

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:**

**SPONSOR:** JORDAN

**TITLE OF BILL:**

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

**SUMMARY OF PROVISIONS:**

Section 1 amends Section 5 of the Executive Law to provide that records of the executive branch, including departments, agencies, divisions, offices, and commissions, be retained for a minimum of two years. Records under this section includes all paper and electronic records, including emails. This section also provides that any materials from these offices that may be reasonably related to anticipated legislation must be retained for at least five years or until two years after such litigation is no longer anticipated, whichever is later.

Section 2 sets forth the effective date.

**JUSTIFICATION:**

In 2020 and 2021, several scandals were reported throughout the Executive branch, including at different agencies and in the Governor's office itself. Some of these events will most likely lead to litigation. Unfortunately, an adequate law does not exist to ensure that critically relevant documents are retained both for public transparency purposes as well as for access by the justice system. Under current law, only a handful of documents, including daily journals and documents related to clemency, must be retained and the Governor has absolute discretion beyond that small list of documents as to what should be kept. The lack of a strong statute for document retention not only does not reflect modern, electronic and internet-based methods of communication and information storage, but it also fundamentally does the public a disservice by keeping the everyday dealings of the Executive branch firmly behind closed doors where it can be safely destroyed for self-protection or political gain.

This legislation requires that all paper and electronic records and electronic metadata of the Executive chamber as well as all departments and agencies must be retained for two years. Critically, this includes e-mail communications. If litigation is reasonably anticipated against the Executive or one of the departments or agencies, the retention standard for documents which could be reasonably related to that litigation is raised to five years or two years after the end of such time that litigation could be anticipated, whichever is later. By making these changes to how the Executive retains its records, the State can provide transparency - in the sense of public access - and justice - in the sense of preventing the evidence of misdeeds from being destroyed - to the people of New York State.

**LEGISLATIVE HISTORY:**

New bill.

**FISCAL IMPLICATIONS:**

None.

**EFFECTIVE DATE:**

Immediately.