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EXECUTIVE DIRECTOR

SHOSHANAH BEWLAY

MEMORANDUM

TO: Whom it May Concern

FROM: Shoshanah Bewlay
Executive Director, Committee on Open Government

RE: *Chapter 155 of the Laws of 2022 Repeals and Amends Sections of
Chapter 808 of the Laws of 2021*

DATE: March 22, 2022

On December 29, 2021, Governor Hochul signed [Chapter 808 of the Laws of 2021](#), making changes to how an agency must support a claim of an exception to rights of access to records pursuant to the Freedom of Information Law (FOIL). Most significant, Chapter 808 required that any agency claiming that a law enforcement record was exempt due to the pendency of a judicial proceeding need obtain from the relevant court a validation of the applicability of the exemption.

In her [approval memo](#), Governor Hochul identified the court validation requirement as potentially problematic and noted that a future amendment further clarifying or changing it would be agreed with the legislature.

On March 18, 2022, Governor Hochul signed [Chapter 155 of the Laws of 2022](#) repealing the requirement under Chapter 808 that an agency claiming that disclosure of a law enforcement record would interfere with an ongoing investigation or judicial proceeding need obtain certification from a court. Rather, Chapter 155 provides that FOIL now requires that an agency (if it is not the agency conducting the relevant investigation) claiming an exemption based on § 87(2)(e) obtain a confirmation from the law enforcement agency that is conducting the investigation that disclosure of the record will interfere with its investigation.

FOIL as amended may be found at this [link](#).