

STATE OF NEW YORK

2074--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 15, 2025

Introduced by M. of A. BERGER, PHEFFER AMATO, WIEDER, WILLIAMS, BUTTENS-CHON, EICHENSTEIN, YEGER, WOERNER, STERN, P. CARROLL, SAYEGH, KASSAY, GRIFFIN -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the public officers law, in relation to the sealing of certain claims against law enforcement officers

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

1 Section 1. Legislative intent. The legislature finds and declares that
2 it is of critical importance that law enforcement officers who dutifully
3 serve our communities shall always have available to them the opportu-
4 nity to, among other things, secure loans for homeownership, pursue
5 further employment, and participate fully in the life of the community
6 in which they reside. The legislature further finds that the prospect of
7 their being able to do the aforementioned is dampened by the fact that
8 currently, an unfounded, unsubstantiated, or exonerated claim made
9 against a law enforcement officer remains in their respective personnel
10 record, and, absent language in their applicable collective bargaining
11 agreement, there exists no method of recourse for them to have such
12 claims removed from their record. Unfounded claims are those claims that
13 are made against law enforcement officers that, upon investigation, are
14 determined to lack factual basis and are dismissed without disciplinary
15 actions or criminal charges; unsubstantiated claims are claims that,
16 upon investigation, are shown not to have sufficient evidence to either
17 prove or disprove a complaint; exonerated claims are claims that are
18 made against a law enforcement officer where the alleged conduct
19 occurred but was determined to be lawful. It is, therefore, the intent
20 of the legislature to strike a delicate balance between maintaining
21 transparency regarding previous conduct of law enforcement officers, how

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

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1 police departments investigate and adjudicate claims of misconduct, and
2 policing procedures more generally, and ensuring that unfounded, unsub-
3 stantiated, and exonerated claims made against law enforcement officers
4 do not unjustly cast a permanent shadow over an otherwise admirable
5 career in public service.

6 § 2. The executive law is amended by adding a new section 845-f to
7 read as follows:

8 § 845-f. Sealing of certain claims against law enforcement officers.

9 1. Definitions. For purposes of this section, the following terms shall
10 have the following meanings:

11 (a) "Unfounded claim" shall mean any complaint or allegation made
12 against a law enforcement officer that, upon investigation, is deter-
13 mined to lack factual basis and is dismissed without disciplinary action
14 or criminal charges.

15 (b) "Unsubstantiated claim" shall mean any complaint or allegation
16 made against a law enforcement officer that, upon investigation, does
17 not have sufficient evidence to either prove or disprove such complaint
18 or allegation. For purposes of this section, "unsubstantiated claim"
19 shall include complaints or allegations referred to by municipalities or
20 other entities as "undetermined" or any other designation indicating
21 insufficient evidence to either prove or disprove such complaint or
22 allegation.

23 (c) "Exonerated claim" shall mean any complaint or allegation made
24 against a law enforcement officer where the alleged conduct occurred but
25 was deemed lawful and proper.

26 (d) "Law enforcement officer" shall mean a police officer as defined
27 in subdivision thirty-four of section 1.20 of the criminal procedure
28 law.

29 (e) "Seal" or "sealing" shall mean the process by which records of
30 unfounded claims are rendered inaccessible to the public, with limited
31 exceptions as set forth in this section.

32 (f) "Technical infraction" shall mean a minor rule violation by a
33 police officer, as defined in subdivision thirty-four of section 1.20 of
34 the criminal procedure law, solely related to the enforcement of admin-
35 istrative departmental rules that (i) do not involve interactions with
36 members of the public, (ii) are not of public concern, and (iii) are not
37 otherwise connected to such person's investigative, enforcement, train-
38 ing, supervision, or reporting responsibilities.

39 2. Sealing of unfounded claims, unsubstantiated claims, and exonerated
40 claims. (a) Any unfounded claim made against a law enforcement officer
41 shall be automatically sealed upon final determination of unfounded
42 status.

43 (b) Any exonerated claim made against a law enforcement officer shall
44 be automatically sealed upon final determination of exonerated status.

45 (c) Any unsubstantiated claim made against a law enforcement officer
46 shall be automatically sealed three years after the final determination
47 of unsubstantiated status, provided that within those three years, no
48 founded claims or disciplinary actions have occurred. Notwithstanding
49 any other provision of law, a technical infraction, as defined in para-
50 graph (f) of subdivision one of this section, shall not constitute a
51 claim or disciplinary action that delays, suspends, or otherwise
52 precludes the sealing of claims against law enforcement officers as
53 provided in this section.

54 3. Exceptions and access to sealed records. (a) Sealed records of
55 unfounded claims shall remain accessible to:

(i) law enforcement agencies for the purpose of internal investigations or audits;

(ii) the New York state attorney general's office and district attorneys for prosecutorial purposes, if relevant to a criminal investigation; and

(iii) the civilian complaint review board or other authorized oversight bodies during an active investigation involving an officer.

(b) Sealed records shall not be disclosed or made available to the public, media, or any non-authorized entities.

4. Implementation and responsibilities. (a) The division shall be responsible for overseeing the implementation of this section, including but not limited to:

(i) ensuring that all eligible unfounded claims are sealed in accordance with the timelines specified in this section; and

(ii) maintaining a secure and confidential system for storing and accessing sealed records in accordance with this section.

(b) Law enforcement agencies shall be required to update their records management systems to comply with the provisions of this section and to report compliance to the division annually.

§ 3. 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 three new paragraphs (e), (f) and (g) are added to read as follows:

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

(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~~[+]~~;

(e) unfounded claims, as defined in paragraph (a) of subdivision one of section eight hundred forty-five-f of the executive law, made against a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

(f) exonerated claims, as defined in paragraph (c) of subdivision one of section eight hundred forty-five-f of the executive law, made against a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law; or

(g) unsubstantiated claims, as defined in paragraph (b) of subdivision one of section eight hundred forty-five-f of the executive law, made against a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, three years after determination of unsubstantiated status, provided that within those three years, no founded claims or disciplinary actions have occurred. Notwithstanding any other provision of law, a technical infraction, as defined in paragraph (f) of subdivision one of section eight hundred forty-five-f of the executive law, shall not constitute a claim or disciplinary action that delays, suspends, or otherwise precludes the sealing of claims against law enforcement officers as provided in this section.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.