

STATE OF NEW YORK

7334

2021-2022 Regular Sessions

IN SENATE

August 18, 2021

Introduced by Sens. JORDAN, AKSHAR, BOYLE, MARTUCCI, STEC -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to expanding the scope of records which shall be preserved by the executive chamber

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

Section 1. Section 5 of the executive law is amended to read as follows:

§ 5. Executive records. 1. The governor shall cause to be kept in the executive chamber or in the appropriate state office:

~~[1.]~~ a. Journals of the daily transactions of his or her office.

~~[2.]~~ b. Registers, containing classified statements of such transactions.

~~[3.]~~ c. Separate registers containing classified statements of all applications for pardon, commutation or other executive clemency, and of his or her action thereon.

~~[4.]~~ d. An account of his or her official expenses and disbursements, including the incidental expenses of his or her department.

~~[5.]~~ e. Files of all official records upon which applications for executive clemency are founded; of statements made by judges to him or her; of sentences to death and of the testimony in capital cases; and of such other papers relating to the transactions of his or her office as are deemed by him or her of sufficient value for preservation.

2. The governor shall cause and direct that all records of the executive chamber, as well as executive departments, agencies, divisions, offices and commissions, be retained for a minimum of two years. For the purposes of this subdivision, "records" shall include all paper records and electronic records, including electronic mail communications, as well as all electronic data including all forms of electronic metadata.

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

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1 3. In the event litigation is reasonably anticipated against the exec-
2 utive chamber or any executive branch departments, divisions, offices or
3 commissions, the executive chamber shall have a duty to cause and direct
4 that all records reasonably related to such anticipated litigation be
5 retained for at least five years or until two years after litigation is
6 no longer reasonably anticipated, whichever is later. For the purposes
7 of this subdivision, "records" shall include all paper records and elec-
8 tronic records, as well as all electronic data including all forms of
9 electronic metadata. For purposes of this subdivision, "anticipated
10 litigation" shall include civil matters, criminal matters, impeachment
11 matters and investigations by law enforcement or legislative bodies.

12 § 2. This act shall take effect immediately.