

Memorandum in Support

NYSBA Memorandum #23

June 9, 2020

S. 8496

By: Senate Bailey

A. 10611

By: M. of A. O'Donnell

Senate Committee: Codes

Assembly Committee: Rules

Effective Date: Immediately

AN ACT to amend the civil rights law and the public officers law, in relation to the disclosure of law enforcement disciplinary records; and to repeal section 50-a of the civil rights law relating thereto.

THE NEW YORK STATE BAR ASSOCIATION SUPPORTS THIS LEGISLATION

In 1974, New York enacted the initial version of the Freedom of Information Law (FOIL). Article 6 of the Public Officers Law was later enacted in order to make widely available records of public employees.

Section 50-a of the Civil Rights Law was enacted in 1976 and it pertains to police officers that are “used to evaluate performance toward continued employment or promotion” and requires that those records remain confidential, unless the person who is the subject of those records consents to disclosure or a court orders disclosure.

There is widespread belief that section 50-a -- contrary to the intent of FOIL -- has been interpreted to prevent the disclosure to the public of police misconduct. Further, the sponsor of the legislation that enacted section 50-a, the late Senator Frank Padavan, indicated that 50-a was “never intended to block disclosure of police misconduct from the public.”

The State Bar Association submits that this bill, which would repeal section 50-a, would allow public disclosure of law enforcement personnel records pertaining to misconduct and discipline, while still ensuring privacy regarding personal information. In the wake of the killing of George Floyd, this bill would help stem the tide of incidents of brutality and death of people in police custody.

Based on the foregoing, the New York state Bar Association **SUPPORTS** this legislation.