

STATE OF NEW YORK

8397

2021-2022 Regular Sessions

IN ASSEMBLY

October 20, 2021

Introduced by M. of A. LAWLER -- read once and referred to the Committee on Governmental Operations

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:

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

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

5 [~~1-~~] a. Journals of the daily transactions of his or her office.

6 [~~2-~~] b. Registers, containing classified statements of such trans-
7 actions.

8 [~~3-~~] c. Separate registers containing classified statements of all
9 applications for pardon, commutation or other executive clemency, and of
10 his or her action thereon.

11 [~~4-~~] d. An account of his or her official expenses and disbursements,
12 including the incidental expenses of his or her department.

13 [~~5-~~] e. Files of all official records upon which applications for
14 executive clemency are founded; of statements made by judges to him or
15 her; of sentences to death and of the testimony in capital cases; and of
16 such other papers relating to the transactions of his or her office as
17 are deemed by him or her of sufficient value for preservation.

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

24 3. In the event litigation is reasonably anticipated against the exec-
25 utive chamber or any executive branch departments, divisions, offices or

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

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commissions, the executive chamber shall have a duty to cause and direct that all records reasonably related to such anticipated litigation be retained for at least five years or until two years after litigation is no longer reasonably anticipated, whichever is later. For the purposes of this subdivision, "records" shall include all paper records and electronic records, as well as all electronic data including all forms of electronic metadata. For purposes of this subdivision, "anticipated litigation" shall include civil matters, criminal matters, impeachment matters and investigations by law enforcement or legislative bodies.

§ 2. This act shall take effect immediately.