STATE OF NEW YORK

4628

2023-2024 Regular Sessions

IN ASSEMBLY

February 21, 2023

Introduced by M. of A. MCGOWAN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to expanding the scope of records which shall be preserved by the executive chamber

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

Section 1. Section 5 of the executive law is amended to read as follows:

§ 5. Executive records. **1.** The governor shall cause to be kept in the executive chamber or in the appropriate state office:

[~~1.~~] **a.** Journals of the daily transactions of his **or her** office.

[~~2.~~] **b.** Registers, containing classified statements of such transactions.

[~~3.~~] **c.** Separate registers containing classified statements of all applications for pardon, commutation or other executive clemency, and of his **or her** action thereon.

[~~4.~~] **d.** An account of his **or her** official expenses and disbursements, including the incidental expenses of his **or her** department.

[~~5.~~] **e.** Files of all official records upon which applications for executive clemency are founded; of statements made by judges to him **or her**; of sentences to death and of the testimony in capital cases; and of such other papers relating to the transactions of his **or her** office as are deemed by him **or her** of sufficient value for preservation.

2. The governor shall cause and direct that all records of the executive chamber, as well as executive departments, agencies, divisions, offices and commissions, be retained for a minimum of two years. For the purposes of this subdivision, "records" shall include all paper records and electronic records, including electronic mail communications, as well as all electronic data including all forms of electronic metadata.

3. In the event litigation is reasonably anticipated against the executive chamber or any executive branch departments, divisions, offices or

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

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commissions, the executive chamber shall have a duty to cause and direct that all records reasonably related to such anticipated litigation be retained for at least five years or until two years after litigation is no longer reasonably anticipated, whichever is later. For the purposes of this subdivision, "records" shall include all paper records and electronic records, as well as all electronic data including all forms of electronic metadata. For purposes of this subdivision, "anticipated litigation" shall include civil matters, criminal matters, impeachment matters and investigations by law enforcement or legislative bodies.

§ 2. This act shall take effect immediately.