STATE OF NEW YORK

2322

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

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:

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

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

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

(b) are compiled for law enforcement purposes as described in paragraph (e) of subdivision two of this section;

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

(d) are or were designated as confidential, secret, or otherwise private by a private agreement, including but not limited to a settlement, stipulation, contract, or collective bargaining agreement; or

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

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

(c) any social security numbers; [~~or~~]

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

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(d) disclosure of the use of an employee assistance program, mental health service, or substance abuse assistance service by a person employed by a law enforcement agency as defined in section eighty-six of this article as a police officer, peace officer, or firefighter or firefighter/paramedic, unless such use is mandated by a law enforcement disciplinary proceeding that may otherwise be disclosed pursuant to this article[~~.~~]; or

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

§ 3. This act shall take effect immediately.