STATE OF NEW YORK

8142

2021-2022 Regular Sessions

IN ASSEMBLY

June 16, 2021

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil rights law, in relation to establishing requirements for the disclosure of personnel and disciplinary records of certain expert witnesses

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

Section 1. The civil rights law is amended by adding a new section 50-a to read as follows:

§ 50-a. Personnel and disciplinary records of government-employed scientific expert witnesses. 1. As used in this section, the following terms shall have the following meanings:

a. "personnel and disciplinary records of government-employed scientific expert witnesses" means all personnel records of government-employed scientific experts, used to evaluate performance toward continued employment or promotion, and under the control of the state or local government personnel agency or its political subdivisions; and

b. "government employed" means any person holding a position by appointment or employment in the service of a public employer, whether provisionally, non-competitively, competitively or by contract.

2. Personnel and disciplinary records of government-employed scientific expert witnesses shall be disclosed in a court action pursuant to the relevant provisions of the criminal procedure law, the civil practice law and rules or any other provision of law governing such disclosure, only after the party seeking disclosure has, at minimum, provided a good faith offer of proof as to why the information is being sought, the court has notified the subject of such records that such records may be disclosed pursuant to court action or pursuant to a subpoena issued by a court of competent jurisdiction, and the court has given the subject of such records an opportunity to be heard on the questions of whether the records sought: (a) are relevant to the scientific expert's character

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

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for veracity; and (b) provide a legitimate basis to question the reliability or accuracy of the expert's scientific conclusion. If, after such hearing, the court determines that only a portion of such records are relevant and material in the action before it, it shall make those parts of the records found to be relevant and material available to the persons so requesting.

3. The provisions of this section shall not apply to any agency of government or its political subdivisions which require the records described in subdivision one of this section in the furtherance of its official duties.

§ 2. This act shall take effect immediately.