STATE OF NEW YORK

5802--A

Cal. No. 971

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 72-b to read as follows:

§ 72-b. 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 B misdemeanor. Such class B misdemeanor shall be punishable by a fine of not more than one thousand dollars. No sentence of imprisonment shall be imposed.

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

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

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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 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, 160.59, 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.

§ 2. This act shall take effect immediately.