

STATE OF NEW YORK

7089

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

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

AN ACT to amend the civil rights law, in relation to preventing unfounded complaints against police officers, peace officers, firefighters, correction officers and emergency medical service providers from being disclosed or added to a personnel record

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

1 Section 1. The civil rights law is amended by adding a new section
2 50-a to read as follows:

3 § 50-a. Personnel records of police officers, peace officers, fire-
4 fighters, correction officers and emergency medical service providers.

5 1. For the purposes of this section, the term "personnel record" shall
6 mean all personnel records used to evaluate performance toward continued
7 employment or promotion, under the control of any police agency or
8 department of the state or any political subdivision thereof including
9 authorities or agencies maintaining police forces of individuals defined
10 as police officers in section 1.20 of the criminal procedure law and
11 such personnel records under the control of a sheriff's department or a
12 department of correction of individuals employed as correction officers
13 and such personnel records under the control of a paid fire department
14 or force of individuals employed as firefighters or
15 firefighter/paramedics and such personnel records under the control of
16 the department of corrections and community supervision for individuals
17 defined as peace officers pursuant to subdivisions twenty-three and
18 twenty-three-a of section 2.10 of the criminal procedure law and such
19 personnel records under the control of a probation department for indi-
20 viduals defined as peace officers pursuant to subdivision twenty-four of
21 section 2.10 of the criminal procedure law and such personnel records
22 under the control of an emergency medical service provider who provides

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

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1 emergency medical service as defined in section three thousand one of
2 the public health law for individuals who provide emergency medical
3 services.

4 2. (a) Any part of a personnel record which contains information
5 regarding a complaint which was investigated and determined to be
6 unfounded shall be considered confidential and not subject to inspection
7 or review without the express written consent of such police officer,
8 firefighter, firefighter/paramedic, correction officer or peace officer
9 within the department of corrections and community supervision or
10 probation department, or emergency medical service provider except as
11 may be mandated by lawful court order.

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

16 (c) If, after such hearing, the judge concludes there is a sufficient
17 basis, the judge shall sign an order requiring that the relevant portion
18 of such personnel records in question be sealed and sent directly to the
19 court. The judge shall then review the file and make a determination as
20 to whether the relevant portion of such records are relevant and materi-
21 al in such action. Upon such a finding the court shall make those parts
22 of the record found to be relevant and material available to the persons
23 so requesting.

24 3. No information regarding a complaint against a police officer,
25 peace officer, firefighter, correction officer, or emergency medical
26 service provider which was investigated and determined to be unfounded
27 shall be included in such police officer, peace officer, firefighter,
28 correction officer, or emergency medical service provider's personnel
29 record.

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

38 § 2. This act shall take effect immediately.