STATE OF NEW YORK

7298

2021-2022 Regular Sessions

IN SENATE

July 21, 2021

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the civil rights law, in relation to the confidentiality of personnel records of police officers, firefighters, correction officers and probation officers

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 records; confidentiality of police officers, firefighters, correction officers and probation officers. 1. All personnel records used to evaluate performance toward continued employment or promotion, under the control of any police agency or department of the state or any political subdivision thereof including authorities or agencies maintaining police forces of individuals defined as police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law and such personnel records under the control of a sheriff's department or a department of correction of individuals employed as correction officers and such personnel records under the control of a paid fire department or force of individuals employed as firefighters or firefighter/paramedics and such personnel records under the control of the department of corrections and community supervision for individuals defined as peace officers pursuant to subdivisions twenty-three and twenty-three-a of section 2.10 of the criminal procedure law and such personnel records under the control of a probation department for individuals defined as peace officers pursuant to subdivision twenty-four of section 2.10 of the criminal procedure law shall be considered confidential and not subject to inspection or review without the express written consent of such police officer, firefighter, firefighter/paramedic, correction officer or peace officer within the

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

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department of corrections and community supervision or probation department except as may be mandated by lawful court order.

2. Prior to issuing such court order the judge must review all such requests and give interested parties the opportunity to be heard. No such order shall issue without a clear showing of facts sufficient to warrant the judge to request records for review.

3. If, after such hearing, the judge concludes there is a sufficient basis he or she shall sign an order requiring that the personnel records in question be sealed and sent directly to him or her. He or she shall then review the file and make a determination as to whether the records are relevant and material in the action before him or her. Upon such finding the court shall make those parts of the record found to be relevant and material available to the persons so requesting.

4. The provisions of this section shall not apply to any district attorney or his or her assistants, the attorney general or his or her deputies or assistants, a county attorney or his or her deputies or assistants, a corporation counsel or his or her deputies or assistants, a town attorney or his or her deputies or assistants, a village attorney or his or her deputies or assistants, a grand jury, or any agency of government which requires the records described in subdivision one of this section, in the furtherance of their official functions.

§ 2. This act shall take effect immediately.