

STATE OF NEW YORK

8428

IN SENATE

February 28, 2022

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to the disclosure of law enforcement officer's disciplinary records

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

1 Section 1. Section 87 of the public officers law is amended by adding
2 a new subdivision 4-c to read as follows:

3 4-c. An agency responding to a request for law enforcement discipli-
4 nary records as defined in section eighty-six of this article shall not
5 deny access to such records or portions thereof on the grounds that such
6 records:

7 (a) constitute an unwarranted invasion of personal privacy as
8 described in paragraph (b) of subdivision two of this section because
9 such records concern complaints, allegations, or charges that have not
10 yet been determined, did not result in disciplinary action, or resulted
11 in a disposition or finding other than substantiated or guilty;

12 (b) are compiled for law enforcement purposes as described in para-
13 graph (e) of subdivision two of this section;

14 (c) are inter-agency or intra-agency materials as described in para-
15 graph (g) of subdivision two of this section;

16 (d) are or were designated as confidential, secret, or otherwise
17 private by a private agreement, including but not limited to a settle-
18 ment, stipulation, contract, or collective bargaining agreement; or

19 (e) were created prior to the effective date of this subdivision.

20 § 2. Paragraphs (c) and (d) of subdivision 2-b of section 89 of the
21 public officers law, as added by chapter 96 of the laws of 2020, are
22 amended and a new paragraph (e) is added to read as follows:

23 (c) any social security numbers; ~~[ex]~~

24 (d) disclosure of the use of an employee assistance program, mental
25 health service, or substance abuse assistance service by a person
26 employed by a law enforcement agency as defined in section eighty-six of
27 this article as a police officer, peace officer, or firefighter or

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

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1 firefighter/paramedic, unless such use is mandated by a law enforcement
2 disciplinary proceeding that may otherwise be disclosed pursuant to this
3 article[~~7~~]; or

4 (e) the name or other personal identifying information of a person
5 included in a law enforcement disciplinary record, where that person is
6 alleged to have been the victim of sexual misconduct. For the purposes
7 of this section, the term "sexual misconduct" encompasses misconduct of
8 a sexual nature or motivated in whole or in part by the person's actual
9 or perceived gender or gender presentation alleged by a person against a
10 member of a law enforcement agency. Sexual misconduct includes, but is
11 not limited to, the following examples of misconduct: verbal, digital,
12 and written sexual harassment; sexual harassment using physical gestures
13 and expressions; sexual humiliation; sexual intimidation and coercion;
14 taking unwarranted photographs or videos or voyeuristic actions; use of
15 personal information, including telephone numbers, obtained from indi-
16 viduals in the course of duty for other than legitimate purposes; sexu-
17 ally motivated police actions such as stops, summonses, searches, or
18 arrests; sexual or romantic propositions; and any intentional bodily
19 contact of a sexual nature, including but not limited to, groping, sexu-
20 al assault, rape, and engaging in sexual activity while on duty.

21 § 3. This act shall take effect immediately.