
41 against a police officer, as defined in subdivision thirty-four of
42 section 1.20 of the criminal procedure law, three years after determi-
43 nation of unsubstantiated status, provided that within those three
44 years, no founded claims or disciplinary actions have occurred.
45 Notwithstanding any other provision of law, a technical infraction, as
46 defined in paragraph (f) of subdivision one of section eight hundred
47 forty-five-f of the executive law, shall not constitute a claim or
48 disciplinary action that delays, suspends, or otherwise precludes the
49 sealing of claims against law enforcement officers as provided in this
50 section.

51 § 4. This act shall take effect on the ninetieth day after it shall
52 have become a law. Effective immediately, the addition, amendment,
53 and/or repeal of any rule or regulation necessary for the implementation
54 of this act on its effective date are authorized to be made and
55 completed on or before such effective date.