

# STATE OF NEW YORK

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9988

## IN ASSEMBLY

March 1, 1994

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Introduced by M. of A. SINGER -- read once and referred to the Committee on Judiciary


AN ACT to repeal subdivision 10 of section 90 of the judiciary law, relating to the sealing and confidentiality of records on attorney disciplinary proceedings

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

- 1 Section 1. Subdivision 10 of section 90 of the judiciary law is
- 2 REPEALED.
- 3 § 2. This act shall take effect immediately. \*

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

LBD11780-01-4

 PRINTED ON RECYCLED PAPER

Supp. Exh. "10"

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New York State Assembly

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MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, §1(c)

Bill Number: Assembly \_\_\_\_\_ Senate \_\_\_\_\_  
Memo on original draft of bill  
Memo on amended bill

Sponsors: Members of Assembly Cecile D. Singer  
Members of Senate \_\_\_\_\_

Introduced at the request of \_\_\_\_\_

TITLE OF BILL:

An act to repeal subdivision 10 of section 90 of the judiciary law, relating to the sealing and confidentiality of records on attorney disciplinary proceedings

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this bill is to repeal subdivision 10 of section 90 of the judiciary law; which includes a provision that records on attorney disciplinary proceedings are sealed and confidential.

SUMMARY OF SPECIFIC PROVISIONS:

This bill would make available records regarding attorney disciplinary proceedings that are now sealed and kept confidential.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

This legislation would repeal subdivision 10 of section 90 of the judiciary law. Current disciplinary procedure in New York State is governed by section 90 of the Judiciary Law, which provides in subdivision 10 that all matters concerning a "complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney or attorneys, shall be sealed and be deemed private confidential.

JUSTIFICATION:

This legislation will help legal consumers who discover that when they consider hiring an attorney, they have no way of knowing whether and what complaints have been filed previously against that attorney. Some consumers confront a "Catch-22" if they question their attorney's conduct in the midst of an action since they may be informed that their complaint could not be accepted because of the ongoing representation. Understandably, consumers have concluded that attorney discipline is something of a fiction and that lawyers are interested only in protecting themselves. Consumers cannot understand why New York State persists in maintaining this extraordinary degree of secrecy in disciplinary matters when other states have open processes. According to the experience reported in Oregon, which for fifteen years has permitted public access once a complaint has been filed, the detrimental effect to an attorney's reputation, feared by those who oppose opening the process, has not been realized. In the majority of states, confidentiality is lifted once formal charges are made. Even those involved in the administration of the current system acknowledge that New York is "behind the times" on this issue. Reform of the disciplinary process is essential to restore public confidence in the profession.

PRIOR LEGISLATIVE HISTORY:

This is new legislation.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.