STATE OF NEW YORK

2074--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 15, 2025

Introduced by M. of A. BERGER, PHEFFER AMATO, WIEDER, WILLIAMS, BUTTENSCHON, EICHENSTEIN, YEGER, WOERNER, STERN, P. CARROLL, SAYEGH, KASSAY, GRIFFIN -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Legislative intent. The legislature finds and declares that it is of critical importance that law enforcement officers who dutifully serve our communities shall always have available to them the opportunity to, among other things, secure loans for homeownership, pursue further employment, and participate fully in the life of the community in which they reside. The legislature further finds that the prospect of their being able to do the aforementioned is dampened by the fact that currently, an unfounded, unsubstantiated, or exonerated claim made against a law enforcement officer remains in their respective personnel record, and, absent language in their applicable collective bargaining agreement, there exists no method of recourse for them to have such claims removed from their record. Unfounded claims are those claims that are made against law enforcement officers that, upon investigation, are determined to lack factual basis and are dismissed without disciplinary actions or criminal charges; unsubstantiated claims are claims that, upon investigation, are shown not to have sufficient evidence to either prove or disprove a complaint; exonerated claims are claims that are made against a law enforcement officer where the alleged conduct occurred but was determined to be lawful. It is, therefore, the intent of the legislature to strike a delicate balance between maintaining transparency regarding previous conduct of law enforcement officers, how

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

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police departments investigate and adjudicate claims of misconduct, and policing procedures more generally, and ensuring that unfounded, unsubstantiated, and exonerated claims made against law enforcement officers do not unjustly cast a permanent shadow over an otherwise admirable career in public service.

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

§ 845-f. Sealing of certain claims against law enforcement officers. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

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

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

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

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

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

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

2. Sealing of unfounded claims, unsubstantiated claims, and exonerated claims. (a) Any unfounded claim made against a law enforcement officer shall be automatically sealed upon final determination of unfounded status.

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

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

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

(i) law enforcement agencies for the purpose of internal investigations or audits;

(ii) the New York state attorney general's office and district attorneys for prosecutorial purposes, if relevant to a criminal investigation; and

(iii) the civilian complaint review board or other authorized oversight bodies during an active investigation involving an officer.

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

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

(i) ensuring that all eligible unfounded claims are sealed in accordance with the timelines specified in this section; and

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

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

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

(c) any social security numbers; [~~or~~]

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

(e) unfounded claims, as defined in paragraph (a) of subdivision one of section eight hundred forty-five-f of the executive law, made against a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

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

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

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