STATE OF NEW YORK

2727

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. J. A. GIGLIO -- read once and referred to the Committee on Governmental 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:

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

§ 50-a. Personnel records of police officers, peace officers, firefighters, correction officers and emergency medical service providers. 1. For the purposes of this section, the term "personnel record" shall mean 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 in 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 and such personnel records under the control of an emergency medical service provider who provides emergency medical service as defined in section three thousand one of

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

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the public health law for individuals who provide emergency medical services.

2. (a) Any part of a personnel record which contains information regarding a complaint which was investigated and determined to be unfounded 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 department of corrections and community supervision or probation department, or emergency medical service provider except as may be mandated by lawful court order.

(b) 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.

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

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

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.