S T A T E O F N E W Y O R K

3087--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. PERRY -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to the unauthorized release of sealed records

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public officers law is amended by adding a new section 81 to read as follows:

S 81. UNAUTHORIZED RELEASE OF SEALED RECORDS. 1. ANY PUBLIC OFFICER, OR AN EMPLOYEE THEREOF, WHO INTENTIONALLY RELEASES OR OTHERWISE DISCLOSES TO AN UNAUTHORIZED PERSON A SEALED RECORD OR THE NATURE, SUBSTANCE OR CONTENTS OF SUCH RECORD THAT HE OR SHE KNEW OR REASONABLY SHOULD HAVE KNOWN WAS A SEALED RECORD, UNLESS DISCLOSURE OF SUCH RECORD OR THE NATURE, SUBSTANCE OR CONTENTS THEREOF IS REQUIRED BY STATUTE OR UPON WRITTEN ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION, SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

2. NOTHING CONTAINED IN THIS SECTION SHALL:

(A) PROHIBIT AN INDIVIDUAL WHO IS THE SUBJECT OF A SEALED RECORD OR, IF SUCH PERSON IS DECEASED, THE PERSONAL REPRESENTATIVE OF HIS OR HER ESTATE, FROM DISCLOSING TO ANOTHER THE NATURE, SUBSTANCE OR CONTENTS OF HIS OR HER SEALED RECORD;

(B) PROHIBIT A PUBLIC OFFICER, OR AN EMPLOYEE THEREOF, FROM RELEASING OR OTHERWISE DISCLOSING SUCH RECORD OR THE NATURE, SUBSTANCE OR CONTENTS THEREOF PRIOR TO THE ISSUANCE OF THE ORDER SEALING SUCH RECORD;

(C) PROHIBIT A PUBLIC OFFICER, OR EMPLOYEE THEREOF, FROM DISCUSSING EVENTS WITHIN SUCH OFFICER OR EMPLOYEE'S KNOWLEDGE SO LONG AS SUCH DISCUSSION DOES NOT CONFIRM OR DISCLOSE THE NATURE, SUBSTANCE OR CONTENTS OF A SEALED RECORD;

(D) PROHIBIT A PUBLIC OFFICER, OR EMPLOYEE THEREOF, FROM RELEASING OR OTHERWISE DISCLOSING SUCH RECORD OR THE NATURE, SUBSTANCE OR CONTENTS

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

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THEREOF TO A PERSON IF HE OR SHE HAS REASON TO BELIEVE, IN GOOD FAITH AND WITH SUFFICIENT CAUSE, THAT SUCH PERSON IS ENTITLED TO RECEIVE SUCH RECORD OR THE NATURE, SUBSTANCE OR CONTENTS THEREOF; OR

(E) PROHIBIT A PUBLIC OFFICER, OR EMPLOYEE THEREOF, FROM DISCLOSING THE NATURE OR EXISTENCE OF A SEALED RECORD IN A GOOD FAITH RESPONSE TO AN INQUIRY WHEN SUCH DISCLOSURE IS FOR THE BENEFIT OF THE SUBJECT OF SUCH SEALED RECORD.

3. FOR THE PURPOSES OF THIS SECTION:

(A) "SEALED RECORD" SHALL MEAN ANY RECORD REQUIRED TO BE SEALED PURSUANT TO SECTION 160.50, 160.55, 160.58, 720.15, OR 725.15 OF THE CRIMINAL PROCEDURE LAW, OR SECTION 375.1 OR 375.2 OF THE FAMILY COURT ACT;

(B) "UNAUTHORIZED PERSON" SHALL MEAN ANY PERSON WHO IS NOT ENTITLED TO RECEIVE OR WHO HAS NOT BEEN GRANTED ACCESS TO, A SEALED RECORD OR THE NATURE, SUBSTANCE OR CONTENTS THEREOF, PURSUANT TO STATUTE OR UPON A WRITTEN ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION.

S 2. This act shall take effect immediately.